



Illinois Department of Insurance

PAT QUINN
Governor

MICHAEL T. McRAITH
Director

TO: ALL LIFE, ACCIDENT AND HEALTH COMPANIES, HMOs, LHSOs, and VHSPs
WRITING POLICIES OR CONTRACTS SUBJECT TO THE FEDERAL HEALTH
CARE REFORM LEGISLATION CONTAINED IN THE PATIENT PROTECTION
AND AFFORDABLE CARE ACT OF 2010 (PPACA)

FROM: MICHAEL T. MCRAITH *MTM*

DATE: JUNE 10, 2010

RE: COMPANY BULLETIN 2010-04

DIRECTIONS FOR CERTIFIED PPACA COMPLIANCE FILINGS

The federal Patient Protection and Affordability Act of 2010 (PPACA) requires health care plans to issue policies compliant with relevant PPACA provisions by September 23, 2010. Through this bulletin and accompanying exhibits, the Department provides directions to companies on how to make PPACA-compliant changes to existing policies. The Department's objective is to ensure Illinois consumers have access to health coverage policies containing the PPACA required mandates.

The Department is also issuing this bulletin to enable companies to file amendatory policy language in an expedited and certified manner. The instructions attached as Exhibit C explain the use of Illinois' PPACA Endorsement Template. The endorsement template incorporates the PPACA standards required in health policies, including:

- Limited annual and lifetime dollar limits
- Restrictions on rescissions
- First-dollar coverage for preventive services
- Extension of coverage to dependents
- Internal and external appeal rights
- Coverage for emergency services
- Direct access to obstetricians and gynecologists
- Selection of a primary care provider
- Limitations on preexisting condition exclusions

The PPACA Endorsement Template includes brackets to take into account requirements for individual and group policies as well as for grandfathered and non-grandfathered policies. It is the companies' responsibility to ensure that the proper mandates correspond to the proper policy type. The Department has provided guidance where necessary through the use of drafting notes within the template. These drafting notes are to be deleted when making the filing.

The PPACA Endorsement Template, if submitted verbatim and certified as such by an officer of the company, will be accepted by the Department as satisfying the requirements of PPACA and will be approved in an expedited manner. This does not preclude subsequent Department action should the certification have been made in error or if the policy does not otherwise meet the standards established in the template. If a problem is discovered within a filing after its submission, the certification will not be valid and the filing must then be withdrawn and resubmitted in order to ensure it conforms with Department requirements. The company will be responsible for ensuring that all insureds are provided the full benefits provided by PPACA.

Companies that choose not to use the PPACA Endorsement Template may file under the standard filing process and the filing will be reviewed in the normal course of Department operations. **Failure to use the PPACA Endorsement Template, or to receive Department approval for submitted forms, before September 23, 2010, shall not relieve or absolve a company from the responsibility to comply with the PPACA reforms effective September 23, 2010, and thereafter.** Pursuant to applicable law, any policy which on its effective date conflicts with the PPACA standards, effective September 23, 2010 and thereafter, must be administered consistently with the minimum requirements of such PPACA standards until a filing compliant with PPPACA has been filed with and approved by the Department.

The endorsement template and complete directions regarding the filing process are included with this bulletin. The Department recognizes that time is of the essence in amending existing policies to ensure that the citizens of Illinois receive the consumer protections provided by PPACA. We look forward to the cooperation of the insurance industry in this process and strongly encourage the use of the endorsement template.

Questions regarding this bulletin should be directed to Bill McAndrew at bill.mcandrew@illinois.gov.

Enclosed: Exhibit A – PPACA Endorsement Template
 Exhibit B – PPACA Certification of Compliance
 Exhibit C – Filing Directions

Exhibit A

[INSURANCE COMPANY]
ILLINOIS

PPACA Endorsement Template

PATIENT PROTECTION AND AFFORDABLE CARE ACT OF 2010

[Grandfathered/Non-grandfathered] [GROUP/INDIVIDUAL] [POLICY/CERTIFICATE] **RIDER**

The [Policy/Certificate], to which this rider is attached and becomes a part, is amended as stated below.

A new section titled “Patient Protection and Affordable Care Act” is hereby added to the [Policy/Certificate] as follows:

PATIENT PROTECTION AND AFFORDABLE CARE ACT OF 2010

Effective [mm/dd/yyyy], some of the benefits, terms, conditions, limitations, and exclusions contained in Your [Policy/Certificate] will change as a result of the Patient Protection and Affordable Care Act of 2010. Notwithstanding any other provision of Your [Policy/Certificate], the provisions below shall apply. In the event of a conflict between the provisions of any other Section of Your [Policy/Certificate] and the provisions of this Rider, the provisions of this Rider shall prevail.

Definitions

“Emergency medical condition” means a medical condition which manifests itself by acute symptoms of sufficient severity (including severe pain) such that a prudent layperson, who possesses an average knowledge of health and medicine, could reasonably expect the absence of immediate medical attention to result in 1) placing the health of the individual (or, with respect to a pregnant woman, the health of the woman or her unborn child) in serious jeopardy; 2) serious impairment to bodily functions; or 3) serious dysfunction of any bodily organ or part.

“Emergency services” means, with respect to an emergency medical condition: transportation services, including but not limited to ambulance services, and covered inpatient and outpatient hospital services furnished by a provider qualified to furnish those services that are needed to evaluate or stabilize an emergency medical condition.

“Essential health benefits” means benefits covered under the [Policy/Certificate], in at least the following categories: ambulatory patient services, emergency services, hospitalization, maternity and newborn care, mental health and substance use disorder services, including behavioral health treatment, prescription drugs, rehabilitative and habilitative services and devices, laboratory services, preventive and wellness services and chronic disease management and pediatric services, including oral and vision care. Such benefits shall be consistent with those set forth under the Patient Protection and Affordable Care Act of 2010 and any regulations issued pursuant thereto.

“Patient Protection and Affordable Care Act of 2010” means the Patient Protection and Affordable Care Act of 2010 (Public Law 111-148) as amended by the Health Care and Education Reconciliation Act of 2010 (Public Law 111-152).

“Stabilize” means, with respect to an emergency medical condition, to provide such medical treatment of the condition as may be necessary to assure, within reasonable medical probability that no material deterioration of the condition is likely to result from or occur during the transfer of the individual from a facility.

Lifetime Dollar Limits

Essential health benefits, provided within Your [Policy/Certificate] and shown on [page # and/or Section], are not subject to lifetime dollar maximum(s).

Annual Dollar Limits

Essential health benefits, provided within Your [Policy/Certificate] are subject to an annual maximum that is the greater of: 1) [the minimum annual limit permitted by State and Federal law]; or 2) the amount(s) shown on [page # and/or Section].

(COMPANY DRAFTING NOTE – GRANDFATHERED PLANS: Pursuant to Section 1251 of the Patient Protection and Affordable Care Act of 2010 (PPACA), the Annual Dollar Limits section may be deleted when modifying an individual grandfathered policy.)

Rescissions

We may not void Your [Policy/Certificate] based on a misrepresentation by You unless You have performed an act or practice that constitutes fraud; or made an intentional misrepresentation of material fact as prohibited by the terms of Your [Policy/Certificate].

Preventive Services

In addition to the [Covered Services] listed in [Section] of Your [Policy/Certificate], the following services shall be covered without regard to any deductible, copayment, or coinsurance requirement that would otherwise apply:

- [(1) evidence-based items or services that have in effect a rating of “A” or “B” in the current recommendations of the United States Preventive Services Task Force;
- (2) immunizations that have in effect a recommendation from the Advisory Committee on Immunization Practices of the Centers for Disease Control and Prevention with respect to the Covered Person involved;
- (3) with respect to Covered Persons who are infants, children, and adolescents, evidence-informed preventive care and screenings provided for in the comprehensive guidelines supported by the Health Resources and Services Administration;
- (4) with respect to Covered Persons who are women, such additional preventive care and screenings not described in paragraph (1) as provided for in comprehensive guidelines supported by the Health Resources and Services Administration.]

(COMPANY DRAFTING NOTE – GRANDFATHERED PLANS: Pursuant to Section 1251 of the Patient Protection and Affordable Care Act of 2010 (PPACA), the Preventative Services section may be deleted when modifying an individual or group grandfathered policy.)

Extension of Coverage to Dependents

Notwithstanding the eligibility requirements described in [Section] of Your [Policy/Certificate], a child in Your family is eligible to become a Covered Person if the child: 1) is under age 26, and 2) is related to You by one of the relationships listed in [Section] of Your [Policy/Certificate], except that a child’s marital status will not be considered in determining eligibility for initial or continued coverage.

A child in Your family who is older than age 26 is also eligible to become a Covered Person if the child: 1) is an Illinois resident; 2) served as a member of the active or reserve components of any of the branches of the Armed Forces of the United States; 2) received a release or discharge other than a dishonorable discharge; 3) is under age 30; and 4) meets any additional eligibility requirements described in [Section] of Your [Policy/Certificate].

Right to Appeal

You have the right to appeal any decision or action taken by Us to deny, reduce, or terminate the provision of or payment for health care services covered by Your [Policy/Certificate]. When We have denied, reduced, or terminated a requested service or payment for the service based on a judgment as to the medical necessity, appropriateness, health care setting, level of care, or effectiveness of the health care service, You have the right to have Our decision reviewed by an independent review organization not associated with Us.

Except where a covered person's life or health would be seriously jeopardized, You must first exhaust Our internal grievance process as set forth within Your contract before We will grant Your request for an external independent review. Your appeal rights are outlined within Your [Policy/Certificate]. In no event shall Your right to appeal an action taken by Us, based on a judgment as to the medical necessity, appropriateness, health care setting, level of care, or effectiveness of the health care service, be any more restrictive than that set forth within Section 45 of the Managed Care Reform and Patient Rights Act [215 ILCS 134/45] and the Illinois Health Carrier External Review Act [215 ILCS 180].

Emergency Services

We shall cover Emergency Services without the need for any prior authorization determination and without regard as to whether the health care provider furnishing such services is a participating provider. Care provided by a Non-participating Provider will be paid at no greater cost to the Covered Person as if the services were provided by a Participating Provider.

Direct Access to Obstetricians and Gynecologists

In addition to the Woman's Principal Health Care Provider described in [Section] of Your [Policy/Certificate], a female Covered Person may see any available participating health care professional who specializes in obstetrics or gynecology without referral from her Primary Care Provider.

Obstetrical and gynecological care authorized or ordered by a health care professional who specializes in obstetrics or gynecology will be treated as authorized by the Primary Care Provider.

(COMPANY DRAFTING NOTE – GRANDFATHERED PLANS: The Patient Protection and Affordable Care Act of 2010 (PPACA) allows, but does not require the inclusion of this provision when modifying an individual or group grandfathered policy.)

Selection of a Primary Care Provider

You may designate any available participating Primary Care Provider who is available to accept You to be Your Primary Care Provider as required under [Section] of Your [Policy/Certificate].

Your child's legal representative may designate a physician (allopathic or osteopathic) who specializes in pediatrics as his or her Primary Care Provider as required under [Section] of Your [Policy/Certificate].

(COMPANY DRAFTING NOTE – GRANDFATHERED PLANS: The Patient Protection and Affordable Care Act of 2010 (PPACA) allows, but does not require the inclusion of this provision when modifying an individual or group grandfathered policy.)

Preexisting Condition Limitations

The Preexisting Condition Limitations described in [Section] of Your [Policy/Certificate] do not apply to Covered Persons who are under 19 years of age. With respect to Covered Persons who are under 19 years of age, Your [Policy/Certificate] covers any condition that may have been previously excluded by name or specific description.

(COMPANY DRAFTING NOTE – GRANDFATHERED PLANS: The Patient Protection and Affordable Care Act of 2010 (PPACA) allows, but does not require the inclusion of this provision when modifying an individual grandfathered policy.)

This Rider takes effect on the [later of the] effective date [of the [Policy] [/] [Certificate] to which it is attached] [or [Month Day, Year]] [shown in the Certificate Schedule]. This Rider terminates concurrently with the [Policy] [/] [Certificate] to which it is attached. It is subject to all the definitions, limitations, exclusions and conditions of the [Policy] [/] [Certificate] except as stated.

IN WITNESS WHEREOF:

[Name of company]

[Signature]
[President's Name]
President

Exhibit B – Company Certification

State of Illinois

PPACA Certification of Compliance

Company: _____ Company FEIN: _____

Company Filing Number: _____

I, _____, am a duly authorized officer of _____ (Company Name) _____, and hereby certify that I am knowledgeable concerning requirements necessary to comply with federal PPACA and associated health care reform legislation, and that the policy forms contained herein, along with associated documents, conform with the Department’s PPACA Endorsement Template contained in Exhibit A, and with the Department’s Filing Directions contained within Exhibit C – Filing Directions. I further certify that this submission is complete and contains all materials required by the PPACA Endorsement Template.

I understand that the Illinois Department of Insurance will rely on this Certification of Compliance for the policy forms listed, and should it subsequently be determined that the policy forms listed do not comply with Exhibit A or that this certification is false or incorrect; corrective and disciplinary action, including retroactive disapproval, as authorized by law, may be taken by the Department against the Company.

Signature of Corporate Officer: _____

Name of Corporate Officer (typed or printed):

Title: _____ **Direct Telephone Number:** _____

Date: _____

(This certification does not change an insurer’s responsibility to comply with the Insurance Code. Failure to comply with all applicable provisions of the Code will cause an insurer to be subject to penalties ranging from suspension of authority to utilize the expedited process, discontinuation of authority to use of the form(s), examination, monetary penalties, or limitation or revocation of their certificate of authority. Insurers should be aware that the assignment of such penalties will be liberal to ensure continued compliance with all Code requirements.)

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Company: _____ Company FEIN: _____

Company Filing Number: _____

SERFF Filing Number (if applicable): _____

(Please list all forms to which the filed endorsement will be applied.)

Form Number(s): _____ Form Title(s): _____

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Form Number(s): _____ Form Title(s): _____

Company: _____ Company FEIN: _____

Company Filing Number: _____

SERFF Filing Number (if applicable): _____

(Please list all associated document filed with the endorsement.)

Form Number(s): _____ Form Title(s): _____

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Exhibit C – Filing Directions

PPACA Certification Directions

- A. All documents must be submitted as indicated below.
1. The PPACA Endorsement Template and associated documents must be submitted in accordance with Illinois filing requirements. These forms must be attached under the SERFF Form Schedule Section when filed through SERFF.
 2. The PPACA Endorsement Template must comply with the format and content of Exhibit A (the content of the endorsement must be verbatim to the template applying applicable bracketed information and omitting drafting notes);
 3. The only documents that may be included in the filing are Exhibit A - PPACA Endorsement Template and associated documents (*i.e.*, applications, benefit booklets, *etc.*, **only** if changes are required by application of Exhibit A).

Other documents required to bring the policy into compliance with other laws and regulations (*i.e.*, endorsements to apply external review requirements or other state mandates) may not be included in the filing. Inclusion of such non-related documents will result in the rejection of the filing.

4. A properly completed and executed Exhibit B - PPACA Certification of Compliance must be submitted under the SERFF Supporting Documentation Section when filed through SERFF.
- B. For multiple company filings it is permissible to submit a single certification for all of the filings, but **only** if the company officer signing such certification has authority to sign on behalf of all of the companies, **and** if each company submits its own separate Form Number listing indicated on the Certification.
- C. Any filings submitted by CD-ROM must be mailed to the Department's Springfield address for processing:

Illinois Department of Insurance
LAH Compliance Section
320 W. Washington
Springfield, IL 62767

- D. Once a filing has been received by the Department it is added to our system. This system produces a postcard that is sent to the company verifying that the filing has been received.

In addition, SERFF filings will be designated as “Certification Received” in the State Status box in the SERFF filing.

- E. Companies currently change filings frequently after they are submitted to the Department. This practice will not be allowed under this certification process. No changes may be made to a filing. If a problem has been discovered within a filing after a submission, the certification is not valid and the filing must be withdrawn and resubmitted in order to confirm compliance with the Department’s certification requirements. Policies issued under the withdrawn filing number will need to be reissued.
- F. Certified filings will be given priority and will only be reviewed to confirm compliance with the Department’s certification requirements. Companies may not issue endorsements until the filing is approved.