

**Advisory Memorandum**

**May 20, 2019**

**TO: All Insurers of Health Benefit Plans<sup>1</sup> in the Individual and Small Group Markets**

**FROM: Life and Health Division**

**RE: 2020 Plan Year Form, Rate, and Plan Binder Filing Information**

**IMPORTANT NOTE: IF YOU ARE AN INSURER OF A STAND-ALONE DENTAL PLAN SEEKING EXCHANGE CERTIFICATION FOR SALE ON OR OFF THE EXCHANGE FOR THE 2020 PLAN YEAR, PLEASE REFER TO THE SEPARATE ADVISORY MEMORANDUM ISSUED ON THIS SAME DATE FOR INFORMATION ON SUCH SUBMISSIONS.<sup>2</sup>**

The purpose of this memorandum is to notify all interested insurers of important filing information that is or will soon be available to assist individuals in preparing and submitting various 2020 Plan Year medical insurance submissions – insurance forms, rates and plan binders to the North Carolina Department of Insurance (NCDI) for review and approval. Insurers that will be seeking approval from NCDI of forms and rates that are subject to the requirements of the Affordable Care Act and related state laws are encouraged to refer to this memo and the resources it identifies. Generally, this includes products intended to be sold and issued in North Carolina in 2020 in the individual or small group markets as described in one or more of the following categories:

- Health benefit plans (QHPs) to be sold in North Carolina on the Federally-facilitated Marketplace (FFM) and/or Federally-Facilitated SHOP (FF-SHOP); and
- Health benefit plans to be sold in North Carolina outside the FFM (Non-QHPs) and/or FF-SHOP.

Although NCDI has not made any significant changes in the filing requirements from those in place in 2019, NCDI is providing this updated information to facilitate the submission process and apprise insurers of important requirements and critical deadlines.

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<sup>1</sup> Defined in G.S. 58-3-167

<sup>2</sup> [http://www.ncdoi.com/HealthCareReform/Information\\_For\\_Insurers\\_-\\_General\\_Information.aspx](http://www.ncdoi.com/HealthCareReform/Information_For_Insurers_-_General_Information.aspx)

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Insurers filing QHPs to be sold on the FFM and/or FF-SHOP should pay close attention to the information in the *2020 Letter to Issuers in the Federally-facilitated Marketplaces*, dated April 19, 2019, from the Center for Consumer Information and Insurance Oversight (CCIIO). That letter can be accessed at this link: <https://www.cms.gov/CCIIO/Resources/Regulations-and-Guidance/Downloads/Final-2020-Letter-to-Issuers-in-the-Federally-facilitated-Exchanges.pdf>

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## I. General Filing Requirements

The following documents are intended to be a resource to assist insurers in making a 2020 plan year regulatory filing in North Carolina, and they will be updated and made available in SERFF and/or on NCDOL's website as noted below:

SERFF General Instructions

SERFF Plan Management General Instructions

NC EHB Crosswalk

NC Required Attestations

NC Actuarial Memoranda

NC Rate Review Checklist

NC Rate Review Data Template

Checklists for filing forms and rates will be posted to:

[http://ncdoi.com/HealthCareReform/Information\\_For\\_Insurers.aspx](http://ncdoi.com/HealthCareReform/Information_For_Insurers.aspx).

Additional guidance information is posted at:

[http://ncdoi.com/HealthCareReform/Information\\_For\\_Insurers.aspx](http://ncdoi.com/HealthCareReform/Information_For_Insurers.aspx).

*As the above information is updated, insurers will be notified of the updates through SERFF blasts, emails, or posts to the appropriate NCDOL webpage. Insurers should check back for updates regularly.*

## II. Timelines

### For Medical Insurer Form and Plan Binder Submissions

NCDOL will not set any specific due date for form filings or plan binder submissions, but asks insurers to give NCDOL 90 days to complete our reviews. Single-risk pool rate filings for medical insurers will be addressed in the next section.

***NCDOL will take approval/acceptance action on all related form, rate and binder submissions applicable in the same market (individual vs small group) for a single insurer at the same time.***

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For insurers seeking QHP certification or recertification, NCDOI suggests that form and any required plan binder submissions be made by May 21, 2019, in order to give NCDOI 90 days to complete our reviews by the federal due date of August 21, 2019. NCDOI requests that insurers submit as early as possible to give NCDOI and the insurer the maximum amount of time possible for all reviews to be completed. ***Insurers in this category should also be mindful of the federal QHP application deadline.***

For insurers who do not participate on the FFM and/or FF-SHOP, you should be mindful of NCDOI's policy to approve all regulatory filings for a single insurer and market at the same time and note that according to the most recent guidance from CMS/CCIIO all single-risk pool rate filings reviews must be completed no later than October 15, 2019. Therefore these insurers should make their regulatory form and required plan binder submissions according to their own marketing and administrative needs, keeping in mind NCDOI's 90-day review period and that final date as specified by CMS/CCIIO. **Again,** NCDOI requests that insurers submit as early as possible to give NCDOI and the insurer the maximum amount of time possible for all reviews to be completed.

***Any insurer who fails to receive the proper approvals from NCDOI on or before October 15, 2019 may have to provide open enrollment/guaranteed availability to all applicants in the respective market through the 2019 calendar year. Refer to 45 CFR §147.104.***

NCDOI may issue form filing/plan binder specific instructions and insurers should check NCDOI's website for updates on information relating to those submissions.

#### **For Medical Insurer Single-Risk Pool Rate Filing Submissions**

***NCDOI has issued under separate cover rate filing specific instructions, and insurers should await that guidance and ONLY submit any single-risk pool rate filings in accordance with those instructions, including submitting your rate filing(s) ONLY on the required due date. The rate filing specific guidance is expected to be accessible at:***

***[http://www.ncdoi.com/HealthCareReform/Information\\_For\\_Insurers -  
Rate Filing Information.aspx](http://www.ncdoi.com/HealthCareReform/Information_For_Insurers_-_Rate_Filing_Information.aspx) .***

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**In order to meet federal requirements relating to uniform disclosure of initial rate filings subject to reporting, NCDOI will require the submission of ALL single-risk pool rate filings on May 21, 2019.** On July 24, 2019, NCDOI will publish via the SERFF Filing Access portal and our website a summary of the initial submissions and Parts II and III (redacted) of the federal Rate Filing Justifications for rate increases subject to review, i.e. a rate increase for single-risk pool coverage is subject to review if the average increase, including premium rating factors, for all enrollees weighted by premium volume for any plan within the product meets or exceeds the applicable threshold (15%).

Insurers should note that CMS/CCIIO has indicated it will publish information from the initial submissions of Parts I, II and III of the federal Rate Filing Justification at <https://Ratereview.healthcare.gov> for **ALL** single-risk pool rate filings submitted, even those that do not meet the threshold calculation.

***All insurers of health benefit plans must submit a 2020 Plan Year single-risk pool filing even if there are no changes from your 2019 rates.*** A filing must be made for each market – individual or small group – in which the insurer participates in North Carolina.

***NCDOI will take approval/acceptance action on all related form, rate and binder submissions applicable in the same market (individual vs small group) for a single insurer at the same time.***

Insurers should be aware that whenever the insurer is required to submit Part I, II and III of the Rate Filing Justification as outlined in 45 CFR §154.215 to the federal government and/or NCDOI, such information must be displayed publically as required by the Effective Rate Review requirements under 45 CFR §154.301. Therefore, NCDOI will not permit insurers to submit such information in SERFF as confidential (except as specifically instructed to meet uniform disclosure requirements) and should an insurer do so, the Department will set the documentation to be accessible publicly.

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### III. SERFF Plan Binders and Federal Templates

All insurers of non-grandfathered health benefit plans (medical) **MUST** submit a 2020 Plan Year SERFF binder for each market (individual or small group) in which the insurer operates. This is true even if the insurer is not adding or deleting plans that were accepted in previous years. NCDOI must receive at least one binder for each market (as applicable) from every insurer in order to confirm compliance with EHB, AV, and cost-sharing limitations applicable for the 2019 plan year. Insurers may submit separate binders for on-exchange plans and off-exchange plans.

Insurers may not submit SERFF binders for 2020 until the final federal templates are available for submission and the SERFF and federal related functionality is operational. **NCDOI will issue an email when we are prepared to accept binders.** Insurers may access the current versions of the federal templates (and review tools) at: <https://www.qhpcertification.cms.gov/s/Home> . Insurers should regularly monitor this website and SERFF for changes to these templates and the operational date of the validation services.

Insurers are encouraged to use the various review tool that the CMS/CCIIO has issued which analyze various aspects of the templates for data integrity and other compliance issues. In using the tools and addressing deficiencies in the templates and the related form filings (if necessary) before submitting the templates for validation in SERFF, an insurer is likely to facilitate NCDOI's review of your templates, and ultimately may expedite acceptance of plans. NCDOI understands that these federal tools will be available on CMS/CCIIO website noted above.

Insurers seeking QHP certifications are encouraged to also monitor training events and the REGTAP website which is where CCIIO/FFM issues information of interest to QHP and SADP certified insurers.

QHP Submissions: An insurer must submit one complete binder per market for its health benefit plans it intends to offer inside the FFM (using a separate binder for individual versus small group). That binder should include any new plans the insurer wishes to sell and all previously accepted/certified plans which the insurer intends to continue to provide through the FFM. ***If an insurer does not intend to continue to provide a previously certified plan in the FFM and the plan contains membership, the insurer should contact the Life & Health Division to discuss how the insurer will handle those plans, i.e. termination of plans. Insurers are reminded to refer to the guaranteed renewability and uniform modifications regulations on when an amended plan can still be considered the same plan with the same Standard Component ID as found in 45 CFR §§144.103 and 147.106.***

All QHP binder submissions must include all of the federal templates noted below and marked as required for QHP submissions. Such templates should be submitted via the SERFF binder process. The templates MUST be added to the SERFF Binder through the binder builder process and must go through federal verification services in order for NCDOJ to receive the QHP related binder.

Non-QHP Submissions: NCDOJ will require a plan binder filing for health insurance plans outside the FFM for 2020 filings, even for carriers also operating inside the FFM who submit a separate QHP binder. An insurer must submit one binder per market for its health benefit plans it intends to offer outside the FFM (using a separate binder for individual versus small group). That binder should include any new plans the insurer wishes to sell in North Carolina and all previously accepted plans which the insurer intends to continue to provide in North Carolina. ***If an insurer does not intend to continue to provide a previously accepted plan and the plan contains membership, the insurer should contact the Life & Health Division to discuss how the insurer will handle those plans, i.e. termination of plans Insurers are reminded to refer to the guaranteed renewability and uniform modifications regulations on when an amended plan can still be considered the same plan with the same Standard Component ID as found in 45 CFR §§144.103 and 147.106.***

All binder submissions containing off-exchange plans only must include the federal templates noted below and marked as required for Non-QHP submissions. Such templates should be submitted via the SERFF binder process. The templates MUST be added to the SERFF Binder through the binder builder process and must go through federal verification services in order for NCDOJ to receive the related binder.

URRT: Please be aware that data provided in the Unified Rate Review Template (URRT) continues to be required for all health benefit plans inside and outside the FFM in the individual and small group markets. Therefore, one URRT that includes all health insurance plans in the applicable market offered inside and outside the FFM/SHOP must be submitted to NCDOJ ***and should be submitted with the insurer's single-risk pool rate filing. DO NOT SUBMIT THE URRT AS PART OF THE BINDER.*** Additionally, the insurer must submit the URRT to CCIO via HIOS and pursuant to federal instructions. Final versions of the URRT and the Rate Templates reflective of NCDOJ's final approval must be submitted to CCIO pursuant to federal guidelines or within five business days following NCDOJ's approval whichever is earlier.

The URRT should be included with the insurer's NC single-risk pool rate filing, one per market (individual versus small group) submitted in SERFF via normal rate filing submission procedures and in accordance with separately issued guidance from NCDOJ on the timing and content of the filing. Insurers should ONLY use the filing type "2020 Plan Year ACA Single-Risk Pool Rate Filing" for their 2020 plan year single-risk pool rate submissions. ***Please note that the filing requirements for the binder may indicate the URRT, and Part III – Federal Actuarial Memorandum should be submitted with the binder. Insurers should bypass those requirements.***

**IV. Federal Templates for Medical Insurers**

All federal templates, and related instructions, may be accessed at the CMS/CCIIO QHP website: <https://www.qhpcertification.cms.gov/s/Home> .

Template Name	Version*	Required for QHP Plan Binder?	Required for Non-QHP (only) Plan Binder?
Plan/Benefits	9.0	Yes	Yes
Prescription Drug	9.0	Yes	Yes
Network ID	.90	Yes	Yes
Service Area	9.0	Yes	Yes
Rate Tables	9.0	Yes	Yes
Business Rule Template	9.0	Yes	Yes
Unified Rate Review Template	5.0	Submit in the applicable single risk pool rate filing, not binder	Submit in the applicable single risk pool rate filing, not binder.
Plan Crosswalk	Unknown	Yes (if a QHP insurer in the individual market in 2019)	No

***\*Version numbers are as of the issuance of this guidance. Insurers should visit the webpage above before submitting a binder to ensure you are using the most recent version of the templates.***

**V. Form Filings for Medical Insurers**

Insurers may submit new forms or amendments to previously approved forms at any time. The cover letter or General Information tab should clearly indicate the forms are for use in the individual or small group major medical ACA-compliant market and indicate the types of changes being made. Refer to the Timeline section above for information on suggested filing dates.

Any insurer who does not receive the appropriate regulatory approvals from NCDOT before the federal deadlines are subject to a continual open enrollment period per federal regulation. Although priority may be provided for exchange filings to meet the required federal deadlines, filings will otherwise be reviewed in the order received.

**New for Plan 2020-** Insurers will be required to submit a completed copy of the attached NEW Mental Health Parity Attestation required documents (Appendix 1). The attestation should be

submitted with each form submission. The new attestation will document will replaced the Department's previous attestation form.

All forms filings should be submitted using SERFF.

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***NCDOL will take approval/acceptance action on all related form, rate and binder submissions applicable in the same market (individual vs small group) for a single insurer at the same time.***

If an insurer is submitting forms with changes to previously approved forms, NCDOL expects redline versions of the forms to be added to the Supporting Documentation Tab in SERFF as required by T11 NCAC 12.0329(3)(g). The filing should also identify the previously approved form by the SERFF Tracking Number and NC identifying form number.

Insurers who are NOT making any changes for their 2020 plan year in their previously approved forms must still submit a single risk pool rate filing per market (individual vs small group), which must include rates for all of the previously approved/accepted plans the insurer will continue to use, plus any new plans for which the insurer is seeking approval/acceptance for 2018. Insurers are reminded to review the guaranteed renewability and uniform modification provisions of the federal regulations in 45 CFR §§144.103 and 147.106 and to understand when a plan can be changed and still remain as the same plan with the same federal Standard Component ID. If an insurer is expecting to discontinue all of its ACA-compliant products, the insurer is encouraged to contact the Life and Health Division to discuss related issues.

Insurers should also indicate in their single-risk pool rate filings that the rates will be used with previously approved forms and give the filing tracking numbers under which the forms were previously approved. Insurers will be expected to provide attestations as supporting documentation on the single-risk pool rate filing which will attest to the company's compliance with the guaranteed renewability and uniform modification regulations for all products and plans that were approved for 2019.

All insurers are expected to submit the NC EHB Crosswalk to assist the analyst in confirming that EHB compliance is achieved. The EHB Crosswalk template will be available in the filing requirements for Major Medical TOI coded submissions in SERFF. Insurers should also assure that the EHB benefits listed in the crosswalk are properly reflected in their insurance forms. Analyst will check forms for information about the benefits, and will disapprove any forms which do not include appropriate descriptions of benefits.

Filings containing insurance forms for approval should be submitted as Filing Type "Form" and should NOT include any rate information. The insurer should include a cross reference to the company's applicable single-risk pool rate filing and note that filing's tracking number.

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Insurers should include in the supporting documentation of the form filing a listing by the Standard Component IDs and Marketing Name of all plans contained in the related SERFF Plan Binder (all plans previously accepted that are still being used in 2020, as well as new plans for 2020) associated with the form filing.

#### **VI. EHB Benchmark**

The EHB Benchmark for NC for 2020 remains unchanged from 2017 and is a Blue Options Small Group plan issued by Blue Cross Blue Shield of North Carolina. Summary information as published by CMS/CCIIO and the EHB Benchmark plan document can be accessed at: [https://www.cms.gov/CCIIO/Resources/Data-Resources/Downloads/2017-BMP\\_NC.zip](https://www.cms.gov/CCIIO/Resources/Data-Resources/Downloads/2017-BMP_NC.zip).

A completed EHB Crosswalk must be submitted with 2019 form filings. The NC EHB Crosswalk assists the analyst in confirming that EHB compliance is achieved. The EHB Crosswalk template will be available in the filing requirements for Major Medical TOI coded submissions in SERFF. Insurers should also assure that the EHB benefits listed in the crosswalk are properly reflected in their insurance forms. Analyst will check forms for information about the benefits, and will disapprove any forms which do not include appropriate descriptions of benefits.

#### **VII. Rate Filings for Medical Insurers**

***Refer to Section II above for summary information and to separate guidance issued separately relating to single-risk pool rate filings. Insurers should ONLY submit any single-risk pool rate filing in accordance with NCDOL's instructions, including submitting your rate filing(s) ONLY on the required due date.***

***All insurers of health benefit plans must submit a 2020 Plan Year single-risk pool filing for each market even if there are no changes from your 2019 rates.*** A filing must be made for each market – individual or small group – in which the insurer participates in North Carolina.

***NCDOL will take approval/acceptance action on all related form, rate and binder submissions applicable in the same market (individual vs small group) for a single insurer at the same time.***

Insurers should be aware that whenever the insurer is required to submit Part I, II and III of the Rate Filing Justification as outlined in 45 CFR §154.215 to the federal government and/or NCDOL, such information must be displayed publicly as required by the Effective Rate Review requirements under 45 CFR §154.301. Therefore, NCDOL will not permit insurers to submit such information in SERFF as confidential (except as specifically instructed to meet uniform disclosure requirements) and should an insurer do so, the Department will set the documentation to be accessible publicly.

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***Single risk pool rate filings should be submitted SEPARATELY from any form filing or binder submission.***

Insurers must also submit the federal URRT per 45 CFR §154.220(a)(1) and an actuarial memorandum to the Insurance Oversight area of CCIIO through the HIOS system AT THE SAME TIME THAT THEY SUBMIT A URRT TO NCDOT. This includes the initial submission. Insurers are expected to submit to CCIIO via HIOS the FINAL URRT and Rate Template reflective of NCDOT's final approval within federal time frames or within five business days following NCDOT approval, whichever is earlier.

Refer to the Timeline section above for information on filing dates.

All single-risk pool rate filings should be submitted using SERFF.

Updated information on data requirements, actuarial memoranda, checklists, etc., will be published at [http://www.ncdoi.com/HealthCareReform/Information\\_For\\_Insurers\\_-\\_Rate\\_Filing\\_Information.aspx](http://www.ncdoi.com/HealthCareReform/Information_For_Insurers_-_Rate_Filing_Information.aspx).

Note that the website above is being updated with the 2019 Plan Year information. Such updates should be completed in the near future. Please keep checking back for updated information.

There may be slight changes in the data we require to be submitted with single-risk pool filings from what was required for the 2019 plan year. The NC Rate Review Data Template is still required, as are the NC Actuarial Memorandum and checklists. Updated versions of each may be accessed on the website linked above and will be included in the separate communication mentioned above.

NCDOT expects to permit insurers to make unsolicited changes to their single-risk pool rate filings during the review process with some limitations. Refer to the separately issued rate filing guidance for details.

## **VIII. NCDOT Contact Information**

Questions about this memo may be directed to Rosemary Gillespie at (919) 807-6070 or by email to [rosemary.gillespie@ncdoi.gov](mailto:rosemary.gillespie@ncdoi.gov).