

Advisory Memorandum

To: All Insurers of Non-grandfathered ACA-compliant Health Benefit Plans in the Individual or Small Group Markets

From: NCDOI/Life & Health Division

Date: April 27, 2018

Re: Instructions for Submission of Single-Risk Pool Rate Filings for the 2019 Plan Year

As an effective rate review state under federal regulation, the North Carolina Department of Insurance (NCDOI) is required to uniformly make public certain information of 2019 Plan Year annual single risk pool rate filings. In order to meet that requirement, NCDOI has established the following process for insurers to follow in submitting their 2019 Plan Year rate filings.

This guidance addresses filings with a threshold calculation of 15% or greater as well as filings where the threshold calculation is less than 15%. Also included is a listing of all supporting documentation/data requirements for single-risk pool filings. **Please read the entire memorandum and proceed under the appropriate instructions as applicable.**

NCDOI expects insurers to follow this procedure with no deviations.

- I. **For Non-grandfathered ACA-compliant Single-Risk Pool Rate Filings for the 2019 Plan Year in the individual or small group markets in which any plan in any product contained in the filings has a threshold calculation is 15% or greater¹.**

Insurers will be expected to submit a demonstration of the threshold calculation for each product contained in the single-risk pool rate filing as part of NC's actuarial memorandum requirements.

¹ Refer to 45 CFR §154.200(c)(2) for when a rate increase is subject to review. Note the definition of product, as found in 45 CFR §154.102 was revised in the HHS Notice of Benefit and Payment Parameters for 2018 issued in the Federal Register on December 22, 2016.

- A. Insurers are expected to submit an annual single-risk pool rate filing for the 2019 Plan Year for each market (as applicable) via SERFF.
- B. **DUE DATE – MAY 21, 2018 - Insurers are expected to submit ALL single-risk pool filings to NCDOL and CMS/CCIIO.**
- C. Insurers should use the SERFF Filing Type “2019 Plan Year ACA Single-Risk Pool Rate Filing” for each submission.
- D. Insurers are expected to submit all state required information for an ACA-compliant single-risk pool rate filing as outlined in related guidance and per SERFF filing requirements, including Parts I, II and III of the federal Rate Filing Justification as applicable.
- E. Insurers are expected to submit the redacted version of the federal Actuarial Memorandum (Part III of the Rate Filing Justification) AND the un-redacted version if the insurer wishes to take advantage of the federal policy permitting the use of a redacted version AND the federal requirement is applicable.
 - 1. The two documents MUST be submitted separately under their respective SERFF Submission Requirements.
 - 2. Insurers are expected to submit a federal actuarial memorandum under the respective SERFF Submission Requirement (and the redacted version, if applicable, under its SERFF submission requirement), even if the insurer is using the North Carolina Actuarial Memorandum to serve as its federal actuarial memorandum (with or without redaction).
 - 3. Part III (actuarial memorandum – redacted and un-redacted) of the federal Rate Filing Justification is only required to be submitted for each single risk pool product that includes a plan that is subject to a rate increase, regardless of the size of the increase. Insurers should bypass this requirement in SERFF if it is not applicable but should include an explanation of why the requirement was bypassed.
 - 4. **Insurers should ALWAYS submit the North Carolina Actuarial Memorandum (using NCDOL’s template) under the North Carolina Actuarial Memorandum SERFF submission requirement.**
- F. Pursuant to 45 CFR §154.301(b)(1)(i) and (ii), in order to coordinate the uniform public release of Parts I, II and III of the Rate Filing Justifications for all proposed rate increases subject to review and all final rate increases, insurers are expected to mark as confidential Parts I, II and III (both redacted and un-redacted versions) of the Rate Filing Justification.

1. Should Parts I, II and III be revised during the review process, the insurer may mark such amended information as confidential in SERFF if the information qualifies as trade secret under NC's laws and the insurer follows the Division's trade secret process.
 2. In order to coordinate the uniform public release of Parts I, II and III of all final rate increases, insurers must also as a final step before approval, submit final versions of Parts I, II, and III (redacted version) to be disclosed publically on the uniform date specified in regulation or otherwise chosen by the State. Such versions should be marked confidential in SERFF, but the documents themselves should not contain any internal markings of confidentiality or trade secret.
- G. Insurers are expected to submit the following required statement signed by an officer of the company relating to the temporary confidentiality of Parts I, II, and III on the Supporting Documentation tab in the SERFF filing.

"<COMPANY> acknowledges that Parts I, II, and III of the federal Rate Filing Justification (as applicable) are being submitted as confidential only on a temporary basis to facilitate NCDOI compliance with federal requirements for uniform release of rate information pursuant to 45 CFR §154.301(b)."

- H. Insurers may mark other submitted content which qualifies for trade secret status under NC's laws as confidential as long as the insurer follows the Life and Health Division's Trade Secret submission process. Those instructions may be accessed here: <http://www.ncdoi.com/lh/Documents/Licensing/PaperFilingInstructions.pdf>.
- I. **Insurers should NOT complete the "Overall Rate Impact" field on the SERFF General Information tab.**
- J. Insurers should NOT complete
- K. Insurers should NOT attach any documents on the SERFF Rate/Rule Schedule tab of the single-risk pool rate filing. Rather all documents should be submitted on the SERFF Supporting Documentation tab under the appropriate filing requirement header as applicable.
- L. **The SERFF Rate/Rule Schedule should be marked Confidential in its entirety. Each Schedule Item on the tab should be marked Confidential.**

Insurers should understand that for filings described in Section I above, as required by 45 CFR §154.301(b), on July 25, 2018 NCDOI will make public a summary of these filings, including the company name, market, and average change in rates requested, as well as Parts II and III of the Rate Filing Justification which are included in the May 21st submissions. CMS/CCIIO is expected to publish information from Parts I, II and III for ALL rate submissions on 8/1/18. Lastly, NCDOI will, after approval, make public a summary of final rates and the final versions of Parts II and III from all filings on a uniform date but no later than the first day of open enrollment.

II. For Non-grandfathered ACA-compliant Single-Risk Pool Rate Filings for the 2019 Plan Year in the individual or small group markets in which the threshold calculation is less than 15%.

Insurers will be expected to submit a demonstration of the threshold calculation for each product contained in the single-risk pool rate filing as part of NC’s actuarial memorandum requirements.

- A. Insurers are expected to submit an annual single-risk pool rate filing for the 2019 Plan Year for each market (as applicable) via SERFF.
- B. **DUE DATE – MAY 21, 2018 - Insurers are expected to submit ALL single-risk pool filings to NCDOI and CMS/CCIIO.**
- C. Insurers should use the SERFF Filing Type “2019 Plan Year ACA Single-Risk Pool Rate Filing” for each submission.
- D. Insurers are expected to submit all state required information for an ACA-compliant single-risk pool filing as outlined in previous guidance and/or per SERFF filing requirements, including Parts I and III of the federal Rate Filing Justification as applicable.
- E. Insurers are expected to submit the redacted version of the federal Actuarial Memorandum (Part III of the Rate Filing Justification) AND the un-redacted version if the insurer wishes to take advantage of the federal policy permitting the use of a redacted version AND the federal requirement is applicable.
 - 1. The two documents MUST be submitted separately under their respective SERFF Submission Requirements.

2. Insurers are expected to submit a federal actuarial memorandum under the respective SERFF Submission Requirement (and the redacted version if applicable under its SERFF submission requirement), even if the insurer is using the North Carolina Actuarial Memorandum to serve as its federal actuarial memorandum (with or without redaction).
 3. Part III (actuarial memorandum – redacted and un-redacted) of the federal Rate Filing Justification is only required to be submitted for each single risk pool product that includes a plan that is subject to a rate increase, regardless of the size of the increase. Insurers should bypass this requirement in SERFF if it is not applicable but should include an explanation of why the requirement was bypassed.
 4. **Insurers should ALWAYS submit the North Carolina Actuarial Memorandum (using NCDOL’s template) under the North Carolina Actuarial Memorandum SERFF submission requirement.**
- F. In order to coordinate the uniform public release of Parts I and III of the Rate Filing Justification for all final rate increases on a uniform date as provided in 45 CFR §154.301(b)(1)(ii), insurers are expected to mark as confidential Parts I and III (both redacted and un-redacted versions) of the Rate Filing Justification.
- G. Insurers are expected to submit the following required statement signed by an officer of the company relating to the temporary confidentiality of Parts I and III on the Supporting Documentation tab in the SERFF filing.
- “<COMPANY> acknowledges that Parts I, II, and III of the federal Rate Filing Justification (as applicable) are being submitted as confidential only on a temporary basis to facilitate NCDOL compliance with federal requirements for uniform release of rate information pursuant to 45 CFR §154.301(b).”
- H. Insurers may mark other submitted content which qualifies for trade secret status under NC’s laws as confidential as long as the insurer follows the Life and Health Division’s Trade Secret submission process. Those instructions may be accessed here: <http://www.ncdoi.com/lh/Documents/Licensing/PaperFilingInstructions.pdf> .
- I. **Insurers should not complete the “Overall Rate Impact” field on the SERFF General Information tab.**
- J. Insurers should NOT attach any documents on the SERFF Rate/Rule Schedule tab of the single-risk pool rate filing. Rather all documents should be submitted on the SERFF Supporting Documentation tab under the appropriate filing requirement header as applicable.

K. The SERFF Rate/Rule Schedule should be marked Confidential in its entirety. Each Schedule Item on the tab should be marked Confidential.

Insurers should understand that for filings described in Section II above, as required by 45 CFR §154.301(b), NCDOT will, after approval, make public a summary of all final rates and the final versions of Parts II and III from all filings on a uniform date but no later than the first day of open enrollment.

III. Guidance on Unsolicited Amendments/Updates to pending Single-risk Pool Rate Filings

NCDOT will consider unsolicited changes/updates to pending single-risk pool rate filings, including adjustments due to the final risk adjustment information as issued by CMS, changes in assumptions, or emerging experience. However, for single-risk pool rate filings containing any plan submitted for QHP certification, NCDOT will not accept unsolicited amendments which are submitted after close of business on August 2, 2018. For single-risk pool rate filings that do NOT contain any plans submitted for QHP certification (i.e. off exchange only), NCDOT will not accept unsolicited amendments which are submitted after the close of business on September 22, 2018. NCDOT reserves the right to amend these time frames should limits on resources and time put timely completion of all rate filings in jeopardy, or revisions to this policy are otherwise warranted.

IV. Supporting Documentation/Data Requirements for ALL Single-Risk Pool Rate Filings

As a reminder, the following items should be submitted with ALL single-risk pool rate filings.

- A. NC Actuarial Memorandum –
http://www.ncdoi.com/HealthCareReform/HCR_Rate_Filing.aspx
- B. NC Rate Data Template –
http://www.ncdoi.com/HealthCareReform/HCR_Rate_Filing.aspx
- C. NC Checklist – http://www.ncdoi.com/HealthCareReform/HCR_Rate_Filing.aspx
- D. Threshold Calculation Demonstration
- E. Part I of the federal Rate Filing Justification – Unified Rate Review Template
- F. Part II of the federal Rate Filing Justification – Written Description Justifying the Rate Increase (if applicable)
- G. Part III of the federal Rate Filing Justification – Actuarial Memorandum – Unredacted (if applicable)
- H. Part III of the federal Rate Filing Justification – Actuarial Memorandum – Redacted (if applicable)
- I. A screen shot from the 2018 Actuarial Value Calculator for each plan in the URRT and associated plan binder

- J. Federal Unique Plan Design Supporting Documentation and Justification Form (if applicable)
- K. Federal EHB Substituted Benefit (Actuarial Equivalent) Supporting Documentation and Justification Form (if applicable)
- L. 2019 HIOS Submission Tracking Number and related information. Refer to the SERFF requirement for details.
- M. HMO Financial Projection Template (only applies to entities licensed as HMOs or who have an HMO line of authority)
- N. HMO Actual to Projected Financial Results (only applies to entities licensed as HMOs or who have an HMO line of authority)

In order to assure that data stay consistent, NCDOI expects that any amendments made to a NC single-risk pool rate submission shall also be made to any like data as submitted to CMS/CCIIO or the FFM. NCDOI will ask as part of the Plan Binder submission requirements that insurers attest to this, and may also request additional assurances during the form and/or rate filing review process.

As federal guidance, regulation, and legislation that may impact single-risk pool rate filings for the 2019 Plan Year may not be finalized as of the date of this memorandum, this guidance could be changed. The Division will issue additional guidance as necessary to reflect such changes. Insurers are encouraged to regularly check this website for up-to-date information: http://www.ncdoi.com/HealthCareReform/Information_For_Insurers_-_Rate_Filing_Information.aspx.

All questions relating to this memorandum should be addressed to Rosemary Gillespie at rosemary.gillespie@ncdoi.gov, 919-807-6070.