

Memorandum

To: Health Insurers Selling ACA Compliant Plans
From: Jon Godfread, Insurance Commissioner
Date: April 30, 2018
Re: 2019 Product Filing Requirements



The North Dakota Insurance Department (Department) requests that all 2019 ACA rate and form filings related to any dental, vision, individual health and small group health plans be submitted by May 25, 2018. The Department will continue to accept filings after this date but is not able to guarantee review or approval by the federal deadlines as outlined in the Centers for Medicare and Medicaid Services (CMS) 2019 Letter to Issuers on April 9, 2018.

All filings are required to be submitted via the System for Electronic Rate and Form Filing (SERFF). When completing SERFF filings, specify under the General Information tab if the submission is for an FFM specific product, a new product or revisions to a current product. If the SERFF submission is a revision to a current product, reference any SERFF tracking number associated with that product. The Department asks that the following information be provided in each filing.

General Guidelines

Submit SERFF filings at the product level. The different component levels plans, such as metallic values, co-pays and co-insurance, can be in the same filing but must be indicated in a bracket.

If the same product has different metallic levels, ensure the actuarial documents are easily identifiable for the various levels and actuarial calculations. The Department also reminds carriers to update their plans to comply with any changes from CMS for plans being issued for plan year 2019.

Form Filing Requirements

- Any new product must use the NAIC checklist that is currently used for filings available in SERFF.
- If submitting revisions to a previously filed product, a red-line version is **required** and must indicate **all** changes.

Rate Filing Requirements

The Department is requiring that only silver plans, sold both on and off the exchange, have their rates loaded to reflect the federal government's non-payment of the cost sharing reductions. It is further required to create corresponding silver plans that are only offered off the Exchange so that the consumers purchasing plans off the Exchange are unaffected by the lack of cost sharing reduction funding.

Below is the Departments requirements for the specific rate filings.

- Use the required federal templates, such as the Uniform Rate Review Template (URRT) and the Actuarial Memorandum.
- Provide the experience data for all Affordable Care Act (ACA) plans for both North Dakota and nationwide, including number of policies (individual certificates), members, earned premium, paid claims and incurred gross claims, net claims (net of expected reinsurance, risk).
- The trend assumption must be supported by company experience.
- Provide calculations for all ACA fees.
- Provide an explanation and support for all changes from the prior year's index rates to the current index rates.
- Indicate any new benefits or modified benefits with support for the corresponding rate impact.
- Provide all exhibits including premiums tables in an excel format.

The Department will continue to require the following attestations for Federally Facilitated Marketplace (FFM) plans. This attestation is ONLY required for new product or plan on and off exchange. This policy is different from past years. If the changes to the previously approved plans are just verbiage updates or basic changes due to federal requirements the attestation is not needed.

Similar to previous filing years, the Department will conduct rate and form review in the following manner:

Rate Review

- Plans offered inside the Marketplace only will be reviewed by CCIIO and will still need to be filed via SERFF. The Department will list the disposition code in SERFF as Informational.
- Plans offered outside the Marketplace only will continue to follow its standard rate review process via SERFF as well as follow the standard process of approval or disapproval.
- Plans offered both inside and outside the Marketplace will continue to have the rates for plans offered on the outside market reviewed by the Department, which will then coincide with the rate for the Marketplace plan. These filings

will also be filed via SERFF and follow the standard process of approval or disapproval. Please note we ask that you reference the applicable SERFF tracking numbers for each matching plan.

Form Review

- Plans offered inside the Marketplace only are required to complete the attached Appendix A when submitting any **new** product filing for any federal requirements in place under the ACA. The Department will review each filing to ensure compliance with North Dakota law. These filings are also to be filed via SERFF and will list the disposition code as Informational.
- Plans offered outside the Marketplace only will continue to follow its standard form review process via SERFF as well as follow the standard process of approval or disapproval.
- Plans offered both inside and outside the Marketplace will continue to have the forms for plans offered on the outside market reviewed by the Department with the current review process. Any new products for the Marketplace plans will be required to complete Appendix A. The Department will also be reviewing each filing to ensure compliance with North Dakota law. These filings will be filed via SERFF and follow the Department's standard process of approval or disapproval. Please note we ask that you reference the applicable SERFF tracking numbers for each matching plan.
- Plans offered by dental carriers on the Marketplace or certified stand alone dental plans are required to attest that the product being filed and any changes to current products are in compliance with all North Dakota mandates as required and that it complies with our chosen EHB benchmark plan, the ND CHIP Healthy Steps plan. This attestation must be on company letterhead.

Finally, while certain forms and rates referenced in this communication are subject to review and approval by the Department prior to use, the Department reminds companies all forms and rates used in North Dakota remain subject to, and must comply in all respects with, North Dakota's insurance laws and regulations. The Department retains its ability to take enforcement action and seek any available remedy for non-compliant forms or rates.

We encourage you to contact us as needed for clarification of this communication. Please contact Product Filing Division Director Chrystal Bartuska at cbartuska@nd.gov or 701.328.2441.

Thank you.

APPENDIX A

Compliance Checklist and Certification

If a company submits a form filing to the North Dakota Insurance Department that is intended for a product or plan to be sold for plan year beginning January 1, 2019, it must comply with the market reforms of the ACA. The Department will accept a compliance checklist and certification submitted with the contract or endorsement via SERFF as a form schedule document, substantially identical to this Compliance Checklist and Certification as demonstrating compliance with those requirements.

These ACA requirements apply only to policies for health insurance coverage referred to as major medical in the ACA statute, including PPO and HMO coverage.

This checklist identifies the requirements for small group and individual plans. Refer to the relevant statute and any applicable regulations to ensure compliance. Complete each item applicable to your product category to confirm that consideration has been given to statutory requirements in each plan encompassed by the identified form and product. *(When submitting your filings electronically, bookmark the provision(s) in the form(s) that satisfy the requirement and identify the page/paragraph on this form.)*

Company Name: NAIC Number: SERFF Tracking Number(s): Type of Insurance (TOI):
Product Category:

Individual

Small Group

Form Number(s) of Policy Being Submitted or Endorsed:

Certification

I hereby certify that the above-referenced policy form submission and related rate filing, required to be in compliance with the requirements of the Patient Protection and Affordable Care Act, P.L. 111-148, 124 Stat. 119, and the Health Care and Education Reconciliation Act of 2010, P.L. 111-152, 124 Stat. 1051, together and as modified referred to as the ACA, has been drafted or modified to be in compliance with the ACA and the regulations promulgated thereunder.

I am aware that accident and health rates and forms may be disapproved, or otherwise give rise to remedies or sanctions, if they fail to comply with applicable law or regulations. See, e.g., N.D.C.C. § 26.1-04-03 (relating to prohibited practices in the insurance business).

I hereby warrant that I have full, complete and final authority to attest to the representations of the Company as set forth herein, and do hereby attest that the representations set forth in this Compliance Checklist and Certification Form are true, correct and complete.

DATED this _____ day of _____, 2018.

Company: _____

By: _____

Print Name: _____

Title: _____