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March 19, 2024

**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 Virginia Bureau of Insurance (BOI).

This information applies to carriers[1] 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; and,
- 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

[1]The 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; and,
- 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.

**Note: Initial filing deadlines begin April 19. Carriers may view those deadlines in the full Plan Year Implementation Calendar. The below chart is meant to highlight the last date for voluntary changes. Dates and requirements are subject to change.**

| | |
|---|---|
| **June 14** | **Initial transfer deadline.** |
| **After June 14** | ○ Carriers may not add new plans<br>○ Carriers may not change plan type<br>○ QHP carriers may not change child-only value<br>○ 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. Voluntary changes made without BOI permission may cause delays in our reviews which could result in plans not being certified. This does not apply to BOI-requested changes. |
| **July 12** | BOI final deadline for voluntary changes to:<br>○ Service area*<br>○ Rate filing<br>○ Prescription Drug template<br>This does not apply to BOI-requested changes. |

| | |
|---|---|
| | *Note the May 17 material change filing deadline in the 2025 Plan Year Implementation Calendar. |

**Reminders:**

| | |
|---|---|
| **March 15** | Shared Savings Program: deadline for request for exemption for PY 2025 |
| **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 final transfer deadline nears.
- Please remember to update all related forms, rates **(and any impacted exhibits and documents)**, and binders if changes are made to **any one** of the above filings.

## 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.

## Plan Year 2025 (PY25) – 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 an enforcement letter to describe these 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; and,
- 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 19, 2024, which is prior to the May 15, 2024, 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. We ask that carriers send a Note to Reviewer in each submission once CMS approval is received.

## Virginia Health Benefit Exchange

Virginia has fully transitioned to a state-based marketplace. For Plan Year 2025 (PY25), 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 the Supporting Documentation tab.

QHP and SADP forms and binders must comply with the 2025 CMS draft annual letter, except when specifically directed otherwise by the Exchange, such as in the below paragraph. Forms should mirror company actions for all plans.

The Federally Facilitated Marketplace (FFM) developed specific criteria for standardized plans for Plan Year 2024 (PY24), and in the 2025 Notice of Benefit and Payment Parameters Proposed Rule, HHS proposed additional criteria for PY25 for FFM states. CMS is also seeking comment as to whether there should be a baseline requirement for SBMs to use standardized plans. **However, to maintain consistency and stability, Virginia will require the same criteria from PY24 for PY25.**

Carriers new to the market and wishing to offer PY25 coverage should contact the Exchange by April 1 at ExchangeCarriers@scc.virginia.gov.

Visit marketplace.virginia.gov/carriers for additional information on Virginia's Insurance Marketplace.

## Commonwealth Health Reinsurance Program (CHRP)

The BOI must establish and publish the payment parameters for PY25 by May 1, 2024, and initial rate filings must include those parameters. Carriers' initial rate filings must include these parameters. Carriers may make voluntary changes to individual health insurance coverage rate filings until June 14, 2024.

Carriers must file the Reinsurance Care Management Protocol Assessment as part of a carrier's individual health insurance coverage rate filing for PY25. 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 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 CAA/NSA 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 BOI's annual report to the General Assembly as required under § 38.2-3412.1 G of the Code.

## Essential Health Benefits (EHBs)

CMS approved a new Virginia Essential Health Benefits (EHB) Benchmark Plan for PY25.

Changes to the EHB Benchmark Plan include:

- Expanded coverage for prosthetic devices and components to include medically necessary prosthetic devices, including myoelectric, biomechanical, or

microprocessor-controlled prosthetic devices and their repair, fitting, replacement and components.

- Formula and enteral nutrition products covered as medicine. Covers partial or exclusive feeding of a covered person by means of oral intake or enteral feeding by tube of special medical formulas as the critical source of nutrition for persons with an Inherited Metabolic Disorder for which their physician issues a written order stating that the formula or enteral nutrition product is medically necessary and proven effective as a treatment regimen. Carriers should refer to the EHB Benchmark Plan for specific requirements.
- Revised provisions to comply with federal requirements, such as:
    - MHPAEA, to include the potential for emergency care for mental health conditions or substance use disorders to be provided by a facility and staff credentialed to provide behavioral health crisis services;
    - Non-discrimination rules; and
    - New preventive care services.

## Non-EHBs

Hearing aids for minors required by § 38.2-3418.21 of the Code is a state-mandated benefit that is not an EHB. As such, QHPs **must not** include in QHP rates any premium amount attributable to the benefit but should note any excluded amount in the actuarial memorandum in the rate filings. The state will pay to QHP carriers a set amount attributable to the benefit as determined for the state by a member of the American Academy of Actuaries.

The cost of this mandate should be included as appropriate in non-QHP premium rates.

All carriers must list all non-EHBs covered, and their associated cost if any, in the actuarial memorandum.

The BOI will hold a meeting to explain the reimbursement process in more detail. The BOI will notify QHP carriers of the date and time of this meeting once determined.

## 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. If a plan has separate medical, prescription drug and/or dental deductibles, the plan name must include the total deductible amount, or each deductible listed separately and labeled properly. Any other benefit information will not be allowed in the plan marketing name with the exception of "vision" or "dental."

**New for PY25**: In addition to the above guidance, plan marketing names for small group off-Exchange-only plans may include the maximum out-of-pocket amount, labeled as such.

Please ensure consistency in plan names across all plan materials when developing the provider directory, formulary, and plan documents, as well as the templates and URRT.

## 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 in the rate filings and under the Associated Schedule Items tab of both on and off Exchange binders.

## Virginia ACA Rate Filing Template (RFT)

Health carriers are required to use the RFT for PY25 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 2025 RFT and the final 2024 RFT.

- Label each RFT accordingly with the plan year first in the file name: Ex: **"2025xxxxx.xsls"**
- 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 2025 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.

## 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 fail to 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.

## 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 2025 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 2025 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 the annual out-of-pocket maximum for pediatric dental for one child shall not exceed the annual out-of-pocket maximum for pediatric dental for a single child.

## 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.

**BOI Annual Teleconference**

The BOI will host a teleconference at 10:00 am EDT on **March 26, 2024** to discuss:

- ACA filing procedures;
- New EHB requirements;
- The 2025 RFT;
- Mental Health Parity;
- The Commonwealth Health Reinsurance Program (CHRP);
- Relevant legislative updates ;
- The Virginia Exchange; and,
- 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.

Please direct questions about this letter or other topics related to PY25 ACA form, rate and binder filings to: ACAFilingInfo@scc.virginia.gov.

Sincerely,

Scott A. White
Commissioner of Insurance