

COMMONWEALTH OF VIRGINIA



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Administrative Letter 2020-01
***Revised March 10, 2020**

TO: All Carriers Licensed to Write Accident and Sickness Insurance in Virginia, All Health Services Plans and Health Maintenance Organizations Licensed in Virginia, and Interested Parties

RE: Instructions Related to Health Care Shared Savings Incentive Programs in Virginia

The purpose of this Administrative Letter is to provide guidance to carriers regarding the statutory requirements that apply to Health Care Shared Savings Incentive Programs ("Program" or "Programs") in Virginia as set forth in Article 8 of Chapter 34 of Title 38.2 of the Code of Virginia ("Code").

Article 8 requires carriers offering health benefit plans in the small group market in Virginia to have in place components of a Program and an online interactive comparative mechanism for estimated in-network out-of-pocket costs. In preparation for the Bureau of Insurance's review of each Program and to assist carriers in developing and describing acceptable Programs in plan materials for 2021, we offer the following guidance for submission timelines:

Interactive Comparative Mechanism

Pursuant to § 38.2-3463 of the Code, each health carrier offering or renewing health benefit plans in the small group market on or after July 1, 2020 must establish an interactive mechanism on its website that enables a covered person to request and obtain the estimated out-of-pocket cost to the covered person for comparable health care services from network providers, as well as quality data for providers, as available. Out-of-pocket estimates must be good-faith estimates of the amount the covered person will be responsible to pay for health care services, including cost-sharing.

File Health Care Shared Savings Incentive Program

Pursuant to § 38.2-3462 of the Code, beginning with plans offered or renewed on or after January 1, 2021, each health carrier offering a small group health benefit plan in Virginia must develop and implement a Program that provides incentives for covered persons to shop for comparable health care services from health care providers that are paid less than the average in-network allowed amounts for that service.

By **April 30, 2020**, each health carrier must file with the Bureau of Insurance via the System for Electronic Rate and Form Filing (SERFF) using the Type of Insurance (TOI) and Filing Type of "Shared Savings Program" under the Accident/Health Business Type. The filing must include a description of the Program to be effective January 1, 2021 that addresses the following:

1. A demonstration that the Program is cost effective by providing projected information in an Excel format using the "Shared Savings Program Demonstration" template at: <https://scc.virginia.gov/pages/Life-Health-Companies> and including any data relied on in making such a determination. The Bureau will consider a Program as cost effective if the claim savings are greater than the paid incentive plus the cost to administer the Program;
2. The specific incentives and processes used to earn such incentives, including how the covered person requests the average allowed amount, how incentives are paid, along with any eligibility and documentation requirements;
3. How average allowed amounts for health care services are calculated. The amounts must be calculated over a period not to exceed one year; however, the Bureau suggests that the average allowed amounts be based on a median of the most current allowed amounts by region, as region is determined by the carrier;
4. How the Program will be made available as a component to all small group health benefit plans, including instructions for employees and notification of availability, incentives and tax treatment; and
5. Any comparable health care services included in the Program in addition to those listed in § 38.2-3461. The carrier shall identify any health care services specifically included in the definition of comparable health care services that do not meet the variation standards noted in the definition and that the carrier does not consider to be comparable health care services.

On or before the date the Bureau approves filed forms for the 2021 plan year small group market, the Bureau will notify health carriers whether the carrier's Program complies with statutory requirements. After this initial filing, the Bureau expects each carrier to submit for review the above information prior to offering any Program that varies from the previously filed and reviewed Program.

Plan Materials - Description of Program

As part of the SERFF form filings for the 2021 benefit year, unless granted an exemption as described below, plan materials to be issued in the small group market must inform the covered person of:

- the person's eligibility for an incentive payment;
- a website URL for the interactive mechanism where the covered person can view quality data and the estimated out-of-pocket cost from network providers for comparable health care services covered under that person's health benefit plan; and
- the process to request the average allowed amount for a comparable health care service.

Plan Exemption

Health carriers with plans with a limited provider network may file with the Bureau a request for an exemption from participating in the Program by demonstrating that the plan's network is incompatible with the Program. A carrier's plans may be exempt if the carrier cannot demonstrate cost effectiveness as described above and in the "Health Care Shared Savings - Demonstration of Cost Effectiveness" template as referenced above. Plan exemption will be valid through the calendar year for which it was granted, or until the information supporting exemption is no longer valid, whichever occurs earlier. Annual requests for exemption must be filed by March 15 of the year prior to the requested exemption year.

Annual Report

As described in subsection J of § 38.2-3462 of the Code, each health carrier will be required to file the "Shared Savings Annual Report" at: <https://scc.virginia.gov/pages/Life-Health-Companies> by April 1 of each year beginning **April 1, 2022**, unless all of a carrier's plans are determined exempt. It is anticipated that this filing will be made through SERFF as well, the details of which will be provided later.

This letter describes and summarizes the requirements of Article 8 of Chapter 34 of Title 38.2 of the Code. The provisions of each of these sections should be reviewed carefully for compliance.

Any questions concerning this Administrative Letter may be addressed to:

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Cordially,



Scott A White
Commissioner of Insurance

****Revised March 10, 2020 to
extend the date for the SERFF
filings by insurers of their
Shared Savings Programs***