March 7, 2018

RULING LETTER NO. CN-2018-236-AS

TO ALL DISABILITY INSURERS AND HEALTH SERVICES ORGANIZATIONS THAT WRITE HEALTH INSURANCE PLANS IN PUERTO RICO

FORM AND RATE FILINGS SUBMISSIONS TO BE EFFECTIVE FOR CALENDAR YEAR 2019

Dear Sirs and Madams:

In accordance with Chapters 8 and 10 of the Health Insurance Code of Puerto Rico ("HICPR"), Disability Insurers and Health Services Organizations ("HMOs") that write individual and small group health plans, including small groups health plans for bonafide associations, in Puerto Rico must submit to the Office of the Commissioner of Insurance ("OCI") each year, for review and approval, all the forms and rates in relation to metallic plans, all rates for metallic plans even if no change has been made, and rate increases equal to or greater than 10% of current rates. The requirements to file rates with the OCI, as set forth in Section 19.080(2)(a) of the Puerto Rico Insurance Code, 26 L.P.R.A., sec. 1908(2)(a), must be complied with by all HMOs and all rate changes or modifications, including all rates for metallic plans, must be filed even if no change has been made.

To implement appropriate guidelines to promote an orderly form and rate filing submission for metallic plans to be effective on January 1, 2019, the OCI is hereby implementing the following standards:

I. Rates Submission

A. Timeline

Rate filings for non-grandfathered individual and small group plans, including small group health plans for bonafide associations, that will be effective on January 1, 2019 must be submitted to the OCI on or before May 31, 2018. A carrier[1] wishing to have quarterly rate changes on small group plans, including small group health plans for bonafide associations, in 2019 must file rates for all quarters on or before May 31, 2018. **The OCI will not guarantee the approval of the submitted rates before October 1, 2018, if the carrier does not comply with the established submission deadline.** As previously informed by the OCI, carriers must obtain approval of the metallic plans rates and forms before October 1st of each year. Carriers

[1] Term use in this ruling letter to refer to a Disability insurer and an HMO.

whose rates and forms have not been approved before October 1, 2018, will have to market, and make available for everyone, all of their metallic plans in the individual market, without a waiting period, throughout the open enrollment period (October 1st to December 31st, 2018) and the entire year 2019, instead of just the open enrollment period.

Grandfathered individual and small group rate increases for HMOs and rate increases over 10% for Disability insurers must be filed at least ninety (90) days before they are to be used.

B. Rate Filing Submission Requirements

1. Every filing should be properly submitted through the SERFF system, **including all the information required in this ruling letter and its attachments**. See SERFF Rate Filing Submissions Instructions in Section I(F) of this ruling letter.

2. All Excel files should also be submitted also in PDF print out format.

3. All rate filings should be submitted in accordance with the requirements established in the Puerto Rico Rate Filing Instruction Manual (See Attachment 1).

4. The following documents must be included in the rate submission:

    a. Federal Rate Review Justification Part I-Unified Rate Review Template (URRT) in Excel and PDF. (See Attachment 2);

    b. Actuarial Memorandum meeting the requirements of Puerto Rico, and Part III Federal 2014 Actuarial Memorandum and Certification Instructions (See Attachment 3). **The Actuarial Memorandum must be in the same format and order established in the mentioned Part III**, and should also include the following information:

        i. Quantitative demonstration of the "Paid to Allowed";

        ii. Quantitative development, in Excel, of the base rate from the base adjusted index rate;

        iii. Provide actuarial development of each factor used in the development of the rates;

        iv. Provide an age distribution of the base population and projected population using the federal age ranges;

        v. For each essential health benefit not covered previously, provide the additional cost PM/PM with an actuarial explanation of how the additional cost was developed;

        vi. Provide a quantitative development in Excel, with the corresponding formula, of the pricing actuarial values and the age 21 non-smoker rate starting with the index rate and including all steps thru the plan base rate for each plan;

vii. Provide the rate increases percentages that result from the submitted final enrollee rate in comparison to the current final enrollee rate by plan and overall; and

viii. Provide, in Excel, the procedure with the calculation use to determine the rate increase percentage of the rates.

c. Puerto Rico Actuarial Certification;

d. Actuarial Value Calculator Screenshots (for metallic plans only). Each plan should be identified (i.e. Bronze, Silver, Gold, and Platinum). The screenshots should be submitted in Excel and PDF. The Actuarial Value Calculator to be used is the HHS 2014. If the presented rates apply to a POS plan, the actuarial value calculator must be properly completed;

e. SERFF Rate template in Excel and PDF (one metallic plan per page);

f. Rate Manual;

g. Puerto Rico Benefits Map in Excel and PDF (only applicable if it is different from the Benefits Map already filed with the OCI.) Otherwise, please indicate that the Benefits Map has been previously filed. (See Attachment 4); and

h. Puerto Rico Rate Filing Checklist (See Attachment 5).

C. Use of Approved Rates and Prospective Revisions

1. The carriers **must only use** the rates filed and approved by the OCI.

2. Lower or higher rates cannot be used, even if the revised rate is on a group level and the rate is not higher than the approved one. Please note that audits will be made to verify that only approved rates are being used.

3. Carriers will not be allowed to implement rate changes to current rates before January 1, 2019, unless a carrier can prove to the OCI that their financial solvency will be dangerously low without a rate change.
4. Once the rates are approved they cannot be changed during the year.

5. For the small group market, including small group health plans for bonafide associations, if the rates are increased on a quarterly basis they should be pre-filed all at the same time. No other quarterly rate increases will be accepted.

D. Rates to be made Public

The only documents that will be published on the OCI website, after the approval of the rate submission, are the rates structures.

E. Grandfathered Rates Submission

1. Every filing should be properly submitted through the SERFF system, including all the information required in this ruling letter and its attachments, as applicable. See SERFF Rate Filing Submissions in Section I(F) of this ruling letter.

2. All Excel files should be submitted in Excel, as well as in PDF print out format.

3. All HMOs rate increases and all Disability insurers rate increases equal to or greater than 10% of rates one year prior, should be submitted in accordance with the requirements established in the Puerto Rico Rate Filing Instruction Manual (See Attachment 1).

4. The documents previously mentioned in item I(B)(4) of this ruling letter should be included as part of the rate submission.

F. SERFF Rates Filing Submissions

1. Every SERFF filing **should include the correct Type of Insurance (TOI), Sub-Type of Insurance (Sub-TOI), Market Type and Filing Type**. Incorrect TOI, Sub-TOI, Market Type or Filing Type **will result in the filing rejection without evaluation**.

2. SERFF filings must comply with Circular Letter No. CC-2015-1870-AV/AS of December 1, 2015 entitled "General SERFF Instructions for Form and Rate Submissions" and Circular Letter CC-2015-1869-AV/AS of December 1, 2015 entitled "General Guidelines and Requirements for Forms Submissions", as applicable. Please read carefully the mentioned circular letters before any submission.

3. SERFF filing shall be accompanied with a Transmittal Letter including the name of the carrier making the filing under the signature of an authorized person, in compliance with Section 3(a)(1) of Rule XXIV of the Regulations of the Insurance Code of Puerto Rico. The transmittal letter should be attached in the "Supporting Documentation Tab".

4. All the fields required in the "Rate/Rule Schedule Tab" should be completed. **Otherwise, this will result in the filing rejection without evaluation.**

5. Any supporting documentation should be included in the "Supporting Documentation Tab", including URRT, the Puerto Rico Actuarial Memorandum, Federal Actuarial Memorandum and Certification, Puerto Rico Actuarial Certification, Exhibits (if applicable), Actuarial Value Calculator Screenshots, Rate Manual, Puerto Rico Benefits Map and the Puerto Rico Rate Filing Checklist.

6. The submitted rates to be approved should be included in the "Rate/Rule Schedule Tab".

7. Documents **must be saved in a non-protected PDF and Excel format**, as applicable, so that the file remains searchable and text can be copied from the document. **The submission of protected documents will prevent the filing approval. This is the**

carrier responsibility to verify that all documents comply with this item before the filing submission.

8. Every communication (i.e. request of additional time to respond to an objection letter, request of status) should be included in SERFF as a "Note to Reviewer". Every objection letter should be answered by means of a "Response Letter". The OCI will not accept responses to objection letters in a "Note to Reviewer". Other ways of communication will not be considered as received.

II. Forms Submissions

A. Timeline

Forms filings for individual and small group plans, including small group health plans for bonafide associations, that will be effective on January 1, 2019 should be submitted to the OCI on or before May 31, 2018. **The OCI will not guarantee the approval of the submitted forms before October 1, 2018, if the carrier does not comply with the established submission deadline**. As previously informed by the OCI, carriers must obtain approval of the metallic plans rates and forms before October 1st of each year. Carriers whose rates and forms have not been approved before October 1, 2018, will have to market, and make available for everyone, all of their metallic plans in the individual market, without waiting period, throughout the open enrollment period (October 1st to December 31st, 2018) and the entire year 2019, instead of just the open enrollment period.

B. Forms Filing Submission Requirements

1. Every filing should be properly submitted through the SERFF system **including all the information required in this ruling letter and its attachments**. See SERFF Form Filing Submissions in Section II(E) of this ruling letter.

2. No endorsement for previously approved metallic plans will be accepted. Optional endorsements with additional benefits are accepted with its corresponding rates.

3. All forms and documents should be submitted in PDF print out format. Scanned documents will not be accepted.

4. The following documents must form part of the form submission:

    a. Essential Health Benefit and Preventive Services Checklist (See Attachment 6);

    b. Puerto Rico Form Filing Checklist (See Attachments 7A or 7B);

    c. Drug Formulary in accordance with the Essential Health Benefit Benchmark for Puerto Rico, if applicable. Be advised that **the drug formulary filed with the forms should be the final formulary negotiated with the PBM and the one to be use by the carrier during the entire 2019**. Once the formulary is marked with the

Received and Filed stamp, it cannot be changed during the year, except for the changes allowed by Section 4.060(2) of the HICPR;

d. Providers Directory;

e. Table of Copayment, Coinsurance and Deductibles to be published (See Attachment 8). Please notice that this table does not replace the table of copayment, coinsurance and deductibles that must form part of the contract. The table of the contract must include the cost sharing for each covered service; and

f. Puerto Rico Contraceptives Methods Checklist (See Attachment 9)

5. All metallic plans and the copayment and coinsurance structure must be filed at the same time and cannot be changed during the year.

6. The metallic plans to be effective for calendar year 2019 should provide that any cost-sharing involved with the prescription drug benefit is included in the overall Maximum Out of Pocket (MOOP) total calculation. This Office has determined that the annual MOOP limit for calendar year 2019 is $6,350 for individual coverage and $12,700 for all other coverage.

7. During the open enrollment period, carriers must market all their metallic plans approved by the OCI; provided, that carriers who voluntarily decide to offer their metallic plans outside the open enrollment period, must market all said plans during the whole year 2019 and should not limit said marketing to special enrollment (qualifying events) instances. In addition, the transmittal letter must disclose the carrier voluntarily decision to offer or not all the metallic plans approved by the OCI during the whole year 2019.

8. Essential health benefits discrimination is not allowed. One example of this discrimination has been observed in the maternity benefit. Plans that offer maternity benefits and dependent coverage, are obligated to offer maternity coverage for dependents. Another example of benefits discrimination is the use of exclusions related to surgeries for sexual transformation and exclusions about laboratories related to infertility problems. These standards are applicable for individual, small group, including small group health plans for bonafide associations, and large group metallic plans, grandfathered, and transitional health plans.

9. Each carrier is responsible for notifying the providers the ICD10 and dental health codes related to all the preventive services covered, to guarantee they are provided without cost sharing. Said codes must be published via the carrier's website for the attention of providers and consumers. **Evidence of compliance of this requirement must be presented as part of the submission in the Supporting Documentation Tab.**

C. Use of Approved Forms

1. Carriers **must only use** the forms filed and approved by the OCI, including the drug formulary, which forms part of the contract.

2. Once the forms are approved they cannot be changed during the year.

D. Forms Information to be made Public

Each metallic plan description of benefits, metallic level, and their corresponding table of copayment, coinsurance and deductibles will be made public by the OCI. The Table of Copayment, Coinsurance, and Deductibles to be published should be submitted in Excel and PDF format. (See Attachment 8).

E. SERFF Forms Filing Submissions

1. Every SERFF filing **should include the correct Type of Insurance (TOI), Sub-Type of Insurance (Sub-TOI), Market Type and Filing Type**. Incorrect TOI, Sub-TOI, Market Type of Filing Type **will result in the filing rejection without evaluation.**

2. SERFF filings must comply with Circular Letter No. CC-2015-1870-AV/AS of December 1, 2015 entitled "General SERFF Instructions for Form and Rate Submissions" and Circular Letter CC-2015-1869-AV/AS of December 1, 2015 entitled "General Guidelines and Requirements for Forms Submissions", as applicable. Please read carefully the mentioned circular letters before any submission.

3. SERFF filing shall be accompanied with a Transmittal Letter including the name of the carrier making the filing under the signature of an authorized person, in compliance with Section 3(a)(1) of Rule XXIV of the Regulations of the Insurance Code of Puerto Rico. The transmittal letter should be attached in the "Supporting Documentation Tab".

4. All forms must be submitted in final format. No draft, highlighted or redline copy form should be included in the "Form Schedule Tab".

5. All the fields required in the "Form Schedule Tab" and "General Information Tab" should be completed. **Otherwise, this will result in the filing rejection without evaluation.**

5. Any supporting documentation should be included in the "Supporting Documentation Tab", including evidence of previous approval, the table with copayments, coinsurance and deductibles to be published, certifications, memorandum of variable material, highlighted documents, redlines copies, among others.

6. Only forms to be approved by the OCI should be included in the "Form Schedule Tab". The OCI will not approve forms that have not been included in the Form Schedule Tab (i.e. forms included in a "Note to Reviewer").
7. Every communication (i.e. request of additional time to respond an objection letter, request of status) should be included in SERFF as a "Note to Reviewer". Every objection

letter should be answered by means of a "Response Letter". The OCI will not accept responses to objection letters in a "Note to Reviewer". Other ways of communication will not be considered as received.

8. Forms and documents **must be saved in a non-protected PDF format** so that the file remains searchable and text can be copied from the document. **The submission of protected documents will prevent the filing approval. It is the carrier responsibility to verify that all forms and documents comply with this item before the filing submission.**

9. The documents mentioned in item II(B)(4) of this ruling letter should be included as part of the form submission in the "Supporting Documentation Tab" of SERFF.

F. Plan Renewal

1. The HICPR and the guaranteed renewability provisions of the Health Insurance Portability and Accountability Act of 1996 ("HIPAA") and the Affordable Care Act, provide that if a carrier offers health plan in the group or individual market, must renew or continue in force such coverage at the option of the plan sponsor or the individual, as applicable.

2. A carrier that renews a plan in the group or individual market (including a renewal with modifications) must provide written notice of such renewal as follows:

    a. For metallic plans in the individual market, the carrier must provide to each individual market policyholder, written notice of renewal before the first day of the next annual open enrollment period.

    b. For transitional plans in the individual market, grandfathered and non-grandfathered coverage in the group market, the carrier must provide to each plan sponsor or individual, as applicable, written notice of renewal at least (60) calendar days before the date of the renewal of the coverage.

3. The renewal notices must include the following essential content:

    a. Information about changes, if any, to the enrollee's premiums;

    b. Information about changes, if any, to the enrollee's coverage;

    c. A statement disclosing that upon the termination of the enrollee's current plan, the enrollee is free to choose another health plan offered by the current carrier or by another carrier;

    d. Information about other health plan options from the carrier;

    e. Contact information from the carrier for the enrollee to call with questions; and

f. The notice must be written in a clearly understandable manner.

G. Plan discontinuation

1. Under the guaranteed renewability provisions of the HICPR, if a carrier decides to discontinue offering a particular health plan offered in the group or individual market, that plan may be discontinued by the carrier only if, among other things, the carrier provides notice in writing to each plan sponsor or individual (and to all enrollees included under such coverage) of such discontinuation at least (90) calendar days prior to the date of the discontinuation. The purpose of the discontinuance notice (90 days) prior to the end of coverage is to inform enrollees that their current health plan is being terminated and that they have other health plan options.

2. Written notice must be provided as follows:

   a. Individual metallic plans: discontinuation notice must be sent on or before the first day of the open enrollment period. Since Puerto Rico's open enrollment period runs from October 1st until December 31st every year, the notices must be sent on or before October 1st.

   b. Transitional plans in the individual and group markets (including large group plans), small group metallic plans, including small group health plans for bonafide associations, and grandfathered plans: discontinuation notices must be sent at least (60) days before the termination or renewal date of the health plan.

   c. The discontinuation notices must include the following essential content:

      i. A statement that the health plan is being discontinued;

      ii. Suggestion of enrollment into a health plan of the carrier that is similar the discontinued plan, with information about the changes in the benefits and premiums arising out of the change from the old plan to the new plan; and a statement disclosing that upon the termination of the plan, the enrollee is free to choose another health plan offered by the current carrier or by another carrier;

      iii. Contact information from the carrier for the enrollee to call with questions

      iv. Information about other health plan options from the carrier;

      v. The notice must clearly explain the options for the employer or individual for obtaining or renewing health plan coverage; and

      vi. The notice must be written in a clearly understandable manner.

III. Large Group Rates and Form Filings

Large group rate filings, including large group health plans for bonafide associations, should not be submitted for the OCI's evaluation and approval. This standard does not apply to the HMOs, which need to comply with the provisions of Section 19.080(2)(a) of the Puerto Rico Insurance Code. However, a disability insurer's large group, including large group health plans for bonafide associations, rate increases over 10% for the previous year must be filed at least ninety (90) days before they are to be used.

In addition, we must point out that all large group, including large group health plans for bonafide associations, forms are subject to review and approval. Large group forms must comply with all the applicable provisions of the HICPR, which include among others, no Annual or Lifetime Limits, Coverage of Preventive Health Services, Extension of Dependent Coverage and Preexisting Condition Exclusions.

IV. Supplemental Health Care Exhibit (SHCE)

All carriers are hereby required to complete and submit the Supplemental Health Care Exhibit to the NAIC and the OCI before March 30 of each year for Disability insurers, and before March 31 of each year for HMOs. **The carrier must include a copy of this exhibit as part of the rate filing requirements** in the "Supporting Documentation Tab".

Strict compliance with the provisions of this ruling letter is hereby required.

Cordially,

Javier Rivera Ríos, LUTCF
Commissioner of Insurance