



GOVERNMENT OF PUERTO RICO
OFFICE OF THE COMMISSIONER OF INSURANCE

March 6, 2017

RULING LETTER NO. CN-2017-218-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 2018**

Dear Sirs and Madams:

In accordance with Chapters 8 and 10 of the Health Insurance Code of Puerto Rico, Disability Insurers and Health Services Organizations that write individual and small group health plans 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 products in compliance with the ACA, all rates for ACA-compliant 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 health services organizations (HMOs) and all rate changes or modifications, including all rates for ACA-compliant plans, must be filed even if no change has been made.

In order to implement appropriate guidelines to promote an orderly form and rate filing submission for plans to be effective on January 1, 2018, the OCI is hereby implementing the following standards:

Rates Submission

I. Timeline

Rate filings for non-grandfathered individual and small group plans that will be effective on January 1, 2018 must be submitted to the OCI on or before May 31, 2017. A carrier wishing to have quarterly rate changes on small group plans in 2018 must file rates for all quarters on or before May 31, 2017. The OCI will not guarantee the approval of the submitted rates before October 1, 2017, if the carrier does not comply with the established submission deadline. As previously informed by this Office, carriers must obtain approval of the ACA compliant rates and products before October 1 of each year. Carriers whose rates and products have not been approved before October 1, 2017, will have to market and make available for everyone all of their ACA compliant individual market products, without a waiting period, throughout the open enrollment period (October 1st to December 31st, 2017) and the entire year 2018, 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.

II. Rate Filing Submission Requirements

- A. 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 VI of this ruling letter.
- B. Be advised that incomplete filings will be returned without further evaluation, even if the submission was presented on or before May 31, 2017.
- C. All Excel files should be submitted also in PDF print out format.
- D. All rate filings should be submitted in accordance with the requirements established in the Puerto Rico Rate Filing Instruction Manual (See Attachment 1).
- E. The following documents must be included in the rate submission:
 - 1) Federal Rate Review Justification Part I-Unified Rate Review Template (URRT in Excel and PDF) (See Part I Unified Rate Review Template Instructions in Attachment 2);
 - 2) Actuarial Memorandum meeting the requirements of Puerto Rico, and the 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; and

- 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 product base rate for each product.
- 3) Puerto Rico Actuarial Certification;
 - 4) Actuarial Value Calculator Screenshots (for ACA compliant 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 calculator
 - 5) SERFF Rate template in Excel and PDF;
 - 6) Rate Manual;
 - 7) Puerto Rico Benefits Map (in Excel and PDF, if different from the Benefits Map already filed with the OCI or indicate that the Benefits Map has been filed) (See Attachment 4); and
 - 8) Puerto Rico Rate Filing Checklist (See Attachment 5).

III. Use of Approved Rates and Prospective Revisions

- A. The carriers must only use the rates filed and approved by the OCI.
- B. 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.
- C. Carriers will not be allowed to implement rate changes to current rates before January 1, 2018, unless a carrier can prove to the OCI that their financial solvency will be dangerously low without a rate change.
- D. Once the rates are approved they cannot be changed during the year.
- E. For the small group market, 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.

IV. Rates to be made Public

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

B. All the rates will be published a week before September 30, 2017.

V. Grandfathered Rates Submission

- A. 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 VI of this ruling letter.
- B. Be advised that incomplete filings will be returned without further evaluation.
- C. All Excel files should be submitted in Excel, as well as in PDF print out format.
- D. 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 (Attachment 1).
- E. The documents previously mentioned in item II(E) of this ruling letter should be included as part of the rate submission.

VI. SERFF Rates Filing Submissions

- A. Every SERFF filing should include the correct Type of Insurance (TOI), Sub-Type of Insurance (Sub-TOI) and Market Type. Incorrect TOI, Sub-TOI or Market Type will result in the filing rejection without evaluation.
- B. 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.
- C. SERFF filing shall be accompanied with a Transmittal Letter including the name of the insurer or health services organization 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".
- D. All the fields required in the "Rate Rule Schedule Tab" should be completed.
- E. 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.

- F. The submitted rates to be approved should be included in the "Rate/Rule Schedule Tab".
- G. 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.
- H. 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.

Large Group Rates and Form Filings

Large group rate filings 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 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 large group forms are subject to review and approval. Large group forms must comply with all of the applicable provisions of the ACA and the Health Insurance Code of Puerto Rico, which include among others, no Annual or Lifetime Limits, Coverage of Preventive Health Services, Extension of Dependent Coverage and Preexisting Condition Exclusions. Large group forms that are not in compliance with the law must be updated and filed for review and approval immediately.

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".

Product (Forms) Submissions

I. Timeline

Product filings for individual and small group plans that will be effective on January 1, 2018 should be submitted to the OCI on or before May 31, 2017. The OCI will not guarantee the approval of the submitted forms before October 1, 2017, if the carrier does not comply with the established submission deadline. As previously informed by this Office, carriers must obtain approval of the ACA compliant rates and products before October 1 of each year. Carriers whose rates and products have not been approved before October 1, 2017, will have to market and make available for everyone all of their ACA compliant individual market products, without waiting period, throughout the open enrollment period (October

1st to December 31st, 2017) and the entire year 2018, instead of just the open enrollment period.

II. Product Filing Submission Requirements

- A. Every filing should be properly submitted through the SERFF system including all the information required in this ruling letter and its attachments. See SERFF product filing submissions instructions in Section V of this ruling letter.
- B. No endorsement for previously approved ACA compliant products will be accepted.
- C. Be advised that incomplete filings will be returned without further evaluation, even if the submission was presented on or before May 31, 2017.
- D. All forms and documents should be submitted in PDF print out format. Scanned documents will not be accepted.
- E. The following documents must form part of the product submission:
 - 1. Essential Health Benefit and Preventive Services Checklist (See Attachment 6).
 - 2. Puerto Rico Forms Filing Checklists (See Attachments 7A and 7B).
 - 3. Drug Formulary in accordance with the Essential Health Benefit Benchmark for Puerto Rico, if applicable. Be advised that the drug formulary filed with the products should be the final formulary negotiated with the PBM. Once the formulary is marked with the Received and Filed stamp, it cannot be changed during the year, except for the changes allowed by clause (2) of Section 4.060 of the Health Insurance Code of Puerto Rico, 26 L.P.R.A. sec. 9046.
- F. All products and the copayment structure have to be filed at the same time and cannot be changed during the year.
- G. The ACA products to be effective for calendar year 2018 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 2018 is \$6,350 for individual coverage and \$12,700 for all other coverage.
- H. During the open enrollment period, carriers must market all of their ACA compliant products approved by the OCI; provided, that carriers who voluntarily decide to offer their ACA compliant products outside the open enrollment period, must market all said products during the whole year 2018 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 of their ACA compliant products approved by the OCI during the whole year 2018.

- I. As previously indicated by this Office, 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, and large group ACA compliant, grandfathered, and transitional health plans.
- J. Each carrier is responsible for notifying the providers the ICD10 and dental health codes related to all the preventive services covered in order to guarantee they are provided without cost sharing. Said codes must be published via the health services organization or insurer's website for the attention of providers and consumers. Strict compliance is required.

III. Use of Approved Products

- A. Carriers must only use the products filed and approved by the OCI, including the drug formulary, which forms part of the policy or contract.
- B. Once products are approved they cannot be changed by carriers during the year.

IV. Product Information to be Published

Each product's description of benefits, metallic level plans, and their corresponding table of copayment, coinsurance and deductibles will be made public by the OCI, after approved, on the week before September 30, 2017. The Table of Copayment, Coinsurance, and Deductibles should be submitted in Excel format. (See Attachment 8).

V. SERFF Product Filing Submissions

- A. Every SERFF filing should include the correct Type of Insurance (TOI), Sub-Type of Insurance (Sub-TOI) and Market Type. Incorrect TOI, Sub-TOI or Market Type will result in the filing rejection without evaluation.
- B. 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.
- C. Every SERFF filing shall be accompanied with a Transmittal Letter including the name of the insurer or HMO 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".

- D. All the fields required in the "Form Schedule" Tab and "General Information" Tab should be completed.
- E. Any supporting documentation should be included in the "Supporting Documentation Tab", including evidence of previous approval, the table with copayments, coinsurance and deductibles, certifications, memorandum of variable material, among others.
- F. 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").
- G. 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". Any other way of communication will not be considered as received.
- H. 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.
- I. The documents mentioned in item II(E) of this ruling letter should be included as part of the product submission in the Supporting Documentation Tab of SERFF.

VI. Plan Renewal

The Health Insurance Code of Puerto Rico ("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 health insurance issuer offers health insurance coverage in the group or individual market, the issuer must renew or continue in force such coverage at the option of the plan sponsor or the individual, as applicable.

An issuer that renews a particular product in the group or individual market (including a renewal with modifications) must provide written notice of such renewal as follows:

- For "ACA-compliant" plans in the individual market, an issuer must provide to each individual market policyholder, written notice of renewal before the first day of the next annual open enrollment period.
- For transitional plans in the individual market, and grandfathered and non-grandfathered coverage in the group market, an issuer 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.

The renewal notices must include the following essential content:

- Information about changes, if any, to the enrollee's premiums;
- Information about changes, if any, to the enrollee's coverage¹;
- A statement disclosing that upon the termination of the insured's current plan, the insured is free to choose another plan offered by the current issuer or by another issuer;
- Information about other health coverage options from the issuer;
- Contact information from the issuer for the consumer to call with questions;
- The notice must be written in a clearly understandable manner.

VII. Product discontinuation

Under the guaranteed renewability provisions of the Affordable Care Act and the Health Insurance Code of Puerto Rico, if a health insurance issuer decides to discontinue offering a particular health insurance product offered in the group or individual market, that product may be discontinued by the issuer only if, among other things, the issuer provides notice in writing to each plan sponsor or individual (and to all participants and beneficiaries covered under such coverage through the principal insured) 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 consumers that their current health coverage is being terminated and that they have other health coverage options.

Written notice must be provided as follows:

- Individual "ACA-compliant 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.
- Transitional plans in the individual and group markets (including large group plans), small group ACA-compliant plans, and grandfathered plans: Discontinuation notices must be sent at least 60 days before the termination or renewal date of the health plan.

The discontinuation notices must include the following essential content:

- A statement that the coverage is being discontinued;

¹ This does not apply to transitional plans since changes to coverage cannot be made unless they are required by local or federal law.

- Suggestion of enrollment into a particular product of the issuer that is similar to the discontinued product, with information about the changes in the benefits and premiums arising out of the change from the old product to the new product; and a statement disclosing that upon the termination of the plan, the insured is free to choose another plan offered by the current issuer or by another issuer;
- Contact information from the issuer for the consumer to call with questions
- Information about other health coverage options from the issuer;
- The notice must clearly explain the options for the employer or individual for obtaining or renewing health insurance coverage;
- The notice must be written in a clearly understandable manner;

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

Cordially,



Javier Rivera Ríos
Commissioner of Insurance

Enclosures