North Carolina Department of Insurance

2014 ACA Market Reform Related Frequently Asked Questions

FAQ #1 – ISSUED APRIL 9, 2013

Disclaimer: The following responses are based on current federal guidance and interpretations and are subject to change.

I. General Rate and Form Filing Questions

1. When are filings due to NCDOI?

Insurers should generally plan for a 90-day review process. For insures applying to offer any plans on the federal exchange, it is DOI's understanding that reviews for all plans in that market (on and off the exchange) must be completed by July 31st, in which case, filings should be submitted to NCDOI by the end of April or early May, concurrent with or soon after submissions to the federal exchange. Insurers offering plans outside the Exchange must comply with the federally mandated open enrollment periods which open on October 1, 2013 in the individual market and November 15, 2013 in the small group market. Additional review time may be needed in cases where filings are not complete, the filing includes an excessive number of plans, the filing includes any Essential Health Benefit (EHB) substitutions, or the filing includes unique cost-sharing designs that cannot be accommodated by the federal actuarial value calculator.

2. Is the expectation that we will be submitting Exchange only products in April or do the off Exchange plans need to be submitted as well?

As noted above, for insurers planning to apply to offer any plans on the federal exchange in a given market, all non-grandfathered plans for that market, both on and off the Exchange, should be submitted to NCDOI in April or early May. Also note that insurers must submit a single rate filing for each market (individual and small group) for all non-grandfathered plans offered on and off the Exchange.

3. What is the form and rate submission process for grandfathered plans?

NCDOI highly recommends insurers split grandfathered business from non-grandfathered business for purposes of forms. This will help streamline reviews. There are no changes to the submission requirements for grandfathered plans from those requirements currently in effect. However, NCDOI requests that insurers consider their timelines for grandfathered business and try to time submission of those filings outside of the April to July time frame, if possible.

4. **Will NCDOI require submission of SERFF Binders as part of the form filing process?**

   Yes, NCDOI is requiring submission of SERFF Binders to include information on all non-grandfathered plans, including those intended to be offered only outside the Exchange. Please see the instructions in SERFF for more information about what is required as part of the plan binder.

   NCDOI will review the SERFF Binders for compliance with the federal Essential Health Benefits and Actuarial Value requirements; as well as other applicable state and federal laws.

5. **Given the SERFF Binder Functionality, will NCDOI still require submission and approval of form and rate filings through SERFF before they are used in North Carolina?**

   Yes, the Commissioner's prior approval authority for insurance forms and rates is still in effect and the SERFF Binder functionality does not take the place of any form or rate filing processes or requirements.

6. **Will NCDOI require insurers to submit entirely new policy forms to accommodate 2014 reforms or can an insurer submit amendments or riders to revise previously approved forms?**

   Form filings for health benefit plans to be used on or after 1/1/14 (both off-exchange and on-exchange) should include all applicable 2014 reforms.

   NCDOI will accommodate new form filings, amendments/riders, or other amendatory filings to accomplish compliance with the 2014 reforms.

   If an insurer submits new forms for 2014 plans, and bases the new form on a previously approved form, NCDOI would prefer the insurer submit the new form in "red line" or with some type of comparison of what is newly added information in order to expedite review of the new forms.

   If amending previously approved forms, insurers should reference all previous filings by the NCDOI/SERFF tracking number and give the date of approval.

7. **Are insurers required to split Exchange and non-Exchange insurance forms?**

   No, insurers are not required to split Exchange and non-Exchange insurance forms. However, if the insurer uses a single form (or set of forms) for both, then the insurer should use variable language in the form(s) to accommodate exchange specific requirements. The related Explanation of Variability must clearly explain this variability.

II. QHP Certification

1. Will North Carolina certify plans as QHPs for use on the Federally Facilitated Exchange (FFE)?

Per Session Law 2013-5, North Carolina will have a FFE for 2014. This means that the FFE will make QHP certification decisions. NCDOI will review forms, rates and SERFF Binders for compliance with applicable state and federal laws, but will not review Exchange-specific certification criteria such as Essential Community Provider standards, Meaningful Difference, or non-discriminatory cost sharing.

2. Where can insurers find out information about submission of the QHP Application to the FFE?

The Federal Technical Assistance Portal containing training opportunities relating to various federal requirements can be found at https://www.regtap.info/ .

The federal exchange has also set up a helpdesk for insurers which can be accessed by phone at: 855-CMS-1515 or by email at CMS_FEPS@CMS.HHS.GOV.

The Center for Consumer Information and Insurance Oversight (CCIIO) has also issued a letter to issuers on Federally-facilitated and State Partnership Exchanges. The letter is available at http://cciio.cms.gov/resources/regulations/Files/2014_Letter_to_Issuers_04052013.pdf.

III. Geographic Rating

1. What geographic rating areas will apply in North Carolina?

Per the recommendation of NCDOI's market reform technical advisory group (TAG), and in consultation with the major medical insurers operating in North Carolina, DOI requested that CCIIO allow for each of NC's 100 counties to be treated as a separate geographic rating area. The proposal was rejected by CCIIO, so NCDOI worked with insurers to develop a set of 16 geographic rating areas based on county lines to meet the requirements for presumptive approval by CCIIO. These areas are available at http://cciio.cms.gov/programs/marketreforms/nc-gra.html

2. How should geographic rating factors be developed?

Geographic rating factors should be based on unit cost analysis or otherwise adjusted for morbidity differences across geographic regions.

3. How will geographic rating factors apply in the small group market?

NCDOI has heard from CCIIO (but does not yet have anything in writing) that for small groups, application of geographic rating factors is based on member residence, rather than employer location. The one exception is for employees (or dependents) that reside out-of-state (or out of

a licensed service area).For these enrollees, the geographic factor will be based on the employer location.

IV. Age Rating

1. Has North Carolina requested an alternative age curve?

No, North Carolina has not requested use of an alternative age curve. The federal curve will apply.

V. Tobacco Rating

1. Will North Carolina limit tobacco rating to less than the 1.5:1.0 ratio allowed in the federal law?

At this time, the NC General Assembly has not taken any action to limit tobacco rating beyond what is allowed in federal law. Note that as part of the rate review process, however, insurers must demonstrate that their proposed tobacco rating factors are actuarially justified.

VI. Essential Health Benefits

1. Where can I find information about the Essential Health Benefits in North Carolina?

Information about Essential Health Benefits in North Carolina is available at: http://www.ncdoi.com/LH/LH_HCR_EHBAV.aspx

2. Does North Carolina have a specific definition for habilitative benefits?

At this time, North Carolina has not defined habilitative benefits for purposes of Essential Health Benefits.

3. Will NCDOI allow for substitutions of Essential Health Benefits?

At this time, NCDOI plans to allow for actuarially equivalent substitutions of Essential Health Benefits, but asks that insurers engage NCDOI as soon as possible if substitutions will be requested. If insurers do not engage NCDOI early, review times may be longer and insurers may need to plan for more than 90-days. When an insurer utilizes actuarial equivalent substitutions in any plan, the insurer must submit the federal supporting documentation "EHB – Substituted Benefit (Actuarial Equivalent) Justification".

VII. Rate Filing Questions

1. **Should insurers file rates separately for grandfathered and non-grandfathered plans?**

   Yes, non-grandfathered rates must be submitted in a single filing for each market (individual vs. small group), and grandfathered rates must be submitted separately consistent with pre-2014 requirements, standards, and processes.

2. **Should insurers file rates separately for Exchange and non-Exchange plans?**

   No, rates for all non-grandfathered plans (inside and outside the Exchange) must be submitted in a single filing for each market (individual vs. small group).

3. **Can insurers submit quarterly trend increases in their January 2014 rate filings to be pre-approved to apply in the small group market for effective dates later than January 2014?**

   Yes, insurers can submit quarterly trend increases in the January 2014 rate filings to apply to groups with renewal or effective dates later in the calendar year. Information and data to support these quarterly increases must be included in the rate filings, including the NC-specific rating template.

4. **Can insurers submit rate changes to apply to small groups with renewal or effective dates after January 2014?**

   NCDOI has heard from CCIIO (but does not have anything in writing), that the federal HIOS system will not have the capacity to accept mid-year rate changes (other than pre-approved trend increases as noted in the previous question) until sometime in the latter part of 2014. NCDOI will share more information as it becomes available.

5. **What are the submission requirements for non-grandfathered rate filings?**

   Please refer to the rate filing checklists available at: http://www.ncdoi.com/LH/LH_HCR_Rate_Filing.aspx.

6. **Are insurers required to submit the completed checklist with their rate filings?**

   Submission of the completed checklist is strongly recommended to help facilitate review.

7. **Are insurers still required to submit the information required in NCDOI's Small Group Advisory Memorandum released in January 2012 for non-grandfathered plans?**

   For non-grandfathered rate filings, applicable requirements from the Small Group Advisory Memorandum have been incorporated into the Actuarial Memorandum instructions. Refer to the applicable checklist for information on rate filing requirements.

For grandfathered rate filings, insurers should continue to submit the information required in the Small Group Advisory Memorandum.

VIII. SERFF Binder and Federal Plan Management Templates

1. Where can insurers find the Federal Plan Management Templates?

The Federal Plan Management Templates are available on HIOS or at http://www.serff.com/plan_management_data_templates.htm.

2. Will NCDOI require that the Federal Plan Management Data Templates be submitted with Off-Exchange Plans? With On-Exchange Plans?

For Off-Exchange: Yes, NCDOI will require the following Federal Plan Management Data Templates be submitted via a SERFF Binder for each market (individual and small group).

- Plan/Benefits Template
- Prescription Drug Template
- Network Template
- Service Area Template
- Unified Rate Review (for rate increases)
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For On-Exchange: NCDOI will require that an insurer who wishes to have plans certified as QHPs to submit the exact same Federal Plan Management Data Templates as the insurer submitted via HIOS in the QHP Application. Insurers should submit these templates via a SERFF Binder.

If the insurer has submitted off-exchange plans within the templates submitted through HIOS, the insurer should submit all of those plans and those templates via a SERFF Binder. If the insurer did not submit off-exchange plans to HIOS (or is not participating in the exchange), the insurer should submit a single SERFF Binder per market which is identified as "Not Submitted Through HIOS" and include the templates noted above containing all of the off-exchange plans the issuer plans to be using in NC.

IX. Plan Information

1. For small group plans sold in 2014 or later, can a carrier file a flexible benefit plan and premium rate structure that does not include fixed benefit plans, or must the benefit plans all be pre-defined packages prior to filing?

No, each combination of benefits and cost sharing, including different combinations of medical and drug plans, must be reported as a separate plan that meets the actuarial value/metal level requirements (or the requirements of a catastrophic plan). This is the case for all non-grandfathered plans both inside and outside the Exchange.

X. Dental and Vision Information

1. **Is NCDOI aware of any stand-alone dentals plans that are intending to participate on the Exchange?**

   CCIIO has issued the results of a survey they made of stand-alone dental insurers nationwide to voluntarily indicate if they expected to offer stand-alone dental plans in the individual exchange and/or the SHOP exchange in Federally Facilitated Exchange states. The results of that survey can be found at http://cciio.cms.gov/resources/files/voluntary-dental-reporting-list-1-28-13.pdf

2. **Are Separate Forms Required for Small Groups (50 or less) and Large Groups (51 or more) for Stand-alone Dental plans?**

   No, insurers are not required to submit different forms for stand-alone dental for small group versus large group.

3. **Where can insurers find information relating to the Largest FEDVIP dental or vision plans by national enrollment in order to find the benefits that must be provided for the pediatric dental and vision part of the Essential Health Benefits?**

   Vision Plan: http://archive.opm.gov/insure/health/planinfo/2012/brochures/FEPBlueVi.pdf

   Dental Plan: http://archive.opm.gov/insure/health/planinfo/2012/brochures/MetLife.pdf

4. **Which FEDVIP plan should be used for defining the pediatric vision benefit for purposes of determining the Essential Health Benefits for NC, the Standard or High Option?**

   Based upon the EHB final regulation, the vision benefit should be based upon the High Option (see chart at end of the regulation). Note that the chart also indicates that the referenced FEDVIP plans are as of March 31, 2012 and appear subject to change.

Questions about this FAQ should be directed to I&hinbox@ncdoi.gov or (919) 733-5060, extension 0.