

Form Filing Review Checklist
HEALTH MAINTENANCE ORGANIZATIONS (HMOs)
(INDIVIDUAL AND SMALL GROUP)

NOTICE: A health insurance product form filing submission must include: (i) a product-specific checklist, (ii) a mental health and substance use disorder benefits parity checklist, (iii) the essential health benefits (EHBs) checklist for the individual and small group markets, and (iv) the supplemental pediatric dental EHB checklist (for embedded pediatric dental products complying with EHBs in the individual and small group markets). Each required checklist must be completed in its entirety. The failure to submit a completed checklist will result in a delay of the review of the submission and may result in the rejection of the filing.

This document is intended to assist carriers in preparing form filings for approval by the Bureau of Insurance. It provides guidance based on current Virginia laws and regulations. It should be noted, however, that this checklist should not be used exclusive of other important resources, including, but not limited to, any and all other applicable state insurance laws and associated rules and regulations. It is the responsibility of the carriers to verify that their products and plans comply with all relevant statutory and regulatory requirements. Note that some regulatory references in the comments column are approximate. Please review the applicable citation for the full text of the requirement.

The Forms and Rates Section of the Life and Health Division will review submissions based on the requirements noted in this checklist. Please contact this Section at (804) 371-9532 if you have questions or need additional information about these requirements.

Company Name:			
Product Name:		SERFF Tracking Number:	
Plan:		Submission Includes Plans Intended for:	
<input type="checkbox"/>	60 % AV (Bronze)	<input type="checkbox"/>	Inside the Exchange
<input type="checkbox"/>	70% AV (Silver)	<input type="checkbox"/>	Outside the Exchange
<input type="checkbox"/>	80% (Gold)	<input type="checkbox"/>	Inside and Outside the Exchange
<input type="checkbox"/>	90% (Platinum)		
<input type="checkbox"/>	Child-Only		
<input type="checkbox"/>	Catastrophic Plan: <ul style="list-style-type: none"> - Only available to individuals under age 30 or those with hardship/affordability exemption; - Must not meet bronze, silver, gold or platinum AV requirement; - All Essential Health Benefits (EHBs) must be subject to the in-network deductible and no EHB may have any other cost-sharing in-network, EXCEPT a deductible must not apply to preventive services and at least the first 3 primary care physician visits per year; - Cost-sharing must not apply to preventive services; - The in-network deductible must mirror the highest allowed maximum out-of-pocket amount. 		
<input type="checkbox"/>	Student Health Plans: <ul style="list-style-type: none"> - Carrier must verify that the prescription drug formulary used for the submitted student health plan(s) is the same as that used in an approved ACA filing. - If not the same, attach the prescription drug template under Supporting Documentation of the student health form filing. 		

Review Requirements Checklist
HEALTH MAINTENANCE ORGANIZATIONS
(INDIVIDUAL AND SMALL GROUP)

REVIEW REQUIREMENTS	FEDERAL AND/OR VIRGINIA CITATION	COMMENTS	PAGE NO.
General Filing Requirements			
	14VAC5-100-40 1	Each form must have a number which may consist of digits, letters, or a combination of both. The number must distinguish the form from all other forms used by the insurer.	
	14VAC5-100-40 3	Certification of Compliance signed by the General Counsel or officer of company or attorney or actuary representing the company is required.	
	14VAC5-100-40 5	Description of market for which the form is intended.	
Form Number	14VAC5-100-50 1 § 38.2-3500 A 5	Form number must appear in lower left-hand corner of the first page of each form.	
Company Name and Address	14VAC5-100-50 2	Full and proper corporate name (including “Inc.” or “The”) must prominently appear on cover sheet of all policies and other forms. Home office address of insurer must prominently appear on each policy.	
Final Form	14VAC5-100-50 3	Form must be submitted in the final form in which it will be issued and completed in “John Doe” fashion to indicate its intended use.	
Application	14VAC5-100-50 4	Any form, which is to be issued with an attached application, must be filed with a copy of the application completed in “John Doe” fashion to indicate its intended use. (If application was previously approved, provide SERFF tracking number or copy with approval date).	
Type Size	14VAC5-100-50 5	Group Accident and Sickness forms must be printed with type size of at least 8-point type.	
Table of Contents	14VAC5-100-50 B	Required for policy or more than 3 pages (does not apply to groups with more than 10 members).	
Readability Certification	14VAC5-110-60	Disclose the score, number of words, sentences, and syllables for each form (does not apply to groups with more than 10 members).	
Additional SERFF Filing Requirements	14VAC5-100-40 and SERFF Filing Instructions	Additional SERFF filing requirements must be met as specified below for life and health forms and rate filings.	
General Information- Filing Description		(i) Description of each form by name, title, edition date, and intended use.	
		(ii) Identification of changes in benefits and premiums (previously approved or filed forms). [Place changed contract provisions (red-lined or highlighted) in Supporting Documentation].	
		(iii) Identification of SERFF or state tracking number for the previously approved or filed form for which the new form revises, replaces, or is intended to be used.	
		(iv) A statement as to whether any other regulatory body has withdrawn approval of the form because the form contains one or more provisions that were deemed to be misleading, deceptive or contrary to public policy.	

Review Requirements Checklist
HEALTH MAINTENANCE ORGANIZATIONS
(INDIVIDUAL AND SMALL GROUP)

REVIEW REQUIREMENTS	FEDERAL AND/OR VIRGINIA CITATION	COMMENTS	PAGE NO.
<i>MCHIP Requirements</i>		<p>Regarding the plan submitted with this filing, is the provider network consistent with the information previously filed and approved under Section 38.2-5802?</p> <p style="text-align: center;"><input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>If no, this filing must include the following:</p> <ol style="list-style-type: none"> 1. A detailed description of the criteria used to determine how a provider is included in the network or allocated to a tier within the network. 2. An explanation as to whether or not the network change or tiered network will result in any material change in the method of operation that is currently on file with the Financial Regulation Division. Pursuant to Administrative Letter 1998-11, any change that increases or decreases, or is likely to increase or decrease a health carrier's revenues, expenses, or net worth in an amount that exceeds 5% of the health carrier's current net worth qualifies as a material change that must receive prior approval from the Financial Regulation Division. 3. A response as to whether or not the Virginia Department of Health (VDH) has determined that the network is adequate. 	
Provider Lists	§ 38.2-5803 A 1	A list of providers and their locations shall be available to the enrollee. If an electronic version is made available, the coverage document must include a direct workable URL so that the insured can access the specific provider directory applicable to that particular plan. The insured must not be required to log in to access this information and must be provided all information necessary to determine the applicable provider network.	
Service Area	§ 38.2-5803 A 2	Description of service area or areas shall be described in the policy.	
Complaints	§ 38.2-5803 A 3	Description of method of resolving complaints. Provide most recent approval date of Complaints and Appeals process from the Bureau of Insurance and Virginia Department of Health. Please attach copies of approvals under Supporting Documentation. Is the language in the submitted forms identical in substance to the approved language?	
Bureau of Insurance & Department of Health	§ 38.2-5803 A 4	Each EOC shall contain a notice: "This Company is subject to regulation in this Commonwealth by the State Corporation Commission Bureau of Insurance pursuant to Title 38.2 and by the Virginia Department of Health pursuant to Title 32.1."	

Review Requirements Checklist
HEALTH MAINTENANCE ORGANIZATIONS
(INDIVIDUAL AND SMALL GROUP)

REVIEW REQUIREMENTS	FEDERAL AND/OR VIRGINIA CITATION	COMMENTS	PAGE NO.
Ombudsman Notice	§ 38.2-5803 A 5	A prominent notice in the EOC stating: "If you have any questions regarding an appeal or grievance concerning the health care services that you have been provided that have not been satisfactorily addressed by your plan, you may contact the Office of the Managed Care Ombudsman for assistance." Such notice must also include the toll-free telephone number, mailing address and electronic mailing address of the Office of the Managed Care Ombudsman.	
General Policy Provisions			
Contents of Policy	§ 38.2-305 A	Each policy/contract shall specify the: (1) The names of parties to the contract, (2) The subject of the insurance, (3) The risk insured against, (4) The time the insurance takes effect and, the period during which the insurance is to continue, (5) A statement of premium, and (6) The conditions pertaining to the insurance.	
Important Notice	§ 38.2-305 B	Each new or renewal policy/contract/certificate/evidence of coverage shall be accompanied by an important notice as stated in the statute.	
Fraud Notice	§ 38.2-316 D 1	Title 38.2 of the Code of Virginia does not define "Insurance Fraud." Any fraud notice that includes the term "insurance fraud" is not in compliance with this section of the Code. In Virginia, a fraud notice relating to life insurance, annuities, accident and sickness and credit life insurance should not include references to imprisonment or fines. Variations in a notice warning of consequences of making fraudulent statements will be considered.	
Misrepresentation	§ 38.2-316 D 3	No form shall contain any provision that encourages misrepresentation or is misleading, deceptive or contrary to the public policy.	
Nondiscrimination	§ 38.2-508 2	Plan may not unfairly discriminate or permit any unfair discrimination between individuals of the same class and of essentially the same hazard: (i) In the amount of premium, policy fees, or rates charged for any policy or contract of accident or health insurance. (ii) In the benefits payable under such policy or contract, (iii) In any of the terms or conditions of such policy or contract, or (iv) In any other manner.	
Medicaid Eligibility/Status Prohibited	§ 38.2-508.3	When considering eligibility, Medicaid eligibility cannot be a factor, and when determining a claim, Medicaid status cannot be a factor.	

Review Requirements Checklist
HEALTH MAINTENANCE ORGANIZATIONS
(INDIVIDUAL AND SMALL GROUP)

REVIEW REQUIREMENTS	FEDERAL AND/OR VIRGINIA CITATION	COMMENTS	PAGE NO.
Subrogation	§ 38.2-3405 A	Policy cannot allow subrogation of any person's right to recovery for personal injuries from a third party.	
COB/Liability Insurance Prohibited	§ 38.2-3405 B 14VAC5-211 80 a	No plan shall require a beneficiary to pay back any benefits from the proceeds of a recovery by such beneficiary from any other source. This provision shall not prohibit an exclusion of benefits paid under workers' compensation laws or govt. programs nor shall it prohibit coordination of benefits between insurance contracts.	
Workers' Compensation	§ 38.2-3405 D	Under specified circumstances, issuers shall not exclude coverage from any medical condition whenever benefits payable under workers' compensation are excluded from coverage.	
Calculation of Cost-Sharing Provisions	§ 38.2-3407.3	Coinsurance the member is required to pay must be based upon the amount actually paid or payable to the provider. Statements in the EOC or Schedules that refunds, rebates and post-payment adjustments will not be considered in the calculation of coinsurance are prohibited.	
Denial of Certain Prescription Drugs Prohibited	§ 38.2-3407.5	Each EOC must contain language indicating benefits will not be denied for any drug approved by the USFDA to treat: <ul style="list-style-type: none"> (i) Cancer because the drug has not been approved by the USFDA for that specific type of cancer for which the drug has been prescribed, or (ii) A covered indication if the drug has been approved by the USFDA for at least one indication, if the drug is recognized in standard reference compendia as safe and effective for treatment of that specific type of cancer, or that covered indication, respectively. 	
Denial of Benefits for Certain Prescription Drugs Prohibited	§ 38.2-3407.6:1	Each policy must contain language indicating benefits will not be denied for any drug approved by the USFDA to treat cancer pain because the dosage is in excess of the recommended dosage, if prescribed for a patient with intractable cancer pain.	
Ambulance Services	§ 38.2-3407.9	Policies covering ambulance services must provide that the ambulance provider will receive reimbursement from the health carrier when there is an assignment of benefits. A covered person must not be required to obtain prior authorization for ambulance services and must not be directed to use any system other than an emergency 911 system or other state, county or municipal emergency medical system for ambulance services.	
Prescription Drug Formularies	§ 38.2-3407.9:01 B 1, 2, 3	For plans using closed formularies, plan must have a process to allow medically necessary non-formulary prescription drug if the formulary drug is determined by the health services plan and physician to be inappropriate therapy. Requests must be acted on within one business day of receipt. See specific subsections of the Code.	

Review Requirements Checklist
HEALTH MAINTENANCE ORGANIZATIONS
(INDIVIDUAL AND SMALL GROUP)

REVIEW REQUIREMENTS	FEDERAL AND/OR VIRGINIA CITATION	COMMENTS	PAGE NO.
Exclusion of Prescription Drug Coverage Prohibited	§ 38.2-3407.9:02	Prescription drugs shall not be excluded from coverage solely on the basis of the length of time since the drug obtained FDA approval.	
Partial Supply of Prescription Drugs	§ 38.2-3407.9:04	Prescriptions dispensed by a network pharmacy for a partial supply of a covered prescription drug, in order to synchronize the enrollee's medications, must be covered at a prorated cost-sharing rate.	
Provider continuation – Active Treatment	§ 38.2-3407.10 F 1	Terminated provider may continue to treat enrollee for 90 days, if enrollee is under active course of treatment with provider, enrollee requests such continuing care, and provider has not been terminated for cause.	
Provider Continuation – Pregnancy	§ 38.2-3407.10 F 2	Terminated provider may continue to treat enrollee, who has entered 2 nd trimester of pregnancy at the time of provider's termination, except when provider is terminated for cause. Treatment may continue through postpartum care.	
Provider Continuation – Terminal Illness	§ 38.2-3407.10 F 3	Terminated provider may continue to treat enrollee who is determined to be terminally ill at the time of provider's termination, except when the provider is terminated for cause. Treatment may continue for duration of enrollee's life for care of terminal illness.	
Preauthorization Personnel	§ 38.2-3407.10 L	Where preauthorization is required for treatment, HMO's must have personnel available to provide such authorization when required.	
Reduction of Benefits	§ 38.2-3407.10 M	Carriers shall provide group policyholders written notice of any benefit reductions. Policyholders shall provide employees written notice of benefit reductions.	
Access to Specialists – Standing Referrals	§ 38.2-3407.11:1	The plan must permit any enrollee a standing referral as provided in subsection B of this statute.	
Standing Referral for Cancer Patients	§ 38.2-3407.11:2	The plan must have a procedure in place to permit an enrollee diagnosed with cancer to have a standing referral to a board-certified physician in pain management or oncologist authorized to provide services.	
Claims Paid to Insureds for Services from Nonpar. Providers	§ 38.2-3407.13:2	When an HMO follows a policy of sending payment to the enrollee, the certificate and explanation of benefit must include notice for the enrollees, for services performed by a non-participating provider, informing the enrollee of his or her responsibility to apply the plan payment to the claim from such non-participating provider.	
Proton Radiation Therapy Decisions	§ 38.2-3407.14:1 B	Each policy or contract that provides coverage for cancer therapy shall not hold proton radiation therapy to a higher standard of clinical evidence than for decisions regarding coverage of other types of radiation therapy treatment.	

Review Requirements Checklist
HEALTH MAINTENANCE ORGANIZATIONS
(INDIVIDUAL AND SMALL GROUP)

REVIEW REQUIREMENTS	FEDERAL AND/OR VIRGINIA CITATION	COMMENTS	PAGE NO.
Orally Administered Cancer Chemotherapy Drugs	§ 38.2-3407.18	Carriers shall include coverage for cancer chemotherapy drugs administered orally and intravenously or by injection and shall provide that the durational limits, deductibles, coinsurance factors and copayments for orally administered cancer chemotherapy drugs shall have consistently applied criteria within the same plan as those for cancer chemotherapy drugs that are administered intravenously or by injection.	
Calculation of Cost Sharing	§ 38.2-3407.20	Cost-share amounts paid by an enrollee or on behalf of an enrollee shall count toward any out-of-pocket maximum or cost-sharing requirements, to the extent allowed by federal law and regulation.	
Newborn Children	§ 38.2-3411	Coverage on an expense incurred basis that provides coverage for a family member of the insured shall, as to the family members' coverage, also provide that the accident and sickness insurance benefits applicable for children shall be payable with respect to a newly born child of the insured from the moment of birth.	
Prosthetic Devices and Components	§ 38.2-3418.15	A covered person's coinsurance for in-network prosthetic devices must not be in excess of 30%.	
Waiting Periods (Group Only)	§ 38.2-3452	Waiting periods for group enrollees shall be no longer than 90 days before being eligible for coverage.	
Cancellation by Insured (Individual Only)	§ 38.2-3503.13	The enrollee may cancel this policy at any time by written notice to the company. In the event of cancellation, the company shall promptly return the unearned portion of any premium; the earned premium shall be computed pro rata. Cancellation shall be without prejudice to any claim originating prior to the effective date of cancellation.	
Notice upon Termination (Group Only)	§ 38.2-3542 A	Certain employers shall give written notice to participating employees in the event of termination or upon receipt of notice of termination of any such policy not later than 15 days after the termination of a self-insured plan or receipt of the notice of termination.	
Termination Notice Employer (Group Only)	§ 38.2-3542 C	Notice must be given to employer at least 15 days prior to terminating contract due to non-payment of premiums	
EOC Must be Provided	§ 38.2-4306 A 1	Each subscriber shall be entitled to an Evidence of Coverage (EOC).	
Misleading Statements	§ 38.2-4306 A 3	No EOC shall contain statements that are unjust, unfair, inequitable, misleading, deceptive or misrepresentative.	
Complete Statement of Benefits	§ 38.2-4306 A 4 (a)	An EOC shall contain a complete summary of health care services and other benefits the enrollee is entitled.	
State Limits and Copayments	§ 38.2-4306 A 4 (b)	An EOC shall contain any limits on services, including deductibles and copayments.	
Describes Service Delivery	§ 38.2-4306 A 4 (c)	An EOC must contain where and in what manner services may be obtained.	
Contributory/Non-Contributory	§ 38.2-4306 A 4 (d)	An EOC must state if plan is contributory or non-contributory if group plan, and premium amount for individual contracts.	

Review Requirements Checklist
HEALTH MAINTENANCE ORGANIZATIONS
(INDIVIDUAL AND SMALL GROUP)

REVIEW REQUIREMENTS	FEDERAL AND/OR VIRGINIA CITATION	COMMENTS	PAGE NO.
Complaint Procedures	§ 38.2-4306 A 4 (e)	An EOC must contain enrollee complaint procedures.	
Provider List/Service Area	§ 38.2-4306 A 4 (f)	Provider list and service area description must be presented with an EOC, if information is not given to the subscriber at enrollment. Provider lists and service area description must be available on request or provided at least annually.	
Pharmacy Freedom of Choice	§ 38.2-4312.1	For outpatient prescription drug benefits, a plan must allow for freedom of choice of pharmacies, if a non-participating pharmacy or its intermediary agrees in writing to accept reimbursement, including copayment, at the same rate as participating pharmacies.	
24 Hour On Call	§ 38.2-4312.3	Plan must provide access to care and access by telephone to a physician or licensed medical professional who can direct or refer the member where there is an immediate, urgent need or medical emergency.	
Dependent Coverage	PHSA § 2714 (45 CFR § 147.120) § 38.2-3411.2 § 38.2-3438 § 38.2-3439	Any insurance benefits applicable for children under the policy shall be payable with respect to adopted children or children placed in foster care. If a policy offers dependent coverage, it must include dependent coverage to age 26 without restriction to financial dependency, residency, marital, student or employment status, or eligibility for other coverage.	
Continuation of Coverage (Group Only)	14VAC5-211-70 A	Each policy shall contain a provision that provides for continuation of coverage.	
Cost Sharing	14VAC5-211-90 A	Copayment must be shown in EOC as a specified dollar or as a coinsurance, not both.	
Cost Sharing Notification	14VAC5-211-90 B	Plan shall keep cost sharing records, shall notify enrollee no later than 30 days after out-of-pocket maximum or cost sharing is reached, shall not charge any further cost sharing that year, and shall promptly refund any excess cost sharing paid. EOC must clearly state procedures.	
Name, Address and Telephone Number	14VAC5-211-210 B 1	An EOC must contain name, address and telephone number of HMO.	
Effective Date and Term of Coverage	14VAC5-211-210 B 5	An EOC must contain effective date and term of coverage.	
Arbitration	14VAC5-211-210 B 7	A description of the HMO's method of resolving enrollee complaints, including a description of any arbitration procedure if complaints may be resolved through a specified arbitration agreement.	
COB Provisions	14VAC5-211-210 B 11	An EOC must contain any coordination of benefits provisions.	
Assignment Restrictions	14VAC5-211-210 B 12	An EOC must contain any assignment of benefit restrictions in contract.	
Claim Filing/Proof of Loss	14VAC5-211-210 B 13	An EOC must contain the plans' claim filing procedures and proof of loss requirements.	
Eligibility Requirements	14VAC5-211-210 B 14	Conditions under which dependents may be added.	

Review Requirements Checklist
HEALTH MAINTENANCE ORGANIZATIONS
(INDIVIDUAL AND SMALL GROUP)

REVIEW REQUIREMENTS	FEDERAL AND/OR VIRGINIA CITATION	COMMENTS	PAGE NO.
Entire Contract	14VAC5-211-210 B 15	An EOC shall contain a provision that the contract or evidence of coverage and any amendments to it constitutes the entire contractual agreement between the parties involved and that no portion of the charter, bylaws, or other document of the health maintenance organization shall constitute part of the contract unless it is set forth in full in the contract.	
Grace Period	14VAC5-211-210 B 16	An EOC shall contain a provision that the policyholder is entitled to a grace period of not less than 31 days for the payment of any premium due, except for the first premium. During the grace period, the coverage shall continue in force.	
Reasons for Termination	14VAC5-211-230 A	Plan may not terminate a member, except for listed reasons: Failure to pay premiums, fraud or intentional misrepresentation of material fact, discontinuance of group, or failure to meet group participation or contribution requirements.	
Termination Rules	14VAC5-211-230 B	An EOC must contain terms and conditions under which coverage may be terminated. HMO's must provide a 31-day grace notice of termination, except for non-payment of premiums and change in eligibility status.	
<i>Additional Provisions</i>			
Annual and Lifetime Limits	PHSA § 2711 (45 CFR § 147.126) § 38.2-3440	This limits the ability for companies to impose annual and lifetime dollar limits on essential health benefits in and out-of-network.	
Rescissions	PHSA § 2712 (445 CFR § 147.128) § 38.2-3441	Rescissions are prohibited except for an act, practice, or omission that constitutes fraud or the individual makes an intentional misrepresentation of material fact in the application. The insurer must provide at least 30 days advance written or electronic notice to each participant who would be affected before coverage may be rescinded.	
Preventive Services	PHSA § 2713 (45 CFR § 147.130) § 38.2-3442	This requires non-grandfathered plans to cover in network preventive health and wellness services without out-of-pocket cost-sharing (co-insurance, co-payment or deductible). See EHB checklist.	
Access to OB/GYN	PHSA § 2719A (45 CFR § 147.138) § 38.2-3443	The plan must not require prior authorization or referral requirements for obstetrical or gynecological care if care is provided by in-network providers specializing in obstetrics or gynecology. A health carrier shall provide notice to a covered person of the terms and conditions of the plan related to the designation of a participating health care professional.	
No Pre-Existing Condition Exclusions	PHSA § 2704 and § 1255 (45 CFR § 147.108) § 38.2-3444	Issuers may not impose pre-existing condition exclusions.	

Review Requirements Checklist
HEALTH MAINTENANCE ORGANIZATIONS
(INDIVIDUAL AND SMALL GROUP)

REVIEW REQUIREMENTS	FEDERAL AND/OR VIRGINIA CITATION	COMMENTS	PAGE NO.
Emergency Services	PHSA § 2719A (45 CFR § 147.138) § 38.2-3445 14VAC5-211-160 A 5	<p>Plans must cover in and out-of-area emergency services, including ambulance services available 24 hours a day, 7 days a week.</p> <p>Plans must cover emergency services. Such coverage must be without requirements for prior authorization or any requirement that service be provided by a participating provider. Cost sharing (copay and coinsurance amounts) must not differ from the in-network level. Deductibles and out-of-pocket maximums that apply generally to out-of-network benefits may be imposed as out-of-network emergency services.</p> <p>Plans that permit balance billing for out-of-network emergency services must indicate in the policy or contract that plan payment for out-of-network emergency services is based on the greatest of:</p> <ol style="list-style-type: none"> (1) The amount negotiated with in-network providers for the emergency service, or if more than one amount is negotiated, the median in-network rate; (2) The usual and customary rate (or similar rate determined using the issuer's general formula for determining payments for out-of-network services); or (3) The Medicare rate for the emergency service. 	
Emergency Services Definitions	PHSA § 2719A (45 CFR § 147.138) § 38.2-3438 § 38.2-4300	<p>“Emergency medical condition means a medical condition manifesting itself by acute symptoms of sufficient severity, including severe pain, so that a prudent layperson reasonably expect the absence of immediate medical attention to result in a condition that places the physical or mental health of the individual in serious jeopardy, would result in serious impairment to bodily functions, or serious dysfunction of any bodily organ with respect to a pregnant woman, serious jeopardy to the health of the fetus.”</p> <p>“Emergency services means those health care services that are rendered by affiliated or nonaffiliated providers after the sudden onset of a medical condition that manifests itself by symptoms of sufficient severity, including severe pain, that the absence of immediate medical attention could reasonably be expected by a prudent layperson who possesses an average knowledge of health and medicine to result in:</p> <ol style="list-style-type: none"> (i) Serious jeopardy to the mental or physical health of the individual, (ii) Danger of serious impairment of the individual's bodily functions, (iii) Serious dysfunction of any of the individual's bodily organs, or (iv) In the case of a pregnant woman, serious jeopardy to the health of the fetus.” 	

Review Requirements Checklist
HEALTH MAINTENANCE ORGANIZATIONS
(INDIVIDUAL AND SMALL GROUP)

REVIEW REQUIREMENTS	FEDERAL AND/OR VIRGINIA CITATION	COMMENTS	PAGE NO.
		<p>“Emergency services provided within the plan’s service area shall include covered health care services from nonaffiliated providers only when delay in receiving care from a provider affiliated with the health maintenance organization could reasonably be expected to cause the enrollee’s condition to worsen if left unattended.”</p> <p>“Stabilize means to provide treatment that assures that no material deterioration of the condition is likely to result from or occur during the transfer of the individual from a facility, or with respect to a pregnant woman, that the woman has delivered, including the placenta.”</p>	
Primary Care Providers	PHSA § 2713 (45 CFR § 147.130) § 38.2-3443 14VAC5-211-140	<p>Network plans requiring or providing for a primary care health professional to be designated must:</p> <ol style="list-style-type: none"> 1. Allow each enrollee to designate any participating primary healthcare professional who is available to accept such individual. 2. A participating healthcare professional specializing in pediatrics and available to accept children may be designated as primary healthcare provider. 3. Notice of these is required when carrier provides primary subscriber with a policy, certificate or contract of health insurance. 	
Provider Nondiscrimination	PHSA § 2706 § 38.2-4312	Providers operating within their scope of practice, license or certification cannot be discriminated against.	
Nondiscriminatory Benefit Design	45 CFR § 156.200(e) and 45 CFR § 156.225 14VAC5-211-240 A	<p>QHPs shall not use benefit designs that will have the effect of discouraging the enrollment of individuals with significant health needs in QHPs.</p> <p>QHPs shall not discriminate on the basis of race, color, national origin, disability, age, sex, gender identity, or sexual orientation.</p> <p>Plan may not unfairly discriminate against any enrollee on the basis of the age, sex, health status, race, color, creed, national origin, ancestry, marital status, lawful occupation of the enrollee or because of the frequency of utilization of services by the enrollee.</p>	

Review Requirements Checklist
HEALTH MAINTENANCE ORGANIZATIONS
(INDIVIDUAL AND SMALL GROUP)

REVIEW REQUIREMENTS	FEDERAL AND/OR VIRGINIA CITATION	COMMENTS	PAGE NO.
Cost-Sharing Limits	42 USC § 18022 26 USC § 223(c)(2) (A)(ii) 2020 Proposed Notice of Benefit and Payment Parameters § 38.2-3451	<p><u>Cost-sharing</u> in-network limited to maximum out-of-pocket for high deductible health plans in 2014 (adjusted by IRS), increased by this amount multiplied by the premium adjustment percentage set by HHS (\$8,150 individual/\$16,300 family for 2020).</p> <p><u>Cost-sharing</u> includes deductibles, coinsurance, copayments, or similar charges; and any other expenditure required of an insured individual which is a <u>qualified medical expense</u> for EHBs covered under the plan. Non EHB cost-sharing may contribute to cost-sharing limit. Cost-sharing does not include balance billing amounts for non-network providers.</p> <p><u>Qualified medical expense</u> means an expense paid by the insured person for medical care for her/himself, covered spouse, and covered dependent(s) that re not compensated for by insurance or otherwise.</p> <p>Plans that use separate service providers may have non-integrated maximum out-of-pocket limits as long as the total amount for the plan does not exceed the 2020 cost-sharing limit. Mental health/substance abuse benefits must not have separate limits than other services in general. The contract must clearly describe any and all out-of-pocket maximums and deductible limits. For family limits on cost sharing, the contract must not show limits or maximums for an individual unless that limit or maximum may apply.</p>	
“Michelle’s Law”	PHSA § 2728 (45 CFR § 147.145) § 38.2-3525 E (Small Group)	<p>Coverage for dependent student on <u>medically necessary leave of absence</u> (“Michelle’s Law”)</p> <p><input type="checkbox"/> Issuer cannot terminate coverage due to a medically necessary leave of absence before:</p> <ul style="list-style-type: none"> • The date that is 1 year after the first day of the leave; or • The date on which coverage would otherwise terminate under the terms of the coverage. <p><input type="checkbox"/> Change in benefits prohibited – child on medically necessary leave of absence is entitled to the same benefits as if the child continued to be a covered student who was not on a medically necessary leave of absence; however, if there is a change in the manner in which the beneficiary/parent is covered and continues to cover the dependent, the changed coverage will apply for the remainder of the period of the medically necessary leave of absence.</p>	

Review Requirements Checklist
HEALTH MAINTENANCE ORGANIZATIONS
(INDIVIDUAL AND SMALL GROUP)

REVIEW REQUIREMENTS	FEDERAL AND/OR VIRGINIA CITATION	COMMENTS	PAGE NO.
		<input type="checkbox"/> Eligibility for protections: a dependent child under the terms of the coverage of the beneficiary, enrolled in the coverage on the basis of being a student immediately before the first day of the medically necessary leave of absence involved. <input type="checkbox"/> <u>Medically necessary leave of absence</u> means: a leave of absence or change of enrollment of a dependent child from a postsecondary education institution that: <ol style="list-style-type: none"> 1. Commences while the child is suffering from a serious illness or injury; 2. Is medically necessary; and 3. Causes the child to lose student status for purpose of coverage under the terms of coverage. <input type="checkbox"/> Issuer must include with any notice regarding a requirement for certification of student status for coverage, a description of the terms for continued coverage during medically necessary leave of absence.	
Copayment Amount	14VAC5-211-90 A	Copayment must be shown in EOC as a specified dollar or as a coinsurance.	
Copayment Notification	14VAC5-211-90 B	Plan shall keep copayment records, shall notify enrollee no later than 30 days after copayment maximum is reached, shall not charge any further copayments that year, and shall promptly refund any excess copayments paid. An EOC must clearly state procedures.	
Guaranteed Renewability	PHSA § 2702 (45 CFR § 147.106, and 148.122) (See also § 38.2-3430.7) 45 CFR 146.152 and 147.106 § 38.2-3432.1 <i>(depends on group or individual)</i>	<p>Coverage is guaranteed renewable at the option of the insured except when there is no longer an individual that lives, works or resides in the service area.</p> <p>May only non-renew or cancel coverage for nonpayment of premiums, fraud, carrier terminates the type of health insurance coverage (product) (90 days' notice), market exit (180 days' notice), movement outside of service area, or coverage is uniformly terminated when association membership ceases. Medicare eligibility or entitlement is not a basis for non-renewal or cancellation when renewing into the same policy.</p> <p>NOTE: Student health plans are not subject to Guaranteed Renewability and Guaranteed Availability.</p>	
Explanation of Internal Appeals Process	45 CFR § 147.136 29 CFR § 2560.503-1 § 38.2-305 § 38.2-3570	<p>Specific requirements to be included in or attached to policy:</p> <ol style="list-style-type: none"> 1. The procedure must identify timeframes to submit internal appeals on a standard, concurrent or urgent care basis, and timeframes for the issuer to respond to these appeals in accordance with federal and state law; 	

Review Requirements Checklist
HEALTH MAINTENANCE ORGANIZATIONS
(INDIVIDUAL AND SMALL GROUP)

REVIEW REQUIREMENTS	FEDERAL AND/OR VIRGINIA CITATION	COMMENTS	PAGE NO.
	§ 38.2-5803 14VAC5-216-30	<ol style="list-style-type: none"> 2. No fee can be charged for appeals process; 3. The procedures must not unduly inhibit initiation or processing of claims; 4. Plans must include contact information for enrollee to submit an appeal, including name, address and phone number; 5. Issuer must allow an authorized representative of the claimant to act on behalf of the claimant in pursuing a benefit claim or appeal of an adverse benefit determination. In an urgent care appeal, the issuer must recognize a health care professional with knowledge of the person's medical condition as an authorized representative. 6. Plans must include required contact information for the Bureau; and 7. (For MCHIPs) Plans must include the required statement in VA Code § 38.2-5803 A 5 to include contact information of the Office of Managed Care Ombudsman, indicating the mailing address, email address and local and toll-free phone number. 	
Explanation of Right to External Review	45 CFR § 147.136 29 CFR § 2560.503-1 § 38.2-3570	<p>Specific requirements to be included in or attached to policy:</p> <ol style="list-style-type: none"> 1. An explanation of the right to file a request for external review of adverse determinations or final adverse determinations with the Bureau, including an explanation of those determinations eligible for external review: Determinations based on medical necessity, appropriateness, health care setting, level of care, or effectiveness, or a determination that a service is experimental/investigational; 2. Notification that the enrollee will be required to authorize the release of medical records required for the external review. 	
Claims Procedures	45 CFR § 147.136 29 CFR § 2560.503-1	<p>The following rules relate to requirements for initial adverse benefit determinations. These processes fall under the jurisdiction of the Virginia Department of Health (VDH), Office of Licensure and Certification, and are included in this checklist for informational purposes only. <u>The Bureau does not speak for VDH, and any VDH requirements or guidelines take precedence over this information.</u></p> <p>General requirements for Claims Procedures:</p> <ol style="list-style-type: none"> 1. Required to include a description of: <ol style="list-style-type: none"> a. Claims procedures, b. Procedures for obtaining prior approval, c. Preauthorization procedures, d. Utilization review procedures, and e. Applicable time frames 2. The claims procedure cannot unduly inhibit the initiation or processing of claims. 	

Review Requirements Checklist
HEALTH MAINTENANCE ORGANIZATIONS
(INDIVIDUAL AND SMALL GROUP)

REVIEW REQUIREMENTS	FEDERAL AND/OR VIRGINIA CITATION	COMMENTS	PAGE NO.
		<p>A <u>claim for benefits</u> is a request for benefits made by a claimant in accordance with an issuer's reasonable procedure for filing benefit claims, including pre-service and post-service claims.</p> <p>Time and process for urgent care (pre-service, post-service):</p> <ol style="list-style-type: none"> 1. Determination for urgent care must be made within 72 hours. 2. Notice of the determination within 72 hours of receipt of the claim. 3. Notice of urgent care decisions must include a description of the expedited review process applicable to such claim. 4. No extension of the determination time-frame is permitted. 5. If the claimant fails to provide sufficient information, issuer must notify the claimant within 24 hours and must include specific information necessary to complete the claim. 6. The claimant must have at least 48 hours to provide the specified information. 7. A determination must be made within 48 hours of receiving specified information or expiration of time afforded to the claimant to provide the specified information (whichever is earlier). <p>Time and process for concurrent urgent care (at the request of the claimant):</p> <ol style="list-style-type: none"> 1. Claim for concurrent urgent care: Refers to a claimant to extend the course of treatment beyond time/number of treatments. 2. Claim for concurrent urgent care: If a claimant requests to extend the course of treatment beyond time/number of treatments. 3. Claim must be made at least 24 hours prior to the expiration of the prescribed period of time/number of treatments. 4. Determination must be made within 24 hours. 5. Notification is required within 24 hours of the claimant's request. <p>Time and process for pre-service claim:</p> <ol style="list-style-type: none"> 1. Determination and notification for a pre-service claim must be made within 15 days of the request of the claim. 2. Determination extension up to 15 days allowed if necessary due to matters beyond the control of the issuer. 	

Review Requirements Checklist
HEALTH MAINTENANCE ORGANIZATIONS
(INDIVIDUAL AND SMALL GROUP)

REVIEW REQUIREMENTS	FEDERAL AND/OR VIRGINIA CITATION	COMMENTS	PAGE NO.
	<p>§ 38.2-3559 § 38.2-3562 § 38.2-3563 § 38.2-5803</p>	<ol style="list-style-type: none"> 3. Notice required of the extension prior to the expiration of the initial 15-day period. 4. The issuer must identify for the claimant the circumstances requiring the extension and date by which the issuer expects to render a decision. 5. If the claimant fails to provide sufficient information, the issuer must notify the claimant and specifically describe the required information needed to render a decision. 6. Claimant has 45 days from receipt of notice of insufficient information to provide specified information. <p>Time and process for on-going services/treatment (concurrent care decisions):</p> <ol style="list-style-type: none"> 1. Reduction/termination of benefits of ongoing courses of treatment (concurrent care) before the end of the time/treatments is considered an adverse benefit determination. 2. Determination and notice of determination for concurrent care must be made sufficiently in advance of the reduction/termination of benefits to allow the claimant to appeal and obtain a determination on the review of the adverse benefit determination BEFORE reduction/termination. <p>Time and process for post-service claim:</p> <ol style="list-style-type: none"> 1. Determination for post-service claim must be made within 30 days of receipt of claim. 2. Notice of the determination must be made within 30 days of receipt of the claim. 3. Determination extension up to 15 days is allowed if necessary due to matters beyond the control of the issuer. Notice of the extension must be provided to the claimant prior to expiration of the initial 30-day period. The issuer must indicate the circumstances requiring the extension and date by which the issuer expects to render a decision. 4. If claimant fails to provide necessary information, the issuer must provide notice, which includes the specific information necessary to render a decision. The claimant has at least 45 days from the receipt of notice to provide the specified information. <p>Standards for all required notices: (This information is not required to be in the policy, but nothing in the policy may conflict.)</p> <ol style="list-style-type: none"> 1. Issuer must provide the claimant with written or electronic notification of any adverse benefit determination for pre-service, post-service, and concurrent treatment claims. 	

Review Requirements Checklist
HEALTH MAINTENANCE ORGANIZATIONS
(INDIVIDUAL AND SMALL GROUP)

REVIEW REQUIREMENTS	FEDERAL AND/OR VIRGINIA CITATION	COMMENTS	PAGE NO.
	14VAC5-216-30 14VAC5-216-40 Administrative Letter 2011-05	<ol style="list-style-type: none"> 2. All notices of adverse benefit determination (including final internal adverse benefit determinations) must be provided in a culturally and linguistically appropriate manner and must include: <ol style="list-style-type: none"> a. In the English version, a statement prominently displayed in any applicable non-English language indicating how to access the issuer's language services. b. Information sufficient to identify the claim involved including date of service, health care provider, claim amount, and, upon request, diagnosis/treatment codes and their meanings; c. Specific reason for the adverse benefit determination, including the denial code and its corresponding meaning and a description of the issuer's standard that was used in denying the claim; d. Diagnosis/treatment codes and meanings must be provided as soon as practicable. Requests for this information cannot be considered a request for an internal appeal or external review; e. Statement indicating that the claimant has access to all documents related to claim; f. Applicable expedited review process; g. A description of available internal appeals and external review processes (to include applicable timeframes for enrollee submission and issuer response – standard and expedited or urgent care); h. Contact information to submit appeal or complaint – name, address, telephone number; i. Claimant's right to bring civil action under § 502(a) of ERISA if applicable; j. Availability of and contact information for health insurance consumer assistance or, if MCHIP, Ombudsman; and k. Claimant's right to request an external review if he or she has not received a final benefit determination within the required timeframes, unless the claimant agreed to the delay. 3. An adverse determination must describe: <ol style="list-style-type: none"> a. All of the information in an adverse benefit determination; b. Required language of VA Code § 38.2-3559; c. Process in which an external review may be requested if issuer does not meet review timeframes; 	

Review Requirements Checklist
HEALTH MAINTENANCE ORGANIZATIONS
(INDIVIDUAL AND SMALL GROUP)

REVIEW REQUIREMENTS	FEDERAL AND/OR VIRGINIA CITATION	COMMENTS	PAGE NO.
		<ul style="list-style-type: none"> d. Website and phone number to assist claimant in requesting an external review in the above circumstance; and e. Notice that an expedited review: <ul style="list-style-type: none"> (i) Is available if the adverse determination involves cancer, if medically needed or for experimental/investigational treatments; and (ii) Can be requested at the same time as an expedited internal appeal. 	
Internal Appeals	PHSA § 2719 (45 CFR § 147.136) 14VAC5-216-40 § 38.2-3559	<p><i>Procedures described in the policy should reflect these timeframes and not contradict this process. Internal appeals of adverse benefit determinations – processes, right and required notices:</i></p> <ol style="list-style-type: none"> 1. Enrollees have a right to one internal appeal of an adverse benefit determination. 2. Enrollees may review the claim file and present evidence and testimony as part of the internal appeals process. 3. Enrollees have at least 180 days following receipt of a notification of an adverse benefit determination within which to appeal. 4. Enrollees must have access to an expedited review process. Requests for expedited review must be allowed to be submitted orally or in writing. 5. A clinical peer reviewer must review appeals involving medical judgement. 6. Appeal reviewer must not be involved with previous claim. 7. Issuer must identify person rendering any expert advice. <p><i>Procedures described in the policy should reflect these timeframes and not contradict this process. In addition to adverse benefit determination and adverse determination requirements, a final adverse determination notification must include:</i></p> <ol style="list-style-type: none"> 1. A statement that the communication represents a final adverse determination; 2. Forms necessary to request an external review; and 3. Notice of expedited external review available if the decision involves emergency care, and patient has not been discharged from facility. <p><u>Pre-service claim:</u> Determination and notification must be made within 30 days after receipt of the claimant's request.</p> <p><u>Post-service claim:</u></p>	

Review Requirements Checklist
HEALTH MAINTENANCE ORGANIZATIONS
(INDIVIDUAL AND SMALL GROUP)

REVIEW REQUIREMENTS	FEDERAL AND/OR VIRGINIA CITATION	COMMENTS	PAGE NO.
	§ 38.2-3407.9:05	<p>If coverage is granted, the carrier must cover the nonformulary drug as a formulary drug for the duration of the prescription (including refills) or for the duration of the exigent circumstances.</p> <p><u>Step Therapy Exception Request</u> A covered person or prescriber may request a step therapy override exception with a determination provided no later than 72 hours after receipt of the request for the step therapy override exception. An expedited exception request must be reviewed with a determination provided no later than 24 hours following the request.</p> <p>If a response by a carrier or utilization review organization is not received within these time periods, the exception or appeal shall be deemed granted.</p>	
External Review	PHSA § 2719 (45 CFR § 147.136) § 38.2-3556 § 38.2-3559 § 38.2-3560 § 38.2-3563 § 38.2-3564 § 38.2-3569 14VAC5-216-45	<p>External review processes rights and required notices: External review of an adverse determination for:</p> <ol style="list-style-type: none"> 1. Medical necessity; 2. Appropriateness; 3. Health care setting; 4. Level of care; or 5. Effectiveness of a covered benefit. <p>External review of adverse determinations for experimental or investigational treatments or services. <i>Process should reflect the following:</i></p> <ol style="list-style-type: none"> 1. Have at least all of the protections that are available for external reviews based on medical necessity, appropriateness, health care setting, level of care, or effectiveness of a covered benefit. 2. Issuers must provide effective written notice to claimants of external review rights in plan materials, and in each notice of adverse benefit determination. 3. Exhaustion of internal appeals is required prior to external review, unless the adverse determination relates to cancer treatment. The process shall be deemed exhausted. <ol style="list-style-type: none"> a. If issuer did not meet internal appeal process timelines (with limited exceptions) or otherwise violated the provisions of the appeal process; or b. In cases of an urgent care appeal. 	

Review Requirements Checklist
HEALTH MAINTENANCE ORGANIZATIONS
(INDIVIDUAL AND SMALL GROUP)

REVIEW REQUIREMENTS	FEDERAL AND/OR VIRGINIA CITATION	COMMENTS	PAGE NO.
		<p>4. Cost of an external review must be borne by the issuer.</p> <p>5. Claimant cannot be charged a filing fee.</p> <p>6. Restriction on the minimum dollar amount of a claim is not allowed.</p> <p>7. Claimant has 120 days to file for external review after the receipt of the right to an external review of an adverse determination (including final internal adverse determination).</p> <p>8. IRO decision is binding on the issuer.</p> <p>9. For standard reviews (not urgent), the IRO must inform the issuer and the claimant in writing of its decision within 45 days from the Independent Review Entity's receipt of the request for review.</p> <p>Urgent care:</p> <p>1. The process must provide for expedited external review of urgent care claims.</p> <p>2. The IRO must inform the issuer, the claimant, and the Bureau of an urgent care decision within 72 hours from receipt of an eligible request for review.</p> <p>If the IRO's decision was given orally, the IRO must provide written notice of the decision within 48 hours of the oral notification.</p>	
Enrollment Periods for Qualified Individuals	45 CFR § 155.410 45 CFR § 155.420 § 38.2-3448	<p>Provide and disclose enrollment periods for qualified individuals:</p> <p>Individual Market special enrollment – On Exchange - 60 days from the date of the following:</p> <p>Loss of minimum essential coverage; marriage, birth, adoption, placement for adoption, placement in foster care; child support order or other court order; material error on exchange; victim or dependent of victim of domestic abuse or spousal abandonment; individual gains citizenship, national, or lawfully present; release from incarceration; unintentional enrollment or non-enrollment in a QHP because of exchange or assister error; violation by QHP of material contract provision; newly eligible for premium tax credit/subsidies; permanent move (conditions); Native American; other exceptional circumstances; new eligibility verification information; Medicaid/FAMIS eligibility determination delay.</p> <p>NOTE: Special enrollment for marriage – only applies if at least one spouse was enrolled in an exchange plan at least 1 day in the 60 days before marriage; or lived</p>	

Review Requirements Checklist
HEALTH MAINTENANCE ORGANIZATIONS
(INDIVIDUAL AND SMALL GROUP)

REVIEW REQUIREMENTS	FEDERAL AND/OR VIRGINIA CITATION	COMMENTS	PAGE NO.
	45 CFR § 147.104 45 CFR §155.420 § 38.2-3448	<p>abroad for 1 or more days in the 60 days before marriage; or is an American Indian or Alaskan Native.</p> <p>Individual Market – Off Exchange – 60 days from the date of the following: Loss of minimum essential coverage; marriage, birth adoption, placement for adoption, placement in foster care, child support order or other court order; material error on exchange; victim or dependent of victim of domestic abuse or spousal abandonment; unintentional enrollment or non-enrollment in a plan because of error; violation by plan of material contract provision; newly ineligible for premium tax credit/subsidies; permanent move (conditions); Medicaid/FAMIS eligibility determination delay.</p> <p>NOTE: Special enrollment for marriage – only applies if at least one spouse was enrolled in an exchange plan at least 1 day in the 60 days before marriage; or lived abroad for 1 or more days in the 60 days before marriage; or is an American Indian or Alaskan Native.</p>	
Enrollment Periods for Qualified Individuals	45 CFR § 155.725 45 CFR § 155.420 § 38.2-3432.3 § 38.2-3448 45 CFR § 146.117 § 38.2-3432.3 § 38.2-3448	<p>Provide and disclose enrollment periods for qualified individuals:</p> <p>SHOP - Special enrollment periods available for 30 days from the date of the following: Loss of minimum essential coverage; marriage, birth adoption, placement for adoption, placement in foster care, child support order or other court order; material error on exchange; victim or dependent of victim of domestic abuse or spousal abandonment; unintentional enrollment or non-enrollment in a QHP because of exchange or assister error; violation by QHP of material contract provision; permanent move (conditions); Native American; other exceptional circumstances; Medicaid/FAMIS eligibility determination delay.</p> <p>Special enrollment for Medicaid/FAMIS – 60 days.</p> <p>SMALL GROUP - 30 days from the date of the following: Employee or dependent loss of coverage, including the plan does not provide benefits to individuals outside of the service area; termination of employer contributions; exhaustion of COBRA continuation coverage; marriage, birth, adoption or placement for adoption.</p>	

Review Requirements Checklist
HEALTH MAINTENANCE ORGANIZATIONS (HMOs)
(INDIVIDUAL AND SMALL GROUP)

I hereby certify that I have received the attached health maintenance organizations (Individual and Small Group) filing and determined that it is in compliance with the health maintenance organizations (Individual and Small Group) checklist.

Signed: _____

Name (please print): _____

Company Name: _____

Date: _____ Phone No: (____) _____ Fax No: (____) _____

E-Mail Address: _____