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

CENTERS FOR MEDICARE & MEDICAID SERVICES
CENTER FOR CONSUMER INFORMATION & INSURANCE OVERSIGHT

To: Health Insurance Issuers in Missouri, Oklahoma, Texas, and Wyoming

RE: Form Filing Instructions for System for Electronic Rates and Forms Filing (SERFF) for Plan Year 2023

The Centers for Medicare & Medicaid Services (CMS) is responsible for enforcing provisions of title XXVII of the Public Health Service Act (PHS Act), as amended by the Patient Protection and Affordable Care Act (ACA) and as amended by the Consolidated Appropriations Act, 2021 (CAA), with respect to health insurance issuers in the group and individual markets when a state informs CMS that it does not have authority to enforce or is not otherwise substantially enforcing one or more of the provisions of that title. One of the ways that CMS enforces these provisions is through the review of policy forms for compliance prior to sale. Within CMS, the Oversight Group in the Center for Consumer Information & Insurance Oversight (CCIIO) is primarily tasked with these duties.

Form Filing Instructions

1. Who must submit form filings to CMS for Plan Year 2023 and how must these form filings be submitted?

For plan year 2023, health insurance issuers in Missouri, Oklahoma, Texas, and Wyoming must submit form filings for all non-grandfathered health insurance products in the individual[1] and group markets to the CMS Direct Enforcement instance in the National Association of Insurance Commissioners' (NAIC) System for Electronic Rates and Forms Filing (SERFF) at https://login.serff.com/serff/. Due to the enactment of the CAA, issuers in these states must submit a full and complete form, not just the portions of the contract that are changing from the prior year. Additionally, issuers must submit complete forms for coverage that has been renewed under CMS's non-enforcement policy continually since 2014 (sometimes referred to as grandmothered or transitional plans).[2]

One product submission in SERFF shall comprise all of the plans offered with the same product network type and identical benefits. Each product must be submitted separately. Each product submission must include all plans to be offered for that product.[3]

[1] Student health insurance plans are defined as individual market plans, and are generally subject to the individual market requirements under title XXVII of the PHS Act.
[2] See Bulletin: Extension of Limited Non-Enforcement Policy through 2023 and Later Benefit Years. https://www.cms.gov/files/document/extension-limited-non-enforcement-policy-through-calendar-year-2023-and-later-benefit-years.pdf
[3] A single product submission may include QHPs and non-QHPs.

Instructions for form filing submissions to CMS are also provided in the SERFF submission General Instructions Tab.

For additional information about SERFF, including participation details and how to sign up, call (816) 783-8990 or email serffhelp@naic.org.

2. What is the difference between a product and a plan?

The terms "product" and "plan" are defined in regulations at 45 CFR 144.103. A product is a discrete package of health insurance coverage benefits that are offered using a particular product network type (e.g., HMO, PPO, EPO, POS or indemnity) within a service area.

A plan is the pairing of the health insurance coverage benefits under the product with a particular cost-sharing structure, provider network, and service area. Plans within a product may vary with respect to cost-sharing structure, provider network, and service area.[4] Plans within a product may not vary with respect to which benefits are offered, meaning the product's covered items and services must be consistent, including any visit or other frequency limits on the same covered benefits.

3. What other information should issuers know when preparing their plan documents?

The Consolidated Appropriations Act, 2021 (P.L. 116-260) imposed new requirements related to surprise medical bills and transparency in health care applicable to health insurance issuers, generally for plan years beginning on or after January 1, 2022. The language in your plan documents must meet these new requirements.

4. When are the plan year 2023 form filing submission deadlines?

- May 16, 2022: Deadline for filing forms for all non-grandfathered products, except for student health insurance products and products offered in the large group market.[5]
- 60 days prior to marketing: Deadline for filing forms for student health insurance products and products offered in the large group market.

Please note that failure to comply with these dates may result in the submitted forms not being reviewed on time. If an issuer sells a plan prior to the completion of form review, the issuer may be referred to the market conduct team for further investigation.

5. What documents must be submitted in SERFF for plan year 2023 form filings?

Please reference the table below to determine under which tab forms must be filed in SERFF. As

[4] The combination of the service areas for all plans offered within a product constitutes the total service area of the product.
[5] *See, supra* note 1.

stated in the 2023 Draft Letter to Issuers in the Federally-facilitated Exchanges, there are additional proposed requirements specific to Qualified Health Plan (QHP) certification that CMS requires, such as the Plans & Benefits Templates and prescription drug templates.[6] For QHPs, completed templates and justifications must be uploaded into the HIOS Plan Management and Market Wide Functions Module[7] and should not be submitted through the SERFF Supporting Documentation Tab. The requirements specific to QHP certification in the 2023 Draft Letter to Issuers in the Federally-facilitated Exchanges are subject to change. Please refer to the Final 2023 Letter to Issuers in the Federally-facilitated Exchanges for complete and final instructions for submitting QHP templates and justifications. Additionally, issuers in all states must submit rate filing information to CMS[8]. For more information on the submission of rate information please email ratereview@cms.hhs.gov.

Form Schedule Tab
Group master policy[9]
Evidence of coverage or individual policy
Schedule of benefits for each plan and CSR plan variations
Notices of appeals and external review rights
Riders, endorsements, and amendments[10]
Supporting Documentation Tab
Summary of Benefits and Coverage (SBC)[11]
Plans & Benefits Template, in .xlsx format, for non-qualified health plans only
CMS Prescription Drug Template (one per product in Excel format) for non-qualified health plans only, except large group market

[6] The 2023 Draft Letter to Issuers in the Federally-facilitated Exchanges is available at https://www.cms.gov/files/document/2022-draft-letter-issuers.pdf.
[7] Templates are available at https://www.qhpcertification.cms.gov/s/QHP.
[8] See Guidance on Unified Rate Review Timeline: Proposed Timing of Submission of Rate Filing Justifications for the 2022 Filing Year for Single Risk Pool Coverage Effective on or after January 1, 2023 (PDF) available at https://www.cms.gov/cciio/resources/regulations-and-guidance#Review-of-Insurance-Rates.
[9] For group market product submissions only.
[10] Optional benefits riders are not permitted for plans that are subject to the single risk pool requirements.
[11] One SBC is required per network type. For a product submission that includes plans designed to comply with metal level actuarial value requirements, issuers should submit an SBC for a silver level plan. Additionally, one American Indian/Alaska Native zero cost share and one American Indian/Alaska Native limited cost share SBC should be included if applicable.

Results of the Actuarial Value Calculator (screen shot or in Excel format) for non-qualified health plans only
Unique Plan Design Supporting Documentation and Justification for non-qualified health plans only
Essential Health Benefit (EHB) Substituted Benefit (Actuarial Equivalent) Justification for non-qualified health plans only
Formulary—Inadequate Category/Class Count Supporting Documentation and Justification for non-qualified health plans only
Explanation of Variability

6. What are some general tips for submitting forms?

a. Identify whether each product submission will include any plans submitted for QHP certification, and, if applicable, identify the coverage level for each plan within a product (i.e., bronze, silver, gold, platinum, or catastrophic).
b. Include the associated HIOS number and Product ID(s) on the General Description tab of the submission.
c. Issuers can run their Plans & Benefits Template through the plan year 2023 Master Review tool to ensure all the data is included and there are no errors to avoid delays in our review of submitted documents.
d. Submit one SBC for a QHP offered to individuals who are recognized as American Indian or Alaska Native (AI/ANs) for the no cost sharing option and one for the limited cost sharing option. In addition, submit one SBC for each product network type for one of your plans. We encourage issuers to provide a silver-level plan SBC if possible.
e. Include the activation date of SBC weblinks in the general filing instructions.
f. If a form is used for multiple products or plans, indicate which form(s) belong with which products or plans. This includes identifying whether multiple product submissions use identical RX templates as other product submissions.
g. A separate filing is required for each product network type (i.e.; PPO, POS, EPO and HMO, etc.). If you are submitting more than one filing for a single product network type, provide a high-level explanation of the benefit differences between the filings.
h. Do not file optional benefit riders for plans that are subject to the single risk pool requirement.
i. Do not include plan documents within SERFF Reviewer notes. Only the submission of new and revised forms, submitted in the forms schedule and supporting documentation are accepted.
j. Issuers can run their RX template through the plan year 2023 RX Tool to ensure there are no RX template errors and also to provide CMS with the RX justification for any deficiencies identified as part of this process. This will reduce the number of RX review issues.
k. Issuers are encouraged to upload redlined versions of forms that reflect changes from prior product submissions, or changes made to the product submission as a result of an issuer notice. We ask that issuers upload the redline document under the **Supporting Documentation Tab** and the clean version of the revised document under the **Form Schedule Tab**.
l. Issuers submitting products with variable language or data must include any explanations of variability as part of the submission.

m. Do not submit scanned documents.
n. All text files should be in Adobe Acrobat PDF. Spreadsheets should be attached in Excel format. BMP, PNG, and JPG are acceptable formats for screenshots.
o. Do not submit locked or password protected PDFs. The locking of documents slows down the review process.
p. Forms must be submitted in SERFF, in final form, to be approved. Plan documents (i.e., Certificate of Coverage, Schedule of Benefits, Policies, and SBCs) must be submitted as they will be marketed to enrollees. A submission of a drafted document, or a redlined marked up document, submitted under the Form Schedule tab, will not be accepted. Redline documents are used only to reference changes from previous versions and must be submitted in the Supporting Documentation Tab.
q. Microsoft Word documents cannot be uploaded to SERFF.
r. The maximum file size limit for uploads to SERFF is 5 MB.