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Title: DRAFT Bulletin: Timing of Submission and Posting of Rate Filing Justifications for the 2016 Filing Year for Single Risk Pool Coverage¹ Effective on or after January 1, 2017

I. Purpose

The Centers for Medicare & Medicaid Services (CMS) is releasing this draft bulletin for comment on the proposed uniform timeline for submission and posting of information about rates for single risk pool coverage, consistent with the proposed amendments to the rate review regulations at 45 CFR Part 154 in the 2017 Payment Notice Proposed Rule.^{2,3} Specifically, this bulletin proposes guidance for purposes of establishing the uniform deadline under 45 CFR 154.220(b) for health insurance issuers to submit the Unified Rate Review Template for proposed rates in the individual and small group markets. It also proposes guidance for purposes of establishing the uniform posting deadline under 45 CFR 154.301(b)(1)(i) for a state with an effective rate review program to provide public access to information regarding proposed rate increases that are subject to review.

The bulletin also identifies the deadline for posting of final rate increases (including those not subject to review) and the CMS web address to be used by states with an effective rate review program that elect to provide public access from their website through a link to the rate information made available on the CMS website. The timelines specified in this bulletin would apply to rates filed in 2016 (2016 filing year) for single risk pool coverage (including both qualified health plans (QHPs) and non-QHPs) effective on or after January 1, 2017. In addition, 45 CFR 154.301(b)(3) requires states with an effective rate review program to post the required information on proposed rate increases subject to review and final rate increases

¹ The term “single risk pool coverage” is used to describe 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 CFR 156.80 and is required to file rate information using the Unified Rate Review Template.

² HHS Notice of Benefit and Payment Parameters for 2017 (2017 Payment Notice); Proposed Rule, 80 Federal Register 75488 (December 2, 2015).

³ We welcome comments on the proposed uniform timeline for the 2016 filing year for single risk pool coverage, but note that to the extent that this guidance merely summarizes policies proposed through other rulemaking processes that have not yet been finalized, such as the rulemaking process for the 2017 Payment Notice or the comment period for the Draft 2017 Letter to Issuers in the Federally-Facilitated Marketplace, issuers and other interested parties have an opportunity to comment on those underlying policies through those processes. Therefore, CMS is not soliciting any additional comments on the substance of the underlying policies proposed in unfinalized rulemaking or guidance through the comment process for this draft bulletin.

(including those not subject to review) at a uniform time and not on a rolling basis. That requirement applies to rate increase information for single risk pool coverage, including both QHP and non-QHPs, both inside and outside of Marketplaces. The timelines below reflect that policy. CMS seeks comments from states, issuers, and other interested parties on how that requirement can be implemented consistent with state legislative and regulatory requirements.

We understand that some states that operate a State-based Marketplace, as well as certain states that utilize the Federally-Facilitated Marketplace platform, faced significant challenges in meeting the timeline specified for the 2015 filing year, due to state legislative or regulatory requirements and the timing of negotiations with issuers. Accordingly, we are issuing this request for comments so those states, as well as other interested parties, can provide information to inform future regulations or changes to the timeline. Comments should be submitted to RateReview@cms.hhs.gov no later than January 22, 2016. We intend to finalize the timeline no later than March 2016.

II. Proposed Uniform Rate Review Timelines for the 2016 filing year for single risk pool coverage effective on or after January 1, 2017

Proposed uniform submission deadline:

The proposed uniform submission deadline for a health insurance issuer to submit the Rate Filing Justification to CMS and the applicable state for single risk pool coverage (including both QHPs and non-QHPs) is proposed to be May 11, 2016, or an earlier date specified by the applicable state authority.⁴ As proposed in the 2017 Payment Notice, this deadline would extend beyond rate increases and would also include single risk pool coverage that experiences no rate changes, rate decreases, and rates for new single risk pool coverage.

Proposed uniform posting deadlines:

Proposed Rate Increases Subject to Review

The proposed uniform posting deadline for a state with an effective rate review program to post on the state's website at least the information contained in Parts I, II, and III of the Rate Filing Justification that CMS makes available on its website (or provide CMS's web address for such information) for proposed rate increases that are subject to review for single risk pool coverage (including both QHPs and non-QHPs) is proposed to be no later than the 10th business day after the uniform submission deadline for all single risk pool rate filings in the relevant market segment (May 25, 2016).⁵ Proposed rates would be posted uniformly⁶, rather than on a rolling basis.

Final Rate Increases

A state with an effective rate review programs must post at least the information contained in Parts I, II, and III of the Rate Filing Justification that CMS makes available on its website (or provide CMS's web address for such information) for all final rate increases (including those not

⁴ 45 CFR 154.220

⁵ The 10th business day after the proposed uniform submission deadline of May 11, 2016 is May 25, 2016.

⁶ 45 CFR 154.301(b)(3)

subject to review) no later than November 1, 2016.⁷ Approved rate increases for single risk pool coverage (including both QHPs and non-QHPs) must be posted uniformly⁸, including final rate increases posted on a state's website, in SERFF (System for Electronic Rate and Form Filing), and issued through press release. The requirement to uniformly post approved rate increases (including those not subject to review) does not prevent a state from reviewing and finalizing rates for single risk pool submissions before the prescribed deadline, but this guidance proposes that the state should not post that information until all final rate increases are posted uniformly for the entire single risk pool.⁹

CMS Web Address

The web address that should be provided by states with an effective rate review program that elect to provide public access via link to the rate information made available on the CMS web site is: <https://ratereview.healthcare.gov>.

State variation:

Earlier Deadlines

Pursuant to 45 CFR 154.301(b)(2), if a state intends to release information about proposed rate increases subject to review or final rate increases (including those not subject to review) on a timeframe earlier than proposed in this bulletin, the state would notify CMS in writing at least 30 days prior to making the information public. The state should notify CMS by sending an email to ratereview@cms.hhs.gov. The e-mail should indicate the state's intent to establish earlier posting deadlines, describe the reason for using a different deadline(s), and include the date(s) the state intends to make the information public for single risk pool coverage in its individual and small group markets.

State-based Marketplace Flexibility

We propose to allow additional flexibility to states with State-based Marketplaces that do not utilize the healthcare.gov platform and need additional time due to state legislative or regulatory requirements or timing of negotiations with issuers. We propose to permit these states to post proposed rate increases subject to review no later than August 31, 2016 and post final rate increases no later than November 1, 2016. We ask these states to contact CMS by April 11, 2016 at ratereview@cms.hhs.gov. Those states should include in the e-mail the uniform dates on which proposed and final rates will be posted, and describe the reason for using a different deadline.

III. Where to get more information and submit comments

If you have questions about this Bulletin, or wish to submit comments on the proposed Uniform Rate Review Timeline, please contact CCIIO at ratereview@cms.hhs.gov.

⁷ 45 CFR 154.301(b)(1)(ii)

⁸ 45 CFR 154.301(b)(3)

⁹ The deadline for reviewing and finalizing single risk pool submissions that contain QHPs, August 23, 2016, is proposed in the Draft 2017 Letter to Issuers in the Federally-facilitated Marketplaces.