



Date: September 23, 2025

Subject: Additional Guidance on Qualified Health Plan Certification and *City of Columbus v. Kennedy*

CMS is publishing this guidance to clarify the purpose of the September 30 – October 1 Data Change Window previously announced in CMS’s September 5 guidance, “Qualified Health Plan (QHP) Certification Updates for the Federally-facilitated Exchange (FFE) and State-based Exchanges on the Federal Platform (SBEs-FP) in Response to *City of Columbus v. Kennedy*, No. 25-cv2114-BAH (D.Md.).”¹ CMS is requiring affected issuers to revise their QHP applications, rate filings, and form filings during this window to comply with the actuarial value policy under the August 22, 2025 order from the United States District Court for the District of Maryland in *City of Columbus v. Kennedy*.² CMS will also permit issuers to revise their QHP rate filings to account for the recently announced expanded access to catastrophic coverage in the FFE,³ and their rate filings for any reason approved by the state or CMS Rate Review,⁴ as applicable, given recent market uncertainty.

The August 22 order stayed the implementation of certain provisions of the recently promulgated Marketplace Integrity and Affordability Final Rule,⁵ including the expanded de minimis ranges for actuarial value calculations,⁶ while litigation remains pending. On August 29, the Department of Justice, on behalf of the U.S. Department of Health and Human Services, filed motions for a stay pending appeal with respect to the actuarial value policy under the Marketplace Integrity and Affordability Final Rule. On September 18, the Fourth Circuit denied the Department of Justice’s request.

¹ See *Qualified Health Plan (QHP) Certification Updates for the Federally-facilitated Exchange (FFE) and State-based Exchanges on the Federal Platform (SBEs-FP) in Response to City of Columbus v. Kennedy*, No. 25-cv2114-BAH (D.Md.); September 5, 2025: <https://www.cms.gov/files/document/QHP-certification-updates.pdf>

² No. 25-cv-2114-BAH (D. Md.).

³ See *Guidance on Hardship Exemptions for Individuals Ineligible for Advance Payment of the Premium Tax Credit or Cost-sharing Reductions Due to Income, and Streamlining Exemption Pathways to Coverage*; September 4, 2025: <https://www.cms.gov/files/document/guidance-hardship-exemptions.pdf>.

⁴ CMS Rate Review will review revised rate filings from issuers in states without an Effective Rate Review Program (OK, TN, and WY).

⁵ 90 Fed. Reg. 27074 (June 25, 2025).

⁶ See 45 C.F.R. §§ 156.140(c), 156.200(b)(3), and 156.400.

CMS's September 5 guidance announced a forthcoming data change window from September 30 – October 1, for issuers seeking QHP certification to submit revised QHP plan data, including revised rates and forms approved by the state or CMS Rate and Form Review,⁷ as applicable, to comply with the court's order. The window will be open to all medical QHP issuers applying for plan year 2026 Certification on the FFE and SBEs-FP. Issuers must use this window to revise their rate filings, form filings, and QHP certification application materials as needed to comply with the district court's ruling. Issuers may also use this window to submit updated QHP application materials and filings to account for the expanded access to catastrophic coverage in the FFE. CMS will not limit permissible rate changes to those in response to the court decision regarding actuarial value policy or the catastrophic coverage policy. However, issuers will not be permitted to add new plans on the FFE or change a plan's metal level. CMS may also require issuers to make changes to correct critical data errors observed by states or CMS during this time. CMS acknowledges that implementing revisions to QHP applications, rate filings, and form filings at this late date will impose significant operational burdens, increase the risk of errors, and potentially upset other market operations moving into the 2026 Open Enrollment Period. CMS must nevertheless permit these revisions to comply with the court order and because doing so is critical to maintaining the stability of the insurance market.

States and issuers should refer to the September 5 guidance for further instructions on submitting revised plan year 2026 data. Issuers in states with an Effective Rate Review Program⁸ and states that are enforcing the Affordable Care Act market-wide reforms should refer to any instructions from state regulators on refiling QHP rate and form filings. CMS encourages states and issuers to quickly communicate any compliance issues to mitigate market disruptions from the court's order.

⁷ See *supra* note 4. CMS Form Review will review revised form filings from issuers in states that are not enforcing the Affordable Care Act market-wide reforms (MO, OK, TN, TX, and WY).

⁸ See 45 CFR 154.301 for the list of criteria CMS considers when evaluating whether a state has an Effective Rate Review Program.