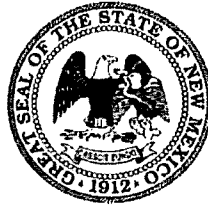


STATE OF NEW MEXICO
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OFFICE OF SUPERINTENDENT OF INSURANCE

TO: ALL HEALTH CARE INSURERS OFFERING INSURANCE COVERAGE IN THE AREAS OF HEALTH WHICH ARE AUTHORIZED TO CONDUCTING HEALTH INSURANCE BUSINESS IN NEW MEXICO AND ARE SOLD ON THE NEW MEXICO HEALTH INSURANCE EXCHANGE.

RE: 2017 Plan Year Contingency

THE FOLLOWING BULLETIN is issued pursuant to NMSA 1978, § 59A-18-12 of the New Mexico Insurance Code, and 13.1.2. *et seq.* NMAC.

A lawsuit entitled *House of Representatives v. Burwell* currently has motions filed in the D.C. circuit court and could, potentially, become a Supreme Court case with a decision issued during the 2017 plan year. Should that happen, carriers might want to create a contingency within the 2017 language that it prepares for its consumers.

The U.S. Department of Health and Human Services holds that the law provides the federal government with the authority to compensate issuers for costs associated with their customers being granted cost-sharing reductions. The U.S. House of Representatives disagrees and maintains that the language of the Affordable Care Act does not allow for this.

New Mexico Office of the Superintendent of Insurance requires that carriers use this standard language if they would like to include this contingency.

Sample Policy Form Language:

Definition

Cost-sharing Reductions. Reductions in cost sharing for an eligible individual enrolled in a silver level plan in the Exchange or for an individual who is an Indian enrolled in a QHP in the Exchange as described under section 1402 of the Affordable Care Act and 45 C.F.R. § 155.20.

Cost-sharing Reductions are discounts that lower the amount you have to pay out-of-pocket for deductibles, coinsurance, and copayments. They also lower your out-of-pocket maximum. The federal government determines if you are eligible for these savings. The federal government also funds the Cost-sharing Reductions under your Policy.

In the event the federal government stops funding Cost-sharing Reductions, these discounts will no longer be available under your Policy, possibly effective immediately.

CSR Rider or Policy Insert

IMPORTANT TERMS AND CONDITIONS ON THE AVAILABILITY OF COST-SHARING REDUCTIONS UNDER YOUR POLICY. This section only applies, if you have enrolled in a Policy that includes or incorporates Cost-sharing Reductions.

The federal government funds the Cost-sharing Reductions under your Policy. In the event the federal government stops funding Cost-sharing Reductions, these discounts will no longer be available under your Policy, possibly effective immediately.

To understand how a loss of Cost-sharing Reductions will affect [whatever the standard phrase is for member liability (e.g. your responsibility, or your liability, your costs or your out-of-pocket costs, etc.)] under your Policy, please refer to the following schedule pages:

- o Schedule "A"; and
- o Schedule "B".


Schedule "A" is your standard benefits schedule for the [Benefit Period], and the one initially referred to your Policy. Schedule "A" describes [Your Costs or other standard phrase] where Cost-sharing Reductions are available under your Policy. Schedule "A" is the schedule and remains the schedule under your Policy unless or until the federal government stops funding Cost-sharing Reductions. In the event the federal government stops funding Cost-sharing Reductions, Schedule "B" replaces Schedule "A", possibly effective immediately.

Schedule "B" describes [Your Costs] in the event the federal government stops funding Cost-sharing Reductions, and these discounts are no longer be available under your Policy. Schedule "B" replaces Schedule "A" in the event the federal government stops funding Cost-sharing Reductions, possibly effective immediately.

For more information about this bulletin, please contact Lisa Reid, Life & Health Division Director at 505.827.4521.

ISSUED at Santa Fe, New Mexico on May 17, 2016.

OFFICE OF NEW MEXICO SUPERINTENDENT OF INSURANCE



John G. Franchini
Superintendent of Insurance