

Proposed Modification to Carrier Business Agreement Language

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NOTE: Normal text (not underlined) represents language contained in the carrier business agreements executed in 2013. Underlined text represents the new language being proposed for inclusion in the carrier business agreements to be executed this year.

12. Decertification and Termination

12.1 Decertification of Qualified Health Plans. Pursuant to 45 C.F.R. § 155.1080 and Minnesota Statutes, Section 62V.05, subdivision 5(h), MNsure may decertify Qualified Health Plans if those Qualified Health Plans do not comply with any material requirements for certification contained in Minnesota Statutes, Chapters 62K or 62V or any federal certification requirements contained in 45 C.F.R Part 156. MNsure shall follow the process set forth in Section 12.3 with respect to any decertification of a Qualified Health Plan.

12.2 Decertification of Carrier. Pursuant to Minnesota Statutes, Section 62V.05, subdivision 5(h), MNsure may decertify Carrier if it does not comply with Section 1311(c) of the ACA. MNsure shall follow the process set forth in Section 12.3 with respect to any decertification of Carrier.

12.3 Process for Decertification. MNsure will provide Carrier with written notice of intent to decertify either a Qualified Health Plan or the Carrier, including a list of reasons for such decertification. Within ten (10) business days after receipt of such a notice, Carrier may respond to MNsure in writing and propose steps to come into compliance. If MNsure is satisfied with Carrier's response, the decertification process shall cease. If Carrier does not respond in writing within the ten (10) business day period or if MNsure is not satisfied with Carrier's response, MNsure may issue a decision to decertify. Decertification under this section will not be imposed if the MNsure Board determines the Carrier has made good faith efforts to comply with applicable requirements. "Good faith efforts to comply with applicable requirements" include, but are not limited to, instances in which the Carrier's actions or inactions implicated in the notice of intent to decertify were wholly or substantially caused by MNsure or Marketplace system or process deficiencies or were wholly or substantially caused by Carrier's efforts to comply with applicable law.

Carrier may appeal a decision to decertify by providing a written request within twenty (20) business days after receipt of MNsure's decision. Such appeal shall be conducted as a contested case proceeding pursuant to Minnesota Statutes, Sections 62V.05, subdivision 6(a) and 14.57 *et seq.* MNsure's decision to decertify

may be implemented immediately or following the outcome of the appeal process at MNSure's discretion.

- 12.4 Termination for Decertification.** MNSure may terminate this Agreement in the event all of Carrier's Qualified Health Plans are decertified in accordance with Sections 12.1 and 12.3.
- 12.5 Termination for Insufficient Funding.** Continuation of this Agreement is contingent upon continued availability to MNSure of funds for the purpose of this Agreement, and therefore, MNSure may immediately terminate this Agreement if it does not obtain appropriate funding from the Minnesota Legislature, or other funding source or if funding cannot be continued at a level sufficient to allow for the fulfillment of MNSure's duties so long as any such termination for insufficient funding is applied equally to all Carriers participating in the Marketplace. MNSure shall provide Carrier with as much notice as possible of termination under this Section 12.5 and shall work with Carrier to mitigate any negative effects associated with such termination, including but not limited to convening a Carrier work group to identify potential mitigation actions.
- 12.6 Termination for Data Privacy or Security Non-Compliance.** Either party may immediately terminate this Agreement in the event of a failure of the other party to fulfill any material requirements of Attachment C with regard to Protected Information. Nothing in this Section 12.6 prohibits the non-breaching party from providing notice and an opportunity to cure as an alternative to immediate termination.
- 12.7 Effect of Termination or Decertification.** If Carrier or one or more of its Qualified Health Plans is decertified or if this Agreement is terminated for any reason, coverage issued by Carrier shall continue in full force and effect under the terms of the Qualified Health Plan and as required by the provisions of 45 C.F.R. § 156.290(c). MNSure shall notify Enrollees in the affected Qualified Health Plan(s) and give such Enrollees an opportunity to enroll in another Qualified Health Plan as required by the provisions of 45 C.F.R. § 155.1080.