

Memorandum

To: All Insurers Selling Health Insurance in North Dakota

From: Adam Hamm, Insurance Commissioner

Date: May 2, 2014

Re: 2015 Product Filing Requirements



The North Dakota Insurance Department (Department) requests that all 2015 dental, vision, individual health and group health plan filings be submitted to us by June 6, 2014. The Department will continue to accept filings after this date but is not able to guarantee review or approval by the federal deadlines as outlined in the Centers for Medicare and Medicaid Services (CMS) Letter to Issuers on March 14, 2014. The Department has not placed a limit on the number of products that can be filed with the state for the outside market but suggests carriers seek simplicity in any changes to existing products and minimize the number of new filings sent to the Department. Filings will be processed in the order they are received.

All filings are required to be submitted via the System for Electronic Rate and Form Filing (SERFF). When completing SERFF filings, specify under the General Information tab if the submission is for an FFM-specific product, a new product or revisions to a current product. If the SERFF submission is a revision to a current product, reference last year's SERFF tracking number. The Department asks that the following information be provided in each filing.

General Guidelines

Submit SERFF filings at the product level. The different component levels plans, such as metallic values, co-pays and co-insurance, can be in the same filing but must be indicated in a bracket.

If the same product has different metallic levels, ensure the actuarial documents are easily identifiable for the various levels and actuarial calculations.

Form Filing Requirements

- Any new product must use the NAIC checklist that is currently used for filings.
- If submitting revisions to a previously filed product, a red-line version is required and must indicate all changes.

Rate Filing Requirements

- Use the required federal templates, such as the Uniform Rate Review template (URR) and the Actuarial Memorandum.
- Provide the experience data for all 2014 Affordable Care Act (ACA) plans for both North Dakota and nationwide experience, including policies, members, earned premium, incurred claims and expected claims. The trend assumption must be supported by company experience.
- Provide the 2015 ACA fees and any relative support.
- The 2014 exchange fee of 3.5% was calculated based on expected 2014 exchange enrollment. According to actual 2014 exchange enrollment, please provide any impact of the 2014 exchange fee collected on the 2015 filings.
- Provide an explanation and support for all changes from the 2014 index rates to the 2015 index rates.
- Indicate any new benefits or modified benefits with support for the corresponding rate impact.
- Pediatric dental and vision fees must indicate any changes to 2015 filing based on actual 2014 experience.

The Department recognizes the current proposed rule for “Patient Protection and Affordable Care Act; Exchange and Insurance Standards for 2015 and Beyond” issued on March 13, 2014 has not been finalized; therefore any changes in the final rule may require future changes to these filings.

The Department will continue to require the following attestations and checklists for Federally Facilitated Marketplace (FFM) plans. As indicated last year this guidance applies to new and updated policy forms being filed both inside and outside the FFM in North Dakota.

Similar to 2014, the Department will conduct rate and form review in the following manner.

Rate Review:

- Plans offered inside the Marketplace only will be reviewed by CCIIO and will still need to be filed via SERFF. The Department will list the disposition code in SERFF as informational.
- Plans offered outside the Marketplace only will continue to follow its standard rate review process via SERFF as well as follow the standard process of approval or disapproval.

- Plans offered both inside and outside the Marketplace will continue to have the rates for plans offered on the outside market reviewed by the Department, which will then coincide with the rate for the Marketplace plan. These filings will also be filed via SERFF and follow the standard process of approval or disapproval. Please note we ask that you reference the applicable SERFF tracking numbers for each matching plan.

Form Review:

- Plans offered inside the Marketplace only are required to complete the attached Appendix A when submitting any **new** product filing for any federal requirements in place under the ACA. If a filing is submitted to amend a current product please complete the attestation in Appendix B. The Department will review each filing to ensure compliance with North Dakota law. These filings will also be filed via SERFF and follow the Department's standard process of approval or disapproval.
- Plans offered outside the Marketplace only will continue to follow its standard form review process via SERFF as well as follow the standard process of approval or disapproval.
- Plans offered both inside and outside the Marketplace will continue to have the forms for plans offered on the outside market reviewed by the Department with the current review process. Any new products for the Marketplace plans will be required to complete Appendix A and any amendments to current products must complete Appendix B. The Department will also be reviewing each filing to ensure compliance with North Dakota law. These filings will be filed via SERFF and follow the Department's standard process of approval or disapproval. Please note we ask that you reference the applicable SERFF tracking numbers for each matching plan.
- Plans offered by dental carriers on the Marketplace or certified SADP's are required to attest that the product being filed and any changes to current products are in compliance with all North Dakota mandates as required and that it complies with our chosen EHB benchmark plan, the ND CHIP Healthy Steps plan.

Finally, while certain forms and rates referenced in this communication are subject to review and approval by the Department prior to use, the Department reminds companies all forms and rates used in North Dakota, remain subject to, and must comply in all respects with North Dakota's insurance laws and regulations. The Department retains its ability to take enforcement action and seek any available remedy for non-compliant forms or rates.

If a company has already submitted a 2015 filing, that company must submit the required attestation and checklist to the applicable filing as supporting documentation in SERFF.

The Department understands there may be many questions. We encourage you to contact us as needed for clarifications. Please contact Product Filing Division Director Chrystal Bartuska at cabartuska@nd.gov or 701.328.2441.

Appendix A
Compliance Checklist and Certification

If a company submits a form filing to the North Dakota Insurance Department, that is intended for a product or plan to be sold for plan year beginning January 1, 2015, it must comply with the market reforms of the ACA. The Department will accept a compliance checklist and certification submitted with the contract or endorsement via SERFF as a form schedule document, substantially identical to this Compliance Checklist and Certification as demonstrating compliance with those requirements.

These ACA requirements apply only to policies for health insurance coverage referred to as major medical in the ACA statute, including PPO and HMO coverage.

This checklist identifies the requirements for small group and individual plans and, where specified, for grandfathered plans (coverage in effect prior to March 23, 2010). Refer to the relevant statute and any applicable regulations to ensure compliance. Complete each item applicable to your product category to confirm that consideration has been given to statutory requirements in each plan encompassed by the identified form and product. *(When submitting your filings electronically, bookmark the provision(s) in the form(s) that satisfy the requirement and identify the page/paragraph on this form.)*

Company Name: NAIC Number:

SERFF Tracking Number(s):

Type of Insurance (TOI):

Product Category:

- Individual
- Grandfathered Individual
- Small Group
- Grandfathered Small Group

Form Number(s) of Policy Being Submitted or Endorsed:

CERTIFICATION

I hereby certify that the above-referenced policy form submission and related rate filing, required to be in compliance with the requirements of the Patient Protection and Affordable Care Act, P.L. 111-148, 124 Stat. 119, and the Health Care and Education Reconciliation Act of 2010, P.L. 111-152, 124 Stat. 1051, together and as modified referred to as the ACA, has been drafted or modified to be in compliance with the ACA and the regulations promulgated thereunder.

I am aware that accident and health rates and forms may be disapproved, or otherwise give rise to remedies or sanctions, if they fail to comply with applicable law or regulations. *See, e.g.*, N.D.C.C. § 26.1-04-03 (relating to prohibited practices in the insurance business).

I hereby warrant that I have full, complete and final authority to attest to the representations of the Company as set forth herein, and do hereby attest that the representations set forth in this Compliance Checklist and Certification Form are true, correct and complete.

DATED this _____ day of _____, 2014.

Company: _____

By: _____

Print Name: _____

Title: _____

COMPLIANCE CHECKLIST

Check the appropriate box to confirm the compliance status of the above referenced form(s) with each specified ACA requirement.

Statutory Requirement	ACA/PHSA Section	Product Applicability	Certification of Compliance
Market Reforms			
Elimination of Annual Limits	ACA §1001/PHSA §2711	<input checked="" type="checkbox"/> Group <input checked="" type="checkbox"/> Individual <input checked="" type="checkbox"/> Grandfathered Group	<input type="checkbox"/> Yes <input type="checkbox"/> No
Elimination of Lifetime Limits	ACA §1001/PHSA §2711	<input checked="" type="checkbox"/> Group <input checked="" type="checkbox"/> Individual <input checked="" type="checkbox"/> Grandfathered Group <input checked="" type="checkbox"/> Grandfathered Individual	<input type="checkbox"/> Yes <input type="checkbox"/> No
Prohibition of Rescission	ACA §1001/PHSA §2712	<input checked="" type="checkbox"/> Group <input checked="" type="checkbox"/> Individual <input checked="" type="checkbox"/> Grandfathered Group <input checked="" type="checkbox"/> Grandfathered Individual	<input type="checkbox"/> Yes <input type="checkbox"/> No
Preventive Health Services	ACA §1001/PHSA §2713	<input checked="" type="checkbox"/> Group <input checked="" type="checkbox"/> Individual	<input type="checkbox"/> Yes <input type="checkbox"/> No

Statutory Requirement	ACA/PHSA Section	Product Applicability	Certification of Compliance
Extension of Dependent Coverage	ACA §1001/PHSA §2714	<ul style="list-style-type: none"> ✓ Group ✓ Individual ✓ Grandfathered Group ✓ Grandfathered Individual 	<input type="checkbox"/> Yes <input type="checkbox"/> No
Uniform Explanations of Coverage and Standardized Definitions	ACA §1001/PHSA §2715	<ul style="list-style-type: none"> ✓ Group ✓ Individual ✓ Grandfathered Group ✓ Grandfathered Individual 	<input type="checkbox"/> Yes <input type="checkbox"/> No
Prohibition on Discrimination in Favor of Highly Compensated Individuals	ACA §1001/PHSA §2716	<ul style="list-style-type: none"> ✓ Group ✓ Individual 	<input type="checkbox"/> Yes <input type="checkbox"/> No
Appeals Process	ACA §1001/PHSA §2719	<ul style="list-style-type: none"> ✓ Group ✓ Individual 	<input type="checkbox"/> Yes <input type="checkbox"/> No
Patient Protections	ACA §1001/PHSA §2719A	<ul style="list-style-type: none"> ✓ Group ✓ Individual 	<input type="checkbox"/> Yes <input type="checkbox"/> No
Prohibition of Pre-Existing Condition Exclusions	ACA §1201/PHSA §2704	<ul style="list-style-type: none"> ✓ Group ✓ Individual ✓ Grandfathered Group 	<input type="checkbox"/> Yes <input type="checkbox"/> No

Statutory Requirement	ACA/PHSA Section	Product Applicability	Certification of Compliance
Fair Premiums (limited rating factors)	ACA §1201/PHSA §2701	✓ Group ✓ Individual	<input type="checkbox"/> Yes <input type="checkbox"/> No
Guaranteed Availability	ACA §1201/PHSA §2702	✓ Group ✓ Individual	<input type="checkbox"/> Yes <input type="checkbox"/> No
Guaranteed Renewability	ACA §1201/PHSA §2703	✓ Group ✓ Individual	<input type="checkbox"/> Yes <input type="checkbox"/> No
Prohibition on Discrimination Based on Health Status	ACA §1201/PHSA §2705	✓ Group ✓ Individual	<input type="checkbox"/> Yes <input type="checkbox"/> No
Non-Discrimination in Health Care	ACA §1201/PHSA §2706	✓ Group ✓ Individual	<input type="checkbox"/> Yes <input type="checkbox"/> No
Comprehensive Coverage	ACA §1201/PHSA §2707	✓ Group ✓ Individual	<input type="checkbox"/> Yes <input type="checkbox"/> No
Prohibition on Excessive Waiting Periods	ACA §1201/PHSA §2708	✓ Group ✓ Individual ✓ Grandfathered Group ✓ Grandfathered Individual	<input type="checkbox"/> Yes <input type="checkbox"/> No
Coverage for Participating in Approved Clinical Trials	ACA §1201/PHSA §2709	✓ Group ✓ Individual	<input type="checkbox"/> Yes <input type="checkbox"/> No
Essential Health Benefits Package	ACA §1302	✓ Group ✓ Individual	<input type="checkbox"/> Yes <input type="checkbox"/> No

Statutory Requirement	ACA/PHSA Section	Product Applicability	Certification of Compliance
EHB Package-Pediatric	ACA §1302	<input checked="" type="checkbox"/> Group <input checked="" type="checkbox"/> Individual	<input type="checkbox"/> Yes <input type="checkbox"/> No
EHB Package-Habilitative Services	ACA §1302	<input checked="" type="checkbox"/> Group <input checked="" type="checkbox"/> Individual	<input type="checkbox"/> Yes <input type="checkbox"/> No
EHB Package-Prescription Drug Coverage	ACA §1302	<input checked="" type="checkbox"/> Group <input checked="" type="checkbox"/> Individual	<input type="checkbox"/> Yes <input type="checkbox"/> No
Requirements Related to Cost-Sharing	ACA §1302	<input checked="" type="checkbox"/> Group <input checked="" type="checkbox"/> Individual	<input type="checkbox"/> Yes <input type="checkbox"/> No
Actuarial Value/Metal Level	ACA §1302	<input checked="" type="checkbox"/> Group <input checked="" type="checkbox"/> Individual	<input type="checkbox"/> Yes (included in binder) <input type="checkbox"/> No
Child-Only Plan	ACA §1302(f)	<input checked="" type="checkbox"/> Group <input checked="" type="checkbox"/> Individual	<input type="checkbox"/> Yes <input type="checkbox"/> No
Special Rules Relating to Coverage of Abortion Services	ACA §1303	<input checked="" type="checkbox"/> Group <input checked="" type="checkbox"/> Individual	<input type="checkbox"/> Yes <input type="checkbox"/> No
Mental Health Parity	ACA §1563/PHSA §2726	<input checked="" type="checkbox"/> Group <input checked="" type="checkbox"/> Individual	<input type="checkbox"/> Yes <input type="checkbox"/> No
Health Insurance Reform Regulatory Requirements for the Group Health Insurance Market	45 C.F.R. Subtitle A Subchapter B Part 146	<input checked="" type="checkbox"/> Group <input checked="" type="checkbox"/> Grandfathered Group (as applicable)	<input type="checkbox"/> Yes <input type="checkbox"/> No

Statutory Requirement	ACA/PHSA Section	Product Applicability	Certification of Compliance
Health Insurance Reform Regulatory Requirements for the Group and Individual Health Insurance Market	45 C.F.R. Subtitle A Subchapter B Part 146	<ul style="list-style-type: none"> ✓ Group ✓ Individual ✓ Grandfathered Group (as applicable) ✓ Grandfathered Individual(as applicable) 	<input type="checkbox"/> Yes <input type="checkbox"/> No
Health Insurance Reform Regulatory Requirements for the Individual Health Insurance Market	45 C.F.R. Subtitle A Subchapter B Part 147	<ul style="list-style-type: none"> ✓ Individual ✓ Grandfathered Individual (as applicable) 	<input type="checkbox"/> Yes <input type="checkbox"/> No
Health Insurance Reform Regulatory Requirements – Essential Health Benefits	45 C.F.R. Subtitle A Subchapter B Part 156 Subpart B	<ul style="list-style-type: none"> ✓ Group ✓ Individual 	<input type="checkbox"/> Yes <input type="checkbox"/> No
QHP Requirements			
Definition of Qualified Health Plans	ACA §1301	<ul style="list-style-type: none"> ✓ Group ✓ Individual 	<input type="checkbox"/> Yes <input type="checkbox"/> No
Marketing Requirements	ACA §1311(c)(1)	<ul style="list-style-type: none"> ✓ Group ✓ Individual 	<input type="checkbox"/> Yes <input type="checkbox"/> No

**Appendix B
CERTIFICATION**

I hereby certify that the policy form submission and related rate filing listed under SERFF ID _____ is required to be in compliance with the requirements of the Patient Protection and Affordable Care Act, P.L. 111-148, 124 Stat. 119, and the Health Care and Education Reconciliation Act of 2010, P.L. 111-152, 124 Stat. 1051, together and as modified referred to as the ACA, has been drafted or modified to be in compliance with the ACA and the regulations promulgated thereunder.

I am aware that accident and health rates and forms may be disapproved, or otherwise give rise to remedies or sanctions, if they fail to comply with applicable law or regulations. *See, e.g.,* N.D.C.C. § 26.1-04-03 (relating to prohibited practices in the insurance business).

I hereby warrant that I have full, complete and final authority to attest to the representations of the Company as set forth herein, and do hereby attest that the representations set forth in this Certification Form are true, correct and complete.

DATED this _____ day of _____, 2014.

Company: _____

By: _____

Print Name: _____

Title: _____