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

OVERSIGHT GROUP

Date: April 25, 2018

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

RE: Form and Rate Filing Instructions and Health Insurance Oversight System (HIOS) Technical Assistance for Plan Year 2019

The Centers for Medicare & Medicaid Services (CMS) is responsible for enforcing provisions of title XXVII of the Public Health Service Act (PHS Act) 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. In addition, if a state does not have an Effective Rate Review Program, CMS will review individual and small group rate increases subject to review to determine whether the increase is unreasonable, as required by 45 C.F.R. Part 154. 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 2019?**

    Health insurance issuers in Missouri, Oklahoma, Texas, and Wyoming must submit form filings for all products in the individual[1] and group markets, except for excepted benefit products (such as stand-alone dental products) and grandfathered products.

    Issuers offering products for which they are not applying for Qualified Health Plan (QHP) certification must submit form filings only if the forms associated with the product were changed from prior plan years in a manner that requires re-filing the plans with the State Department of Insurance under applicable state requirements.

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

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[1] Student health and accident plans are defined as individual market plans, and are subject to these requirements.
[2] See 45 C.F.R. § 144.103.

A <u>product</u> is a discrete package of health insurance coverage benefits that are offered using a particular product network type within a service area.

A <u>plan</u> 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 amounts, provider network, and service area.[3] Plans within a product may not vary with respect to which benefits are offered.

3. **How are form filings submitted?**

   Forms must be submitted in the Health Insurance Oversight System (HIOS) Document Collection Form Filing Module at https://portal.cms.gov.

   One product submission in the HIOS Document Collection Form Filing Module comprises 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.[4]

4. **When is the form filing submission deadline?**

   - May 9, 2018: Form filing window opens.
   - June 20, 2018: Deadline for filing forms for all products, except for student health products and products offered in the large group market.
   - 60 days prior to marketing: Deadline for filing forms for student health products and products offered in the large group market.

5. **What's new this year?**

   Submit one Summary of Benefits and Coverage for a QHP plan 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 to one Summary of Benefit and Coverage for each network type for your standard plan.

6. **What documents must be submitted in the HIOS Document Collection Form Filing Module?**

Please reference the table below to determine which forms must be filed in the HIOS Document Collection Form Filing Module. As stated in the 2019 Letter to Issuers in the Federally-facilitated

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[3] The combination of all service areas of the plans offered within a product constitutes the total service area of the product.
[4] A product submission may include QHPs and Non-QHPs.

Exchanges[5], there are additional requirements specific to QHP certification that CCIIO Plan Management requires, such as the Plan & Benefit Templates and prescription drug templates. For QHPs, completed templates and justifications must be uploaded into the HIOS Plan Management and Market Wide Functions Module.[6]

Form	QHP	Non-QHP[7]	Large Group
Group master policy[8]	Required	Required	Required
Evidence of coverage or policy forms	Required	Required	Required
Schedule of benefits for each plan and silver plan variation	Required	Required	Required
Schedule of benefits for each cost-sharing reduction plan variation	Required	Not required	Not required
Summary of Benefits and Coverage (SBC)[9]	One required per network type, one AI/AN zero cost share, and one AI/AN limited cost share plan	One required per network type	One required per network type
Notices of appeals and external review rights	Required	Required	Required
Riders, endorsements, and amendments[10]	If applicable	If applicable	If applicable
Plan & Benefits Template, in .xlsx format	Not required	Required	Not required
CMS Prescription Drug Template (one per product in Excel format)	Not required	Required	Not required
Results of the Actuarial Value Calculator (screen shot or in Excel format)	Not required	Required	Not required
Unique Plan Design Supporting Documentation and Justification	Not required	If applicable	Not required
EHB Substituted Benefit (Actuarial Equivalent) Justification	Not required	If applicable	Not required

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[5] The Final 2019 Letter to Issuers in the Federally-facilitated Exchanges is available at:
https://www.cms.gov/CCIIO/Resources/Regulations-and-Guidance/Downloads/2019-Letter-to-Issuers.pdf
[6] Templates are available at: https://www.qhpcertification.cms.gov/s/Application%20Materials
[7] Student health insurance plans are defined as individual market plans, and are subject to these requirements.
[8] For group market product submissions only.
[9] For a product submission that includes plans designed to comply with metal level actuarial value requirements, submit an SBC for a silver level plan.
[10] Optional riders are not permitted for plans that are subject to the single risk pool requirements.

Form	QHP	Non-QHP[7]	Large Group
Formulary—Inadequate Category/Class Count Supporting Documentation and Justification	Not required	If applicable	Not required

7. What are some general tips for submitting forms?

a. During the submission process, 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. 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.
c. 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 issue notice.
d. Issuers that submit product submissions with variable documents must include any explanations of variability as part of the submission.
e. Issuers should label each file with the appropriate name for identification (e.g., "RxtemplateQHP.xls" or RxJustificationQHP.xls"). The following are examples of acceptable Document Type fields:
   - Contract – Group master policy or individual policy form
   - Contract Amendment – Amendments to the group master policy or individual policies
   - Policy Forms – Schedules of benefits
   - Certificates/Outlines of Coverage – Evidences of coverage
   - SBC – Summary of Benefits and Coverage
   - Supplemental Information – Plan & Benefits Template, explanations of variability, certifications, explanations, submission letters
   - Rx Template – Formulary template
   - AV Calculator – Actuarial Value Calculator screenshots
   - Justification – Unique Plan Design supporting documentation and justification, Essential Health Benefit substituted benefit justification, Formulary – Inadequate Category/Class Count supporting documentation and justification
   - Policy Riders & Endorsements – Benefit riders, or endorsements, or amendments
   - Notice Requirements – Notices of appeals and external review, and required federal notices

If a document is submitted in connection with a QHP certification application, indicate that the document is to be used in a QHP in the file name. For example: "CertXXX_MO_2019_Silver_QHP".

8. **What were the most common issues found for Plan Year 2018 and how can issuers avoid them?**

Common issues seen in Plan Year 2018 submissions include compliance with:

- **Mental Health and Addiction Equity Act (MHPAEA).** Many issuers submitted plans containing language that required additional information from the issuer to help ensure MHPAEA compliance. Please be sure to conduct a MHPAEA review of your plans for both quantitative treatment limits and non-quantitative treatment limits. The Department of Labor has posted the *Warning Signs- Plan or Policy Non-Quantitative Treatment Limitations (NQTLs) that Require Additional Analysis to Determine Mental Health Parity Compliance* document [https://www.dol.gov/sites/default/files/ebsa/laws-and-regulations/laws/mental-health-parity/warning-signs-plan-or-policy-nqtls-that-require-additional-analysis-to-determine-mhpaea-compliance.pdf] that provides guidance on this issue.

- **Pre-existing Condition Limitation**. Issuers submitted plan documents containing language that limited accidental dental coverage to conditions that occur within a certain period of time. This may act as a pre-existing condition if the plan does not clearly indicate that the period of time is from the accident or the effective date of coverage, whichever is later. Issuers should review their plan documents and remove language that acts as a pre-existing condition limitation.

- **Maximum Out of Pocket**. Variation for maximum out of pocket limits often requires additional outreach to confirm that the maximum out of pocket for the plan year will not exceed the maximum out of pocket permitted for that plan year. Issuers can avoid this follow-up by providing CMS with this assurance up front through a submission letter or email with the form filing submission.

9. **Is CMS offering additional opportunities to ask questions about Form Filing?**

The Oversight Group will host a conference call on May 1, 2018 at 2:00 pm Eastern time to provide issuers with an opportunity to ask questions pertaining to filing forms and rates with CMS for review. No registration is required. Issuers may submit questions in advance to formfiling@cms.hhs.gov.

On May 1, 2018 at 2:00 pm Eastern time, please call 1-877-267-1577 with conference number 991 962 689 to access the conference call.

10. How do I use HIOS to submit a Form Filing?

The Document Collection Form Filing Module within HIOS is the federal document collection repository for form filing submissions. A copy of the HIOS Document Collection Form Filing Module Technical Guide is available for download upon access of the Document Collection Form Filing Module.

Issuers will need to register for access to HIOS, request access to the Document Collection Form Filing Module, and choose the user role for their submission. One of the two mutually exclusive user roles must be selected: (1) Submitter, who completes the application and submits the documents, or (2) Certifying Official, who provides certification to select Submitter users to confirm application submissions to CMS for review.

A. New HIOS users:

   i.   <u>Register for a CMS EIDM Account</u>

     1. Navigate to the CMS Enterprise Portal (<u>https://portal.cms.gov</u>) and select "New User Registration" on the bottom side of the page.
     2. On the Step #1: Choose Your Application page, select your application from the drop-down list. Review and accept the Terms & Conditions before selecting Next to continue with the registration process.
     3. Step #2 will require you to enter personal information and Step #3 will require you to create your User ID and Password. You must select security questions and answers for identity verification and account management. Review the information on the Registration Summary page, make any necessary changes, and select Submit User. After completing the registration, an email acknowledging successful registration to EIDM will be sent, along with your User ID.

   ii. <u>Register for a HIOS Account:</u>

     1. Navigate to the CMS Enterprise Portal (https://portal.cms.gov) and select the 'Login to CMS Secure Portal' button.
     2. Enter your User ID and your Password and select the Terms and conditions checkbox before selecting the Login button.
     3. On the My Portal page, select Request/Add Apps.
     4. From the Access Catalog, select Request Access for the HIOS application.
     5. On the My Access page, select the Request New System Access link. Select HIOS Application from the System Description drop-down menu and HIOS User for the Role.
     6. On the Request New System Access page, select the hyperlink provided to register for access to HIOS. On the Request HIOS Account page, complete the HIOS registration form and submit for approval. Once the HIOS user registration request

has been reviewed and approved, you'll receive an email containing the HIOS Authorization Code.

7. Repeat steps 1-6 above. On the Request New System Access page, enter the HIOS Authorization Code and then select the Submit button.
8. The system will take you through the identity verification process. Accept the Terms and Conditions and proceed with the on-screen instructions to verify your identity. Once you complete the questions and answers on the Verify Identity screen, select the Next button. You will see an on-screen message confirming successful remote identity proofing. Select the Next button and proceed to Multi-Factor Authentication (MFA). Please refer immediate below in this document for step-by-step instructions on how to register an MFA device.

After successful completion of the identity verification process, new users will be prompted to complete the registration of a device for Multi-Factor Authentication.

1. On the Multi-Factor Authentication Information page, select Next to register an MFA device.
2. Select an MFA device from the MFA Device Type drop-down. Follow the on-screen instructions for your selected device type to complete the registration.
3. You'll see an on-screen message confirming successful registration of the device to your user profile. Select the OK button. This completes the MFA device registration process. Select Log Out to exit the CMS Portal.

iii. Login Using MFA

After registering an MFA device, follow the steps below to log in to the CMS Portal and HIOS.

1. Navigate to the CMS Enterprise Portal (https://portal.cms.gov) and enter your User ID and Password and select the MFA Device Type. A one-time security code will be sent to your registered device. Enter the Security Code and select the Terms and Conditions checkbox before selecting the Login button.
2. You will now see the HIOS button card on the My Portal page. Select the HIOS card and then the Overview link.
3. On the landing page, select the Access HIOS or the Access Plan Management & Market Wide Functions link to access HIOS functionality.

iv. HIOS Organization Registration

Not all users will need to register an organization in HIOS, but new users will not have any organizational associations or role permissions. The Manage Organizations functionality allows new users to create an organization before requesting a user role(s).

1. Select the Manage Organizations link on the HIOS Home Page.
2. On the Manage Organizations page, select Create an Organization.
3. Select the Organization's Primary Function. There are descriptions of each HIOS organization's primary business to help you decide which organization type to create.
4. Provide a Federal EIN/TIN to conduct a search to determine if the organization currently exists in HIOS. If the organization is an Other Organization Type and does not have an FEIN, enter the organization name and select Search.
5. If an organization does not exist, proceed forward to Step 3 where you will enter your organization's details.
6. In Step 4, you will review the organization information. You may revisit any previous steps to update the information. Once the information has been reviewed, select the Submit button.
7. You'll see a confirmation message at the top of the page notifying you to log back in to HIOS within 1-2 business days to check the status of your request. Select Manage Organizations from the left-hand navigation menu to navigate back to the Manage Organizations page.

Add Issuer(s) to an Organization

If an organization exists in HIOS, users can add an Issuer(s) to that organization.

1. Select the Manage Organizations link on the HIOS Home Page.
2. On the Manage Organizations page, select Add an Issuer.
3. Search for the organization you would like to add an issuer to by entering the Federal EIN/TIN and select Search. Note: A company is the only organization type that can have issuers associated to it.
4. Select the Issuer Registered State and proceed forward to enter the Issuer Details.
5. In Step 3, enter the Issuer Details and select Next.
6. In Step 4, you will review the issuer information. You may revisit any previous steps to update the information. Once the information has been reviewed, select the Submit button.
7. You'll see a confirmation message at the top of the page notifying you to log back in to HIOS within 1-2 business days to check the status of your request. Select Manage Organizations from the left-hand navigation menu to navigate back to the Manage Organizations page.

B. Existing HIOS Users or Newly created HIOS Users

Request HIOS Roles

Users with an organizational association can request a role(s) for the HIOS module(s).

1. Select the Request a Role link on the HIOS Home Page.
2. On the Request a Role page, there's a link for the Browse by Module page where a description of each module and the role functionality is provided.
3. Select a module from Step 1 and select Next.
4. Select a role, role type, and contact type (if applicable to the module) from Step 2 and select Next.
5. Enter the Organization ID for the association in Step 3 and then select the Search button. If an Organization ID does not exist, you will see a popup message instructing you to select the Manage an Organization button to first create the organization or select the Cancel button to use another Organization ID.
6. Select the Add button to associate the role to multiple Issuers per request. The system allows up to 10 Issuers per submission.
7. Proceed to submit the role request in Step 4. You'll see a confirmation message notifying you to log back in to HIOS within 1-2 business days to check the status of your request. To see your user role(s) and access permissions, select the Manage Roles link from the username drop down menu.

Please note, submission for Large Group products may need to be added as a New Product. See the HIOS Document Collection Form Filing Module Technical Guide Section 5.2, page 20, for instructions on how to add these products in the HIOS Form Filing Module. If you have any questions regarding accessing HIOS, please contact the help desk at CMS_FEPS@cms.hhs.gov or 1-855-CMS-1515.

Operationally, the HIOS Document Collection Form Filing module only allows issuers to add products in the Large Group market; it prohibits issuers from adding products in the Individual/Small Group markets (an error message is displayed to the user). Users should continue adding Individual and Small Group market products within the HIOS Plan Finder Product Data Collection Module.

1. From the HIOS Portal, select "HIOS Plan Finder Product Data Collection Module" button.
2. Select the "View Issuer Submitted Data" tab.
3. Select the "Product Offering Report" link.
4. To create a new product, select the "Add New Product" link to get a blank product entry window. A new Product ID will be automatically generated once the user selects Submit.

Rate Filing Instructions

1. **For which plans must rate filings be submitted?**

    Health insurance issuers in all states are required to submit rate filings for new or renewal rates effective on or after January 1, 2019, for all non-grandfathered plans in either the individual or small group markets, except for student health insurance coverage.[11] If the state does not have an Effective Rate Review Program[12], CMS will review rate increases subject to review in these states to determine whether they are unreasonable, as required by 45 C.F.R. Part 154. Rate filings in these states will also be reviewed by CMS for compliance with the market reform rules under the PHS Act and the Patient Protection and Affordable Care Act, including rating rules and the single risk pool requirements, as applicable.

2. **What documents need to be submitted?**

    Issuers of single risk pool plans[13] must submit a Rate Filing Justification into the HIOS Unified Rate Review (URR) Module which generally consists of Part I – Unified Rate Review Template (required for all rate filings, in all states, regardless of change to rates), Part II – Written Description Justifying the Rate Increase (required for filings which include a plan with a rate increase of 15% or more), and Part III – Rate Filing Documentation (Actuarial Memorandum, required for rate increases of any size).

    Issuers of transitional plans must submit a Preliminary Justification for any rate increases of ten percent or greater into the HIOS Rate Review Justification (RRJ) Module which generally consists of Part I – Rate Increase Summary Form, Part II – Written Explanation of the Rate Increase, and Part III – Rate Filing Documentation.

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[11] CMS finalized an exemption for student health insurance coverage from the Federal rate review process in the Patient Protection and Affordable Care Act; HHS Notice of Benefit and Payment Parameters for 2019; Final Rule; https://s3.amazonaws.com/public-inspection.federalregister.gov/2018-07355.pdf, April 9, 2018 (2019 Payment Notice Final Rule). This exemption applies to rate filings for student health insurance coverage, as defined in 45 C.F.R. § 147.145, with an effective date on or after July 1, 2018.

[12] States which will not have an Effective Rate Review Program for the 2019 Plan Year are Oklahoma, Texas, and Wyoming.

[13] For purposes of the requirements established in 45 C.F.R. Part 154, "single risk pool plan" is used to refer to non-grandfathered health insurance coverage in the individual or small group (or merged) market that is subject to all of the single risk pool provisions at 45 C.F.R. § 156.80.

3. **When do required documents need to be submitted?**

   The rate filing documents for single risk pool plans (QHP and Non-QHP) must be submitted into the HIOS URR Module for states without an Effective Rate Review Program no later than June 1, 2018.[14] Rate filings for single risk pool plans for all other states must be submitted into the HIOS URR Module no later than July 25, 2018.[15] For quarterly rate update submissions in the small group market, the deadline is 105 days prior to the effective date of the quarterly change. If the submission includes a QHP offered in a Federally-facilitated SHOP, issuers should be mindful of the data correction windows when a revised Rates Table Template must be submitted. Data correction windows will be announced in advance, and CMS will provide detailed information on timelines and required submissions at that time.

   The rate filing documents for transitional plans must be submitted in to the HIOS RRJ Module. Issuers are encouraged to submit the Preliminary Justification at least 60 days in advance of implementation of any rate increase which is subject to review.

4. **When will CMS publish rate filing information[16] for 2019 benefit year single risk pool rates?**

   CMS intends to publish all applicable parts of the Rate Filing Justification for all proposed rate changes for single risk pool coverage (including both QHPs and Non-QHPs), regardless of whether the product includes a plan with a rate increase that is subject to review on August 1, 2018.[17] The target date for CMS to post final rate information for single risk pool coverage is November 1, 2018.

5. **What if issuers have questions about rate filing submissions?**

   For questions regarding submission of rate filing documents, please contact the rate review team by email at RateReview@cms.hhs.gov.

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[14] See Bulletin: Revised Timing of Submission and Posting of Rate Filing Justification for the 2018 Filing Year for Single Risk Pool Coverage Effective on or after January 1, 2019, available at: https://www.cms.gov/CCIIO/Resources/Regulations-and-Guidance/Downloads/Rate-Review-Timeline-Bulletin-for-PY2019.pdf. *See also* the Key Dates for Calendar Year 2018: QHP Certification in the Federally-facilitated Exchanges; Rate Review and Risk Adjustment (INSERT DATE), available at: https://www.cms.gov/CCIIO/Resources/Regulations-and-Guidance/Downloads/Key-Dates-Table-for-CY2018.pdf.

[15] CMS finalized the elimination of the uniform submission requirement in the 2019 Payment Notice Final Rule. See https://s3.amazonaws.com/public-inspection.federalregister.gov/2018-07355.pdf. Therefore, a State with an Effective Rate Review Program is permitted to establish different submission deadlines for non-QHP only rate filings as long as that deadline is no later than July 25, 2018.

[16] CMS will not post information that is trade secret or confidential commercial or financial information consistent with HHS' Freedom of Information Act regulations at 45 C.F.R. § 5.31(d).

[17] *See, supra* note 14.