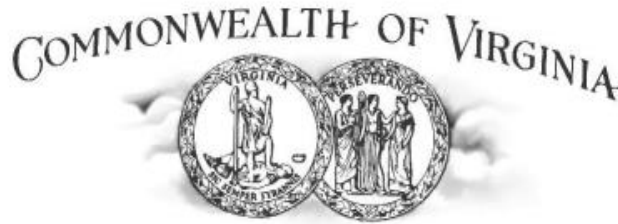


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March 27, 2023

To: All Carriers Licensed to Sell Accident and Sickness Insurance in Virginia; all Health Maintenance Organizations, Health Services Plans, Dental Services Plans, and Dental Plan Organizations Licensed in Virginia

Re: Product Form, Rate and Binder Filing Information

This letter notifies carriers of important filing information, including updated requirements, procedures, and deadlines, regarding the submission of insurance products and premium rates for approval by the Bureau of Insurance (BOI).

This information applies to carriers¹ intending to offer the following products:

- Qualified Health Plans (QHPs) sold on and off the Virginia Health Benefit Exchange (Exchange)
- Health insurance plans sold off the Exchange
- Exchange-certified stand-alone dental plans (SADPs)

The BOI performs plan management functions for the Exchange.

Please see the information below for further details regarding the submission of insurance products and premium rates for BOI approval.

Filing Requirements

The following updated documents will be available in SERFF as a resource for carriers:

- SERFF General Instructions

¹The BOI uses the term "carrier" in this letter to include both (1) health carriers as defined in § 38.2-3438 of the Code of Virginia (Code) and (2) those carriers intending to offer Exchange-certified stand-alone dental plans (SADPs).

- SERFF Plan Management General Instructions
 - Process for Submissions Outside the Exchange
 - EHB Market Rules and Requirements
 - Stand-alone Dental Plan Market Rules

The information listed below will be posted to the BOI website on the [ACA-Rate-Form-Filing-Information](#) page:

- Updated checklists for filing forms and rates with changes noted
- A [timeline](#) of BOI Plan Management filing deadlines
- General review activities for health insurance plans
- Additional guidance information

Any changes to this information will be communicated to carriers through SERFF messages or posts on the ACA Rate and Form Filing Information page.

Updating Previously Approved Forms

- New forms must be submitted to revise previously approved forms. The BOI will not accept amendments or endorsements to previously approved forms.
- If new forms are submitted that are substantially similar to previously approved forms, please include:
 - Form numbers and SERFF tracking numbers of the previously approved forms
 - Changes to the previously approved forms noted in redline and uploaded to the Supporting Documentation tab in SERFF
- Previously approved ACA compliant forms may be used for the next plan year provided that the forms remain in compliance with applicable laws and no changes have been made to the previously approved forms.

New for Plan Year 2024 – Form Submissions

BOI enforces Virginia law. Balance billing protections were put into place in Virginia law prior to the enactment of the federal Consolidated Appropriations Act (CAA)/No Surprises Act (NSA). Some provisions of Virginia law do not identically match the CAA/NSA. The Center for Medicare and Medicaid Services (CMS) provided this enforcement [letter](#) to describe the discrepancies. Where Virginia law is not as broad or varies from the CAA and NSA, CMS will review individual, small group and large group market forms for compliance with the following areas of the CAA/NSA:

- Surprise billing – non-emergency services
- Surprise billing – air ambulance
- Continuity of care

- Emergency services – prohibition on prior authorization and cost-sharing restrictions

Form submissions to CMS must be made at the product level. This may result in more than one SERFF filing per market. The BOI has not required carriers to submit different product forms via separate SERFF submissions in the past; therefore, when filing with the BOI, carriers will have the option to file the same way they have been (to include multiple product types in the same filing), or file in the same manner as CMS requires.

The Virginia form filing deadline for individual and small group health insurance coverage is April 14, 2023, which is prior to the May 15, 2023 filing deadline for CMS. Note: Student health insurance products and products offered in the large group market must be filed with CMS 60 days prior to marketing.

Virginia Health Benefit Exchange

Virginia is on-track to fully operate the Exchange for plan year 2024, beginning with open enrollment in November 2023. However, as a contingency, CMS requires dual submission of some application materials to both CMS and the Exchange for QHPs and SADPs to become certified in this transition year.

- Exchange: For Plan Year 2024, carriers must submit QHP and SADP application materials via SERFF for the Exchange. SERFF binder instructions will require carriers to submit the URL template and Virginia-specific attestations under Supporting Documentation.
- CMS: For plan year 2024, carriers will continue to submit certain QHP materials through PM Community and the Health Insurance Oversight System (HIOS) as they did in previous years.

Both CMS and BOI, in conjunction with the Virginia Department of Health, will continue to review application materials until the Exchange and CMS mutually agree on the Exchange's readiness, which is set to occur during the first week of August.

In previous years, the BOI adopted the approaches set forth by CMS in its annual letter to issuers in federally-facilitated exchanges (FFE). For this transition year, the Virginia Exchange plans to mirror the FFE requirements for plan year 2024 to provide uniformity and minimize disruption for consumers, carriers, and stakeholders. Carriers seeking to offer QHPs and Exchange-certified SADPs should reference the information provided by CMS in the 2024 final annual letter for guidance.

QHP and SADP forms and binders must comply with the 2024 CMS draft annual letter. Forms should mirror company actions for all plans. For example, the 2024 CMS draft annual letter indicates that dependents will be covered until the end of the calendar year a dependent turns age 26. Forms, binders and company actions should reflect this.

Carriers offering plan year 2023 coverage are currently engaged in onboarding activities with the Exchange's platform vendor, GetInsured. Questions regarding carrier onboarding should be directed to: Kathryn.Sullivan@getinsured.com and Toni.Janoski@scc.virginia.gov.

Carriers wishing to offer plan year 2024 coverage and are new to the market, please contact the Exchange by April 1 at Toni.Janoski@scc.virginia.gov.

Commonwealth Health Reinsurance Program (CHRP)

The BOI must establish and publish the payment parameters for plan year 2024 by May 1, 2023. Carriers may make voluntary changes to individual health insurance coverage rate filings until June 14, 2023.

Carriers must file the Reinsurance Care Management Protocol Assessment as part of a carrier's individual health insurance coverage rate filing for plan year 2024. See [Administrative Letter 2022-03](#) for more details.

Mental Health and Substance Use Disorder Benefits Parity

Carriers should be aware of the following regarding the Mental Health Parity and Addiction Equity Act (MHPAEA):

- The BOI's [Mental Health and Substance Use Disorder Benefits Parity Self-Compliance Tool](#) continues to be available on the "Mental Health/Substance Use Disorder Benefits Parity" page of the BOI website.
- Required steps for compliance continue to be provided in the [MHPAEA QTL & Financial Requirement Guidance](#) document, which is also available on the BOI website.
- Carriers should be prepared to provide the NQTL comparative analyses required under the Consolidated Appropriations Act (CAA) upon request. The BOI may request these analyses as part of actions including market conduct exams, consumer complaints, and form filings.
- Carriers are reminded that a summary of NQTL comparative analyses requested will be included in the report required under [§ 38.2-3412.1 G](#) of the Code.

Important Information

Note: The below does not reflect initial filing deadlines. Carriers can view those deadlines in the full Plan Year Implementation [Calendar](#). Dates and requirements are subject to change.

June 14	Initial transfer deadline.
After June 14	<ul style="list-style-type: none"> ○ Carriers may not add new plans ○ Carriers may not change plan type ○ QHP carriers may not change child-only value ○ Plans designated as off-Exchange may not be changed to on and off-Exchange.
After June 14	BOI must approve any voluntary changes to information of any forms, rate, or binder filings. Carriers must make a request as a “Note to Reviewer” in SERFF and wait for the BOI response before submitting a change. This does not apply to BOI-requested changes.
July 14	<p>BOI final deadline for voluntary changes to:</p> <ul style="list-style-type: none"> ○ Service area* ○ Rate filing ○ Prescription Drug template <p>This does not apply to BOI-requested changes.</p> <p>*Note the May 19 material change filing deadline in the 2024 Plan Year Implementation Calendar.</p>

Reminders:

March 15	Shared Savings Program: deadline for request for exemption for PY 2024
April 1	For health carriers who are not exempt, the Health Care Shared Savings Annual Report is due. The report can be found at: Virginia SCC - Life & Health . Refer to Administrative Letter 2020-01 for more information

SERFF Public Access will be unavailable for most of the review process. Please refer to posted [timelines](#) for more information.

- Due to the BOI's limited review timeline, submissions are expected to have minimal compliance concerns.
- Response deadlines for BOI objections generally will begin at ten business days and grow shorter as the CMS final transfer deadline nears.
- Please remember to update all related forms, rates, and binders if changes are made to **any one** of the above filings.

Virginia ACA Rate Filing Template (RFT)

Health carriers are required to use the RFT for 2024 ACA rate filings. The RFT and RFT Instructions will be available soon on the [Product Checklist](#) page.

Health carriers are required to submit both the 2024 RFT and the final 2023 RFT.

- Label each RFT accordingly with the plan year first in the file name: Ex: **"2024xxxxx.xls"**
- The RFTs should be uploaded to the Supporting Documentation tab in SERFF.
- Under the Rate/Rule Schedule tab in SERFF, upload a PDF of the rate sheet (Tab 10) from the 2024 RFT as an attached document. Only one rate sheet should be included in each filing.

The RFT includes information from Form 130A/130B required by 14VAC5-130-10, *et seq.* and the [Virginia Plan Schedule Comparison](#). Individual and small group market health carriers do not need to file these forms separately with form, rate, and binder filings.

SADPs do not submit the RFT but should continue to file the Virginia Plan Schedule Comparison and Form 130A as they have in the past.

BOI Annual Teleconference

The BOI will host a teleconference on **March 28, 2023** to discuss:

- ACA filing procedures
- The 2024 RFT
- Mental Health Parity
- The Commonwealth Health Reinsurance Program
- Relevant legislative updates
- The Virginia Exchange
- Other information related to upcoming filings

Further information about the teleconference will be in a SERFF Message and on the [ACA-Rate-Form-Filing-Information](#) page.

Carriers are encouraged to submit questions in advance of the teleconference to ACAFilingInfo@scc.virginia.gov. The BOI will respond to questions during the teleconference.

Binder Templates

Carriers should use the Plan Validation Workspace in the HIOS Marketplace Plan Management System prior to submission in the binder.

Carriers who routinely do not perform adequate reviews to identify inconsistencies between the information in the templates and the forms may be determined to be in violation of § 38.2-503 of the Code, which could result in monetary penalties.

Essential Health Benefits

Form filings must be based on the 2017 Essential Health Benefits (EHB) [Benchmark Plan](#).

Submitting Health Plans

For QHPs, health carriers must submit a complete binder per market - individual or small group.

For plans offered solely off the Exchange, health carriers must submit an abbreviated binder per market - individual or small group. This applies even if the health carrier intends to operate on the Exchange.

Instructions on how to submit an abbreviated binder can be found in the attachment to the SERFF instructions.

- Health carriers should complete the SERFF Plan and Benefits Light Template in order to populate the Plans tab of the binder.
- The Plans and Benefits Light Template replaces the federal Plans and Benefits template for health insurance plans offered solely off the Exchange.

Health carriers offering plans on or off the Exchange must use the 2024 federal or SERFF templates and should access applicable federal websites to determine when templates are available or have been updated.

Submitting SADPs

Carriers filing SADPs to be Exchange-certified must submit one complete binder per market (individual and small group) and include information needed for Exchange certification.

Carriers offering Exchange-certified SADPs on or off the Exchange must use the 2024 federal templates. Carriers should access applicable federal websites to determine when templates are available or have been updated.

SADP Maximum Out of Pocket

Exchange-certified SADPs for two or more children that include an aggregate annual out-of-pocket maximum must clearly show that one child will not be responsible for paying more than the single child limit for pediatric dental EHB annually.

Unified Rate Review Template (URRT)

- The URRT is required for all individual and small group health insurance coverage on or off the Exchange.
- The URRT should be submitted under the Supporting Documentation tab of both on and off Exchange rate filings and binders.

Plan Marketing Names & Name Consistency

Plan and plan variation marketing names must include correct information, without omission of material fact, and must not include any misleading content. Plan marketing names will be required to be limited to the name of the plan (which may include the metal level, cost sharing variation, and HSA), and the deductible amount. Any other benefit information will not be allowed in the plan marketing name with the exception of “vision” or “dental.”

Ensure consistency in plan names across all plan materials when developing the provider directory, formulary, and plan documents.

Legislation

Carriers should be aware that bills considered by the Virginia General Assembly during its recent session may impact their products in Virginia. Carriers are encouraged to review the content and status of all insurance related bills using the [Virginia Legislative Information Services \(LIS\) website](#).

Please direct questions about this letter or other topics related to ACA to: ACAFilingInfo@scc.virginia.gov.

Sincerely,



Scott A. White
Commissioner of Insurance