



Title: FAQ on Compliance Standard for Issuers in Federally-facilitated Marketplaces

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What is CMS’s approach to compliance for issuers participating in the Federally-facilitated Marketplaces (FFMs)?

To increase stability and certainty in the individual and small group markets, the Centers for Medicare & Medicaid Services (CMS) recently proposed a new timeline for some plan year (PY) 2018 Qualified Health Plan (QHP) certification milestones for the FFMs, proposed new dates for PY 2018 open enrollment, and proposed new rules affecting issuers in the individual and small group markets.¹

For calendar years 2014 and 2015, 45 C.F.R. § 156.800(c) established a good faith safe harbor such that CMS would not impose civil money penalties or decertify a QHP if the QHP issuer had made good faith efforts to comply with applicable FFM standards. As outlined in the HHS Notice of Benefit and Payment Parameters for 2017, this safe harbor no longer applied in the 2016 calendar year.²

To further encourage the participation of issuers in the FFMs and to stabilize the markets while reducing regulatory burdens, CMS is adopting a similar good faith policy for PY 2018. As a result, CMS will not use formal enforcement remedies for non-compliance with QHP certification standards when QHP issuers participating in the FFMs in PY 2018 act in good faith and make reasonable efforts to address concerns in an appropriate time frame.

¹ See the Patient Protection and Affordable Care Act; Market Stabilization; Proposed Rule, 82 Fed. Reg. 10980 (February 17, 2017); the Addendum to the final 2018 Letter to Issuers in the Federally-facilitated Marketplaces (FFMs) (February 17, 2017), available at: <https://www.cms.gov/CCIIO/Resources/Regulations-and-Guidance/Downloads/Final-2018-Letter-to-Issuers-in-the-Federally-facilitated-Marketplaces-and-February-17-Addendum.pdf>. See also the DRAFT Bulletin: Revised Timing of Submission and Posting of Rate Filing Justification for the 2017 Filing Year for Single Risk Pool Coverage (February 17, 2017), available at: <https://www.cms.gov/CCIIO/Resources/Regulations-and-Guidance/Downloads/Revised-2017-filing-timeline-bulletin-2-17-17.pdf>.

² Patient Protection and Affordable Care Act; HHS Notice of Benefit and Payment Parameters for 2017; Final Rule, 81 Fed. Reg. 12203 at 12313 (March 8, 2016).