

## DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION

P.O. Box 690, Jefferson City, Mo. 65102-0690

### **INSURANCE BULLETIN 17-03** **Health Insurance Rate Filing Key Dates** **Issued: April 18, 2017**

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**To:** All health carriers writing health insurance or health benefit plan coverage in Missouri

**From:** Director Chlora Lindley-Myers

**Re:** Health Insurance Rate Filing Key Dates

This Bulletin provides notice of key filing dates for health benefit plan coverage that will be offered during the 2018 plan year, as required by section 376.465, RSMo, and 20 CSR 400-13.100.

#### Applicability:

This Bulletin primarily addresses key dates for filing rates for plans that:

- are health benefit plans as defined in section 376.465, RSMo; and
- do NOT meet the definitions of grandfathered plan or excepted benefit plan in section 376.465, RSMo; and
- are NOT health benefit plans issued to a large employer, as that term is defined under section 376.450, RSMo; and
- are therefore subject to a determination of reasonableness under section 376.465, RSMo.

This bulletin will refer to such plans as “these plans.”

Note that these plans include student health plans and association group plans, regardless of the size of such plans. Such plans are not employer sponsored plans, and therefore are NOT health benefit plans issued to a large employer, as that term is defined under section 376.450, RSMo. These plans include associations described in 376.421.5(e) that include small employers.

#### File Rates for These Plans No Later than July 17, 2017

The Centers for Medicare and Medicaid Services, Center for Consumer Information and Insurance Oversight recently notified the Missouri Department of Insurance, Financial Institutions and Professional Registration that Missouri is designated as a state with an Effective Rate Review Program, beginning with rate filings submitted for the 2018 plan year. A copy of the notice is attached for reference.

Current federal law requires rates for individual and small group single risk pool and transitional plans to be filed no later than July 17, 2017, for plans to be issued or renewed on or after 1/1/18. In order to fulfill the intent of section 376.465, RSMo, and retain status as an “Effective Rate Review” state for purposes of federal law, rate filings for these plans must be submitted no later than July 17, 2017, with the exception that rates for student health plans are not required to be filed by this date.

With regard to student health plans, federal law exempts such plans from federal single risk pool requirements and from the filing deadlines applicable to individual and small group single risk pool and transitional plans. Therefore, pursuant to section 376.465, RSMo, rates for student health plans must be filed no later than 60 days prior to the effective date of the proposed rates for each such plan.

#### File Rates for These Plans No Earlier than June 15, 2017

Current federal law requires “Effective Rate Review” states to post proposed rates for plans they call single risk pool and transitional plans on ~~August 1, 2017~~, and the Department does not intend to post proposed rates any earlier. However, in order to meet the time frames allowed for review under section 376.465, RSMo, and public comment under 20 CSR 400-13.100, if a carrier files rates for these plans before June 15, 2017, the carrier will need to request an extension of the time frame for initial review to allow for public posting of proposed rates pursuant to Missouri law.

September 1, 2017 per Bulletin 17-07

#### Optional Filing of Quarterly Rates for These Plans in the Small Group Market

Current federal law permits single risk pool and transitional plans in the small group market to have rates that are adjusted as often as quarterly. Missouri law does not prohibit quarterly rate changes. Therefore, for these plans, health carriers that wish to make quarterly rate filings for small group market plans may do so.

- 2018 Plans: The Department anticipates that quarterly small group rate filings will be submitted consistent with filing deadlines yet to be announced by the federal government, but in no event any later than 60 days prior to the proposed effective date, per section 376.465, RSMo.
  - The Department notes that federal filing deadlines for quarterly small group rates in prior years have been approximately 105 days before the effective date of the quarterly rates.

- The Department advises carriers that uploading quarterly Rate Templates for purposes of displaying rates on the SHOP exchange should not occur before the rate filing has been reviewed and a determination of reasonableness has been made.
- When planning to submit quarterly rate filings for review, carriers should bear in mind that 20 CSR 400-13.100 requires a 30 day public comment period for any rate filing, including small group quarterly rate filings.
- 2017 Plans: Please note that quarterly rate filings for any small group plan issued or renewed during calendar year 2017 are not subject to section 376.465, RSMo. Quarterly rate filings for any such plans should continue to be submitted to the federal government for review.

#### File Rates for Excepted Benefit Plans and Grandfathered Plans 30 Days Prior to Use

For other plans not addressed in this bulletin, please see section 376.465, RSMo. For dental plans that a health carrier or licensed pre-paid dental plan intends to make available for sale on the exchange in Missouri, nothing in Missouri law prevents filing rates for those plans at any time.

#### Filings with CMS

20 CSR 400-13.100(8) requires carriers to submit rate filing materials to CMS concurrently with rate filings to the Department. However, federal guidance for transitional and student health plans only mandates rate increase submissions for rate increases over the federally identified rate review threshold. Therefore, in order to alleviate unnecessary administrative burdens, the Department will not consider a health carrier to be non-compliant with 20 CSR 400-13.100(8) if the health carrier files rates for transitional and student health plans as outlined by federal guidance for transitional and student health plans.

#### For Additional Rate Filing Guidance

General Instructions available via the System for Electronic Rate and Form Filing (SERFF) for Missouri have been updated. Additional filing guidelines with details for the content and structure of health insurance and health benefit plan rate filings will be posted to the Department's website and will be announced when available.

Any questions or comments regarding this Bulletin should be directed to Molly White at 573-526-4106 or via email to [Molly.White@insurance.mo.gov](mailto:Molly.White@insurance.mo.gov).

DEPARTMENT OF HEALTH & HUMAN SERVICES  
Centers for Medicare & Medicaid Services  
Center for Consumer Information and Insurance Oversight  
200 Independence Avenue SW  
Washington, DC 20201



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March 17, 2017

Acting Director Chlora Lindley-Myers  
Missouri Department of Insurance  
301 W. High St., Room 530  
Jefferson City, MO 65101

Dear Acting Director Lindley-Myers:

I would like to, first, thank you and your staff for your collaboration in ensuring Missouri's smooth transition to effective rate review status. This letter designates Missouri as a state with an Effective Rate Review Program pursuant to 45 CFR §154.301 beginning with rate filings submitted for the 2018 plan year. The change in responsibilities detailed in this letter are based on this designation. In general, the Missouri Department of Insurance, Financial Institutions and Professional Registration (DOI) will perform the health carrier compliance functions of reviewing rate filings for compliance with the Affordable Care Act (ACA) insurance market reforms beginning with 2018 plan year filings.<sup>1</sup>

This letter serves to delineate the responsibilities of the DOI and the Centers for Medicare & Medicaid Services (CMS) regarding enforcement of the ACA insurance market reforms as well as pre-ACA federal insurance market reforms, including with respect to form filing review.

This letter does not change, but memorializes, the enforcement roles already established with respect to the pre-ACA federal insurance market reform captured in title XXVII of the Public Health Service Act (PHS Act), as added by the Health Insurance Portability and Accountability Act of 1996 and amended by the Mental Health Parity Act of 1996, the Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008, the Newborns' and Mothers' Health Protection Act (NMHPA), the Women's Health and Cancer Rights Act (WHCRA) (Mo. Rev. Stat §376.1209) and the Genetic Information Nondiscrimination Act of 2008 (GINA), Michelle's Law, and the Children's Health Insurance Program Reauthorization Act of 2009.

CMS acknowledges that Missouri state law currently mirrors federal provisions included in WHCRA and in GINA (Mo. Rev. Stat §§375.1300 to 375.1312). Further, we consider Missouri state law sufficient with respect to NMHPA (Mo. Rev. Stat §376.1210) and Michelle's Law (Mo. Rev. Stat §§376.426, 376.776, and 354.536) as they are viewed as equally as or more protective than the standards contained within federal law. To the extent that changes are made with respect

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<sup>1</sup> The ACA insurance market reforms are captured in title XXVII of the Public Health Service Act ("PHS Act"), as amended by the Affordable Care Act, and in 42 U.S.C. Chapter 157.

to statutory language or enforcement of these laws such that the DOI is no longer substantially enforcing the federal provisions, CMS will take over primary enforcement authority.

CMS and the DOI have not identified any additional provisions of state health insurance law that meet or exceed federal standards; therefore, CMS will maintain primary enforcement authority over and continue to undertake enforcement action against a carrier with respect to the remaining federal insurance market reforms, as outlined in this letter, to the extent CMS determines such action is warranted.

## I. Enforcement Roles

The following describes the roles of each party.

### A. Review of Rates for Compliance with ACA Insurance Market Reforms

The DOI shall review rate filings submitted by health carriers in Missouri for all new and existing health benefit plans in the individual and small group markets, including student health insurance plans, that have an effective date on or after January 1, 2018, pursuant to the Missouri Health Insurance Rate Transparency Act (Mo. Rev. Stat. §376.465.1) and related regulations (20 CSR 400-13.100). This will include review to ensure compliance with applicable state requirements, as well as applicable ACA insurance market reforms.

In the event the DOI discovers that a health carrier's rate filing is not in compliance with the ACA insurance market reforms, the DOI will request that the health carrier amend the rate(s) and supporting analysis contained within the respective rate filing to be consistent with the ACA insurance market reforms.

### B. Policy Form Review

CMS shall review policy forms submitted by health carriers in Missouri for all new and existing health benefit plans in the individual and small group markets, including student health insurance plans, for compliance with the federal insurance market reforms as enumerated above. If CMS, during its review of policy forms or through other means, discovers that a health carrier has delivered or issued a health benefit plan in the Missouri individual or small group market that is not in compliance with applicable federal insurance market reforms, as enumerated above, CMS will request that the health carrier amend the policy form(s) to be consistent with the applicable insurance market reforms and re-file a compliant policy form(s). CMS will subsequently review the revised form(s) for compliance. In the event a health carrier fails to amend the policy form(s) for compliance with the applicable federal insurance market reforms, CMS will take enforcement action as it determines appropriate and notify the DOI of any enforcement action it takes, including the results thereof.

The DOI will review all policy forms and related materials submitted to the DOI by health carriers in Missouri for both the individual and small group markets for compliance with applicable state requirements.

### C. Consumer Assistance

CMS will provide consumer assistance by responding to consumer inquiries and complaints related to health carrier compliance with applicable federal insurance market reforms. CMS will also be responsible for responding to consumer inquiries or complaints about the Federally-facilitated Marketplace operating in Missouri, including but not limited to any complaints relating to the Marketplace's website, inquiries regarding eligibility for advance payments of the premium tax credit, or questions about enrollment in a qualified health plan (QHP) through the Marketplace. The DOI will not attempt to resolve these types of consumer complaints and/or inquiries. In the event the DOI receives such a consumer complaint or inquiry, the DOI will notify CMS and forward the complaint and related materials. CMS will investigate these matters and take enforcement action with regard to a health carrier as CMS determines appropriate. CMS will notify the DOI of any enforcement action it takes, including the results thereof.

In the event the DOI, in the course of responding to a consumer inquiry or complaint about a health benefit plan that is not directly related to the federal insurance market reforms, determines that a health carrier has acted in a manner that raises questions about compliance with the federal insurance market reforms, the DOI will notify CMS and forward the complaint and related materials. CMS will investigate these matters to ensure compliance with applicable requirements and may request that the health carrier take corrective action to resolve the inquiry or complaint. In the event a health carrier refuses to take corrective action or resolve an inquiry or complaint in a way that complies with the ACA insurance market reforms, CMS will take enforcement action as it determines appropriate and will notify the DOI of any enforcement action it takes, including the results thereof.

If, as a result of a consumer inquiry or complaint, the DOI determines that there may be a pattern or practice of noncompliance with the federal insurance market reforms by a health carrier, the DOI will notify CMS of its determination and provide CMS with the basis for the determination.

#### D. Market Conduct Examinations

CMS will be responsible for performing market conduct examinations of Missouri health carriers to determine compliance with federal insurance market reforms. CMS may also perform targeted market conduct examinations when it has evidence or information suggesting a pattern or practice of noncompliance with federal insurance market reforms by a health carrier.

CMS will notify the DOI when it performs a market conduct examination and will also report to the DOI regarding the scope and results of any investigation or market conduct examination related to federal insurance market reforms. The DOI agrees to treat that information as confidential to the extent required under Missouri law and federal law. Based on the findings of the market conduct examination and other information the DOI provides, CMS, after consultation with the DOI, will undertake further investigation and formal enforcement actions to the extent warranted.

#### II. Commitment to Keep the DOI and CMS Informed of Enforcement Activities

Each party (CMS and the DOI) will keep the other party informed of all significant developments with respect to any enforcement actions brought against health carriers with respect to conduct affecting residents of Missouri.

#### III. Exchange of Information and Maintenance of Confidentiality

To facilitate the DOI's rate review efforts, the DOI may gain access to confidential information from CMS's Health Insurance Oversight System (HIOS). The DOI must treat this information as confidential and exempt from disclosure under Mo. Rev. Stat. §374.185. Mo. Rev. Stat. §374.185 permits the commissioner of insurance to maintain documents received from federal law enforcement and regulatory agencies as confidential and privileged. Without an assurance of confidentiality by the DOI, the DOI will be unable to access confidential information contained within HIOS.

Certain documents, data, templates, and other forms of information contained within HIOS have been deemed confidential by CMS or by the sources of the information within HIOS. This includes, but is not limited to, data or other information relative to qualified health plans that the DOI may receive from CMS or may access via HIOS. The DOI agrees to use such data or information only for purposes of DOI regulatory and oversight in Missouri consistent with HIOS Rules of Behavior, and that any data deemed confidential or privileged by CMS shall not be publicly disclosed, nor disseminated beyond the individuals authorized by the DOI, and shall not constitute a waiver of any privilege or claim of confidentiality.

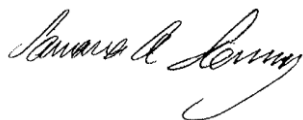
If the DOI enters into relationships with third parties to assist with duties specified in this letter, it must execute contracts that require such entities and any subcontractors or affiliates of such entities to comply with the confidentiality and limitations on disclosure requirements described herein.

The DOI must notify CMS immediately if any confidential information is lost, stolen, disclosed or accessed in a manner inconsistent with this letter, whether intentionally or unintentionally.

#### IV. Terms and Duration

Modification of the responsibilities outlined in this letter may be made as necessary to ensure that consumers in Missouri are receiving the full protections established under federal law. The above terms, as presently written or as modified in the future, will apply for as long as Missouri maintains its status as a state with an Effective Rate Review Program, and CMS has assumed direct enforcement authority for the federal insurance market reforms, as enumerated above, in Missouri. CMS and the DOI will enter into discussions to ensure an effective transition, pursuant to 45 CFR §150.221, if and when the circumstances requiring CMS enforcement under 45 CFR §150.203 no longer apply.

Respectfully,



Samara Lorenz  
Director, Oversight Group  
Center for Consumer Information & Insurance Oversight