MEMORANDUM

To: Health insurers selling ACA-compliant plans

From: Jon Godfread, Insurance Commissioner

Date: April 17, 2024

Subject: 2024 Product Filing Requirements

The North Dakota Insurance Department (Department) requests that all 2024 Affordable Care Act (ACA) rate and form filings related to any dental, vision, individual health and small group health plans be submitted by May 24, 2024.

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 components within the 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 clearly identify 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 2025.

Rate Filing Requirements

This year, the Department will again require 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 are the Department's requirements for the specific rate filings:

- Use the required federal templates, such as the Uniform Rate Review Template (URRT) and the Actuarial Memorandum.
- For the last 3 years, provide the experience data for all ACA plans for both North Dakota and nationwide, including number of policies (individual certificates), members, earned

premium, paid claims and incurred gross claims, and net claims (net of expected reinsurance, risk, etc.).

- 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.
- If applicable, provide a breakdown of the impact of COVID-19-related adjustments in the actuarial memorandum, including how it affects the overall requested rate increase.
- Smoker surcharges on rates may only be included on individuals aged 21 and older.
- Provide all exhibits, including premiums tables, in an Excel format.
- For individual products, please provide the total premium for both on- and off-exchange plans (separate) for the previous year. Also, provide the total member months and total membership for those plans, both on and off the exchange.
- For individual policies, please also provide, in Excel, each on-exchange silver plan, the rating area and counties it is sold in, and the 21-year-old premium for the applicable rating area. Provide it in this format:

Rating Area	Plan Name	Plan ID	County	21 YO Premium

  - The "county" row should be sorted as followed:
    - Region 1: Burleigh and Morton
    - Region 2: Cass
    - Region 3: Grand Forks
    - Region 4: Benson County; Eddy County; Griggs County; Nelson County; Ramsey County; Steele County; Walsh County
    - Region 5: Cavalier County; Pembina County; Towner County
    - Region 6: Ransom County; Richland County; Sargent County
    - Region 7: Oliver County; Traill County
    - Region 8: Bottineau County; Burke County; Divide County; McHenry County; McKenzie County; McLean County; Mountrail County; Pierce County; Renville County; Rolette County; Ward County
    - Region 9: Adams County; Barnes County; Billings County; Bowman County; Dickey County; Dunn County; Emmons County; Foster County; Golden Valley County; Grant County; Hettinger County; Kidder County; LaMoure County; Logan County; McIntosh County; Mercer County; Sheridan County; Sioux County; Slope County; Stark County; Stutsman County; Wells County; Williams County
  - If there are plans that are not sold in all or some but not all the counties in a region, highlight these plans and the counties not included. If a plan includes a county not listed in a region, provide the same detail.

- When developing the Reinsurance Association of North Dakota (RAND) adjustment specific to the 1332 waiver, consider: company-specific data, market data, and long-term stability associated with the RAND program and its associated funding.

Form Filing Requirements

- If submitting revisions to a previously filed product, a red-line version of the plan documents are *required* and must indicate *all* changes.
- Mental Health Parity and Addiction Equity Act (MHPAEA) checklist and analysis
- Submit a copy of the federal Network Adequacy sheet completed for plan year 2025 and start initial analysis for the 2026 plan year requirements under federal guidelines.

Essential Health Benefit (EHB) changes and clarification:

1. **Insulin/insulin supplies –** Limited out-of-pocket costs for the treatment of diabetes, providing a limited cost-sharing for a 30-day supply of covered insulin drugs, not to exceed $25, regardless of the quantity or type of insulin, and of covered medical supplies for insulin dosing and administration, not to exceed $25, regardless of the quantity or manufacturer of supplies. The EHB benchmark plan does not require or dictate the specific category of this benefit. Therefore, it is at the discretion of the insurer to categorize under a preventative benefit or prescription drug benefit.
2. **Hearing aids** - Coverage for one hearing aid per hearing-impaired ear every 36 months or more often if there is a significant change in the insured's hearing status as determined by the licensed physician or audiologist.
3. **Nutritional counseling** - Coverage for dietary or nutritional screening, counseling, and therapy for obesity, diabetes-related diagnosis, or a chronic illness or condition that could be managed through nutritional or weight loss programs, up to 12 sessions every policy year, if prescribed by the insured's physician. This would also include coverage for the use of GLP1 and GIP drugs as therapy for the prevention of diabetes and treatment of insulin resistance, metabolic syndrome or morbid obesity. Please note cost sharing, prior authorization and appropriate medical management guidelines can be applied to these drugs. The original EHB submission listed these drugs as preventative. However, we have confirmed with CMS that due to concerns of first dollar coverage on High Deductible Health Plans. Due to this, it would be reasonable for issuers to cover weight loss drugs under a different EHB benefit category, and nothing in the EHB rules restricts issuers from filing the plans in this manner. Additionally, if this benefit applies to a mental health diagnosis visit, limits are not allowed.
4. **Periodontal disease** - Coverage for diagnosis and treatment of periodontal disease in acute or chronic disease state if recommended by a board-certified

medical practitioner based on health-related impacts or on further deterioration in disease state due to gum disease. This is only applicable to medical policies under the state's benchmark EHB. Therefore, standalone dental plans do not need to offer these benefits.

5. **PET scans** - Coverage for position emission tomography scans for an insured who has a prostate cancer diagnosis, including an insured who is in remission or who is cured, which would include at least two different types of position emission tomography scans upon initial diagnosis if requested by a physician, and one position emission tomography scan every 6 months for the life of the insured.
6. **Opioid benefits** - Plan steps to address the opioid epidemic, including limiting opioid prescriptions to 7 days, removing barriers such as prior authorization for drugs used in the treatment of opioid use disorder or opioid replacement drugs; and requiring a prescription for an easy-to-use overdose antidote when prescribing high-dose opioids. This benefit allows for medical necessity standards and clinical guidelines and exceptions are allowed in cases of terminally ill patients.

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 that 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 Life and Health/Medicare Division Director Chrystal Bartuska at cabartuska@nd.gov or (701) 328-2441.