



## Administrative Bulletin #2012 –1

To: All Minnesota Health Plan Companies  
From: Minnesota Departments of Health and Commerce  
Subject: Patient Protection and Affordable Care Act Reforms  
Date: November 9, 2012

### **I. Background and Purpose.**

The purpose of this bulletin is to provide a compliance guide relating to the State of Minnesota's (the "State") implementation of certain matters under the Patient Protection and Affordable Care Act, Pub. L. No. 111-148, as amended by the Health Care and Education Reconciliation Act, Pub. L. No. 111-152 (the "Affordable Care Act" or "ACA"), mandates in accordance with Minnesota statutes.

Bulletins are the State's interpretations of existing law and general statements of State policy. The State's Department of Health ("Health") and Department of Commerce ("Commerce"), (collectively "the State") jointly issue this bulletin to facilitate a streamlined, consistent interpretation and application of Minnesota law for health plan companies and other interested members of the public on this important topic. This bulletin applies to all companies authorized to write health insurance in the State, including health carriers and health maintenance organizations.

### **II. State Position.**

Due to the dynamic nature of pending health care market reforms and in contemplation of a Minnesota Health Insurance Exchange (the "Exchange"), the State issues this bulletin to provide health plan companies guidance as to certain aspects of reform implementation. The State contemplates issuing further guidance prior to full implementation of the Affordable Care Act and as further regulations are promulgated. The State has and will continue to require compliance with the provisions of the ACA as they become effective.

#### **1. Existing Products and Guaranteed Renewability.**

The Affordable Care Act has and will require benefits beyond those which were previously mandated in Minnesota. The most significant benefits mandates will take effect on January 1, 2014. The Affordable Care Act preserves the Health Insurance Portability and Accountability Act's ("HIPAA") guaranteed renewable requirements and exceptions, as well as requires that all health plans other than grandfathered plans be guaranteed renewable as of January 1, 2014. 42 U.S.C. § 300gg-42 (for individual plans) and 42 U.S.C. § 300gg-12 (for group plans).

Minnesota Statutes sections 62L.03, subdivision 1(c) and 62Q.185, subdivision 6(c) permit certain changes to benefits covered in a health plan on renewal for those covered in the group market. Minnesota Statutes sections 62L.02 subdivision 26 and 62L.03 subdivision 3 continue to define a small group as 2-50 and require minimum participation and contribution levels. Minnesota Statutes section 62A.65 governs guaranteed renewability in the individual market. To the extent an existing plan is required by federal law to be modified, and in consideration of the implementation of the Essential Health Benefits set and other requirements found within the ACA which mitigate potential negative impacts on plan modifications, the State will permit a plan to be modified to add a required benefit under the ACA without affecting guaranteed renewability of that plan.

Consistent with current practice, any health plan company desiring to file a modification to an existing plan, including those which desire to modify a filing for the purpose of the qualified health plan certification process for participation in the Exchange, will be required to pay the fee associated with that filing.

## **2. Filing Timing for Participation in the Exchange Open Enrollment Process.**

The federally mandated initial enrollment period for plans participating in the State's Exchange is October 1, 2013 through March 31, 2014. 45 C.F.R. 155.410(b). Federal rules further require that all qualified health plans to be offered on the Exchange be certified prior to the beginning of the open enrollment period. 45 C.F.R. 155.1010 (a)(1). Although within the proposed Federal rules, commentators recommended open enrollment periods in the individual and small-group market align inside and outside the Exchange, the final Federal rule on this topic, found within 45 Code of Federal Regulations 155.410(e), does not contain this requirement and is limited to setting standards for Exchanges. See 77 Federal Register 18310; 45 CFR 155.410(e). Minnesota law dictates the State review plans within a set timeframe following filing.

To facilitate the process of open enrollment within the Exchange, to assure that the health plan companies have time to work with the State to address any concerns during the review period, and to allow for time for the qualified health plan certification review to take place, any plan filing contemplated to be included within the Exchange should be filed by Friday, May 17, 2013. Filings submitted after that date may not be available for enrollment within the Exchange during the initial open enrollment period.

The State believes that no provisions of current Minnesota law prohibit a health plan company from establishing its own open enrollment period similar to the Exchange's open enrollment period. The State wishes to engage the health plan companies in further discussion regarding the necessity of a regulator-designated open enrollment period for all individual coverage in Minnesota that is sold outside the Exchange.

### **3. Plan Filings to be offered within the Exchange.**

Plans filed to be offered within the Exchange will be subject to the aforementioned qualified health plan certification process and timing requirements. The Exchange, at this time, has not adopted any restriction on the ability of a health plan company to offer multiple qualified health plans within the Exchange. The State anticipates the Exchange will provide further information as to the certification and offering of plans within the Exchange in a document to be released shortly from the Exchange, in consultation with state regulatory agencies.

- a. Rate and form filings - both commercial insurers and HMOs will be submitted and reviewed via System for Electronic Rate and Form Filing (“SERFF”). The Exchange instance in SERFF will look somewhat different than SERFF does today to accommodate some of the fields unique to it, such as certification, network adequacy, etc. The Department of Commerce recently contracted with SERFF to develop the requisite Exchange-related modifications to the filing system and, based upon these future modifications, the Exchange instance will be enhanced via a series of releases over a period of approximately 18 months. The development process is ongoing, but web-based training will be available. The SERFF team is auto-subscribing all SERFF users to State Messages, which the Department of Commerce will be using for periodic updates, such as notification of when information is being made available or upcoming deadlines.

Rate and form filings can be submitted to the State either separately or bundled according to the filer’s preference. The implementation Date Requested field on the General Information tab should be completed, as this is the date that the approved filing will be made available for public access. Filers will need to check the Plan Management General Instructions before filing as there will be specific instructions for the Exchange instance.

- b. Network Adequacy - in the interest of streamlining network adequacy filings to facilitate approval by the open enrollment date, we encourage health plan companies to limit the number of networks they submit. There are several options for limiting network filings. One method would be to submit one basic network that meets all network adequacy requirements for a particular service area. Once that network is approved, the company would be free to create supplemental networks by adding providers to this basic network. Any additions to the basic network would not need approval. A second option would be for the company to submit up to three separate networks for review in a service area. Each QHP could be linked to one of these three approved networks.

We anticipate receiving a large number of network filings. Therefore, in the interest of ensuring that the network is approved by the open enrollment date, we recommend that the company file the networks no later than May 17, 2013. Filings submitted after that date may not be available for enrollment within the Exchange during the initial open enrollment period. We will provide additional directions related to data submission for network adequacy as soon as possible.

#### **4. Limitations on Rate Adjustment based upon Age.**

The ACA limits health plan companies' ability to rate on the basis of age by not allowing them to charge an older adult more than 3 times the rate of a younger person. In lieu of establishing rate bands for purposes of meeting this new requirement, the State contemplates that each age will have its own separate category without establishing alternative age rate bands.

#### **5. Further Guidance Anticipated.**

This bulletin is meant to address certain issues relating to Minnesota's full implementation of the ACA. The State anticipates further guidance to follow as federal regulations are promulgated, and as dialogue with the industry and other interested parties continues. The State anticipates continuing to work with stakeholders, including the Exchange, on Exchange-related issues as the Exchange further develops its processes and procedures.

### **III. History.**

[Bulletin 2010-2](#)

### **IV. Additional Resources.**

Questions about this Bulletin should be directed to:

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### **Signed**



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