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BULLETIN 15-01

Date: January 9, 2015

To: Insurers, Nonprofit Health Service Plans, Health Maintenance Organizations and Dental Plan Organizations

Re: 2016 Affordable Care Act ("ACA") Individual and Small Employer Form and Rate Filing Instructions

The purpose of this Bulletin is to provide guidance to insurers, nonprofit health service plans, health maintenance organizations and dental plan organizations ("carriers") regarding filing requirements for the individual and small employer form and rate filings for plan or policy years beginning on or after January 1, 2016.

Form and Rate Filing Deadlines

The rate and form filing deadlines for the individual and small employer are as follows:

- Individual health benefit plans sold on and off the Exchange for the 2016 policy year:
    - Forms—March 1, 2015;
    - Rates—May 1, 2015;

    Forms and rates must be submitted in the same filing under the SERFF Filing Type: Form/Rate. If the filing is not submitted as a Form/Rate filing, it will be REJECTED. Forms may be filed first and rates added to the same filing at a later date.

- Small employer health benefit plans sold on and off the Exchange:
    - Forms—April 1, 2015;
    - Rates—May 1, 2015;

- Individual stand-alone dental plans forms and rates to be sold on the Exchange (*if the Individual Exchange is expanded to include stand-alone dental plans*)—May 1, 2015; and

- Small employer stand-alone dental plans forms and rates to be sold on the Exchange—May 1, 2015.

General Requirements

The essential health benefits will remain the same as for 2014 and 2015. Therefore, the instructions for required benefits and exclusions described in Bulletin 13-01, dated January 3, 2013 will continue to apply to the 2016 plans. The rate filing requirements will remain the same as described in Bulletin 13-12, dated March 27, 2013.

The following requirements apply to the form filings:

1. As in 2014, the Maryland Insurance Administration will permit form filings to be filed before the associated rates filings are filed. However, all filings are due within the time periods discussed in this Bulletin. *Forms and rates must be submitted in the same filing under the SERFF Filing Type: Form/Rate. If the filing is not submitted as a Form/Rate filing, it will be REJECTED.*

2. Variability in cost-sharing, such as copayment amounts, coinsurance percentages or deductible amounts, will not be permitted. Instead, carriers are required to file a separate schedule or benefit form for each benefit design.

3. Individual and small employer form filings may not be combined under the same SERFF tracking number, but are required to be submitted under separate SERFF tracking numbers.

4. Each filing for a health benefit plan is required to include:

    a. Identification of where the plan will be sold (i.e. in the Exchange, outside the Exchange, or both);

    b. Identification of the coverage level for each benefit design for a health benefit plan that is not a catastrophic plan (i.e. bronze, silver, gold, platinum);

    c. Identification of the plan as a multi-state plan, if the health benefit plan is to be a multi-state plan;

    d. A separate contract or schedule for each plan design that the carrier intends to offer;

    e. The actuarial value of each plan design determined in accordance with the 45 CFR § 156.135 using the AV calculator developed and made available by HHS;[1]

[1] If a health benefit plan's design is not compatible with the AV calculator, the carrier must submit actuarial certification using the chosen methodology in the rule. 45 CFR § 156.135(b).

f. The screen shots of each plans' AV calculator;

g. All rating factors and a demonstration that there are no factors not allowed by the ACA;

h. Demonstration of the medical loss ratio calculation to show that the medical loss ratio is at least 80%;

i. Identification of whether the plan design is only applicable to those individuals who qualify for the cost-sharing reductions of the ACA or corresponding federal regulations;[2]

j. Certification that the health benefit plan's prescription drug benefit complies with 45 CFR § 156.122; and

k. Documentation of compliance with the Mental Health Parity and Addiction Equity Act (MHPAEA) regulations as found in 45 CFR 146.136 as follows:

    a) If a plan design is identical to a plan design that was previously approved, certification from an actuary that each financial requirement that is applicable to a mental health or substance abuse benefit has been tested and has been determined to be no more restrictive than the *predominant* financial requirement of that type that applies to *substantially all* of the medical/surgical benefits in the same classification. A separate certification is required for each plan design.

    b) If a plan design is a new or modified plan design, documentation from an actuary demonstrating how each financial requirement applicable to a mental health or substance abuse benefit in the plan design is no more restrictive than the *predominant* financial requirement of that type that applies to *substantially all* of the medical/surgical benefits in the same classification.

5. Additional requirements for stand-alone dental plan filings:

    a. Identification of the level of coverage, i.e. low or high, including the actuarial value of the plan determined in accordance with the rule;[3] and

    b. Certification of the level of coverage by a member of the American Academy of Actuaries using generally accepted actuarial principles.[4]

6. Please note that the Maryland Health Benefit Exchange ("Exchange") limits the number of plans that may be offered on the Exchange.[5] Therefore, each filing that includes forms to be used on the Exchange is required to include a list of the forms that will be sold on the Exchange in 2016 and a listing of any previously approved forms that will no longer be offered on the Exchange.

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[2] *See* § 1402 of the Affordable Care Act; 45 CFR § 155.1030; and 45 CFR § 156.420.
[3] 45 CFR §156.150(b)(2).
[4] 45 CFR §156.150(b)(3).
[5] *See* Maryland Insurance Administration Bulletin 13-05, dated January 23, 2013.

Substitution Rules

Maryland Insurance Administration Bulletin 13-02, which was issued January 7, 2013, described in detail the many factors that were considered in making the determination that substitution of essential health benefits ("EHBs") would not be permitted in the individual and small employer markets for 2014 and that the approach would be reassessed for the future. The approach has been reassessed for 2016 and for the same reasons described in Maryland Insurance Administration Bulletin 13-02, it has been determined that substitution of EHBs will *not* be permitted in the individual and small employer markets for 2016.

Questions about this Bulletin may be directed to the Life/Health Section of the Maryland Insurance Administration at 410-468-2170.

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Brenda A. Wilson
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Life and Health