Confidentiality Guidance
Rate Filings

State of New Mexico
Office of Superintendent of Insurance

Table of Contents

Section I: Overview....3
Section II: Process for Requesting Confidentiality....3
Section III: Instructions for Completing the Confidentiality Form and Uploading in SERFF....4
Section IV: Redaction of Proprietary Information-....6
Section VI: Non-confidential Items....7
Section VII: Rate Manual....7

Section I: Overview

The Office of the Superintendent of Insurance (OSI) recognizes that carriers may consider certain information to be proprietary and confidential. §59A-18-13.2(G), NMSA 1978 of the Insurance Code provides a carrier with the opportunity to request confidentiality of filed health insurance material, and that law also provides that the OSI will not disclose the material that is the subject of the Insurer's confidentiality request, as follows:

> …[U]pon request by an insurer, the superintendent may exempt from public disclosure any part of the [health insurance or health care plan rate] filing that the superintendent determines to contain proprietary information that would, if disclosed, harm competition. Pending the superintendent's determination under this subsection, the superintendent shall not disclose the part of a filing that is the subject of an insurer's request.

OSI will not set public access until the review is complete and ready for disposition. To ensure proprietary information is kept permanently confidential, carriers must follow the procedure outlined in this guide.

Please note that this guide applies specifically to rate-related filings and information and does not apply to compliance or pharmacy benefits manager filings.

Some portions of this guidance apply to ACA-compliant filings only, which are denoted with an asterisk.

Section II: Process for Requesting Confidentiality

1. **Advance Request Requirement**

   Carriers must email a confidentiality request to confidentiality.requests@osi.nm.gov at least 10 business days before submitting rate materials in SERFF.

   Exception: This 10-day requirement is waived if the request is submitted in response to an objection.

2. **Approval and Upload**

   If the request is approved:

   - Upload the approval in SERFF.
   - Upload redacted materials in compliance with Section IV.

   Note: OSI will object to overly broad or excessive redactions.

3. **Filing Instructions**

   When uploading the rate materials, carriers must follow the procedures outlined in Section III.

Section III: Instructions for Completing the Confidentiality Form and Uploading in SERFF

- **List Each Item on the Confidentiality Form Separately**

Carriers must list each confidential item in the request form.

  - *Example:* If a carrier requests confidentiality for 6 documents, the carrier should use 6 lines of the request form.

- **Use Clear, Specific Document Names**

Each entry must clearly identify the document name as submitted in SERFF (without the version number).

  - Avoid vague or generic labels like "Objection Response" or "Supplemental Exhibit."
  - Document names should allow OSI to easily match the request with the actual SERFF submission.

- **No Version Numbers Required**

When completing the request form, carriers are not required to include the version numbers in the document name.

- **SERFF Upload Requirements**

Once approved, carriers must upload both the approved confidentiality request and the rate materials to SERFF under the following headings:

  - Approved Confidentiality Requests
  - Actuarial Memorandum – Unredacted
  - Actuarial Memorandum – Redacted
  - Exhibits – Unredacted
  - Exhibits – Redacted
  - Rate Filing Template – Unredacted*
  - Rate Filing Template – Redacted*
  - Objection Responses – Unredacted
  - Objection Responses – Redacted
  - Risk Adjustment Support – Unredacted*
  - Risk Adjustment Support – Redacted*

- Supplemental Rate Materials – Unredacted
- Supplemental Rate Materials – Redacted
- Rate Manual

- **Use the Correct SERFF Headings**

Carriers should upload all versions of a given document type under the applicable SERFF heading.

- *Example:* If there are 3 versions of an unredacted Actuarial Memorandum, all 3 versions should be uploaded under "Actuarial Memorandum - Unredacted."

- **Default Heading for Other Materials**

Carriers should upload document types not specifically addressed in this guidance under "Supplemental Rate Materials" heading.

- **Mark Confidential Documents Appropriately**

Carriers must clearly mark unredacted documents approved for confidentiality as confidential in SERFF. This ensures OSI reviewers understand the document is not intended for public access.

- **Separate Redacted and Unredacted Versions**

Carriers should not upload redacted and unredacted versions under the same SERFF heading. This prevents OSI from setting the redacted item for public access without also setting the confidential item for public access.

Section IV: Redaction of Proprietary Information – Actuarial Memorandum, Exhibits, Objections and Responses

Redaction Guidelines

OSI will not accept heavily redacted rate materials.

When redacting information, carriers may not redact entire sections or tables.

Example: a column of data within a table may be redacted but the table structure, title, headings, and non-confidential content must remain visible.

In **ACA compliant filings**, the following items may not be redacted:

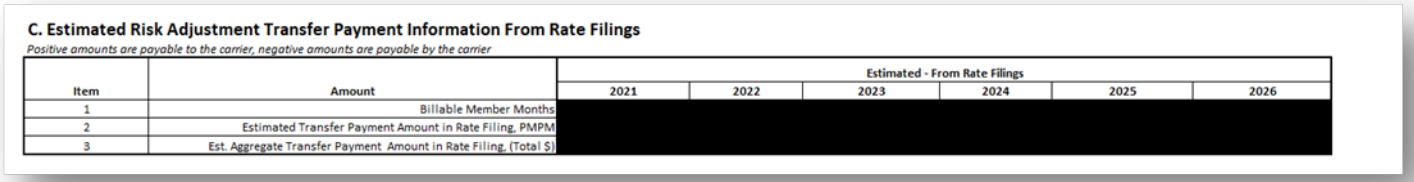
- Actuarial caveats related to the limitations of the guarantee of the proposed rates
- Proposed rate change
- Reason for rate change
- General descriptions of actuarial methodology
- Information that is already public. Examples are:
    - Trend, experience period claims, experience period premiums, etc., included in the URRT
    - Projection factors included in the URRT (morbidity adjustment, demographic shift, plan design changes, other)
    - Index rate, including the market-adjusted index rate (MAIR) included in the URRT
    - Risk adjustment estimate included in the rates, exchange user fees (included in the URRT)
    - Information included in the company's annual or quarterly financial statements
    - Names of files included in the submission
- NAIC Annual and Quarterly Statements
- Rate Transparency Report

Review Process and Compliance

- OSI will review all redacted documents to ensure compliance with these guidelines.
- OSI will object to overly redacted materials.

Presentation of Redactions

- Redacted versions must not include statements such as "proprietary and confidential," since redacted versions will be publicly accessible.
- Carriers must visually indicate redactions by shading the redacted text as shown in the example below:



C. Estimated Risk Adjustment Transfer Payment Information From Rate Filings

Positive amounts are payable to the carrier, negative amounts are payable by the carrier

Item	Amount	Estimated - From Rate Filings					
		2021	2022	2023	2024	2025	2026
1	Billable Member Months						
2	Estimated Transfer Payment Amount in Rate Filing, PMPM						
3	Est. Aggregate Transfer Payment Amount in Rate Filing, (Total $)						

Section VI: Non-confidential Items

Certain rate materials do not contain any proprietary information and should not be included in a confidentiality request. For example, in **ACA-compliant filings**, information that is not confidential includes:

- AV Calculator Screenshots*
- Rate Transparency Report
- Part II Written Justification*
- Rate Manual
- NAIC Annual and Quarterly Statements
- Standardized to non-standardized Benefit Relativities Template except for Row 7
- Rate Filing Template*
  - Tab 1: Data
  - Tab 2: Enrollment – On Exchange
  - Tab 3: Enrollment – Off Exchange
  - Tab 4: Monthly Experience - Trend
    - Section A
    - Section B
    - Section C
    - Section D
    - Section E (rows 100 to 105) – Columns B, C, D. F, G, H, N, O, P
  - Tab 5: Rate Development
  - Tab 6: Plan Level Adjustments
    - Columns A to AD
    - Columns R to T and AF-AH

- Cells S19 and AG19

- Tab 7: Calibration Factors
- Tab 8: Rate Changes & Plan Mappings
- Tab 9: Risk Adjustment
    - Section A-Columns E to H
    - Section B-Columns E to H
    - Section C-Columns E to J
    - Section D-Columns E to H
- Tab 10: CSR Load Factor

Section VII: Rate Manuals

OSI views rate manuals as a tool intended to help brokers calculate premiums for individuals or groups. As such:

- Carriers must not include proprietary or confidential information in the rate manuals.
- Carriers should not request confidentiality for the rate manual.
- OSI will make all rate manuals public.

REQUEST FOR CONFIDENTIAL STATUS / OSI DETERMINATION NOTICE

To request that the Office of Superintendent of Insurance (OSI) deem material or portion thereof as confidential and protected from public access, complete this form including the justification declaration and submit it to OSI at confidentiality.requests@osi.nm.gov. This request assumes that the Requestor confirms the OSI is not be responsible for an unintentional release of confidential material and that any fees incurred to defend the handling of confidential material is the responsibility of the company or other entity of the Requestor or Filer.

Date of Request: _____ Name of Regulated Entity or Party Making Request: _____

Filer Name: _____ Filer's Email Address: _____ Telephone: _____

Declarant: _____ Declarant Email Address: _____

Purpose of Proposed Submission _____ SERFF Tracking number, if any: _____

For each Index No. request, identify the exact File Name in SERFF of the material that is the subject of the request. The material must be uploaded to SERFF, must be marked in SERFF as confidential, and must be marked on each page of the material "NOT A PUBLIC VERSION - CONFIDENTIAL." A maximum of five documents can be considered per request.

<table>
<tr><th>Index No.</th><th colspan="3"><u>File Name</u>
(Must be the same as it will appear when the file is delivered to OSI.)</th><th><u>Confidential Reason/Statute/Legal Authority</u></th></tr>
<tr><td>1.</td><td colspan="3"></td><td></td></tr>
<tr><td colspan="2" rowspan="2">*****OSI use only*****

Reviewer Determination as to Index No. 1</td><td>Request Approved Y/N</td><td>IPRA Y/N</td><td rowspan="2">Reviewer Comments:</td></tr>
<tr><td></td><td></td></tr>
<tr><td>2.</td><td colspan="3"></td><td></td></tr>
<tr><td colspan="2" rowspan="2">*****OSI use only*****

Reviewer Determination as to Index No. 2</td><td>Request Approved Y/N</td><td>IPRA Y/N</td><td rowspan="2">Reviewer Comments:</td></tr>
<tr><td></td><td></td></tr>
</table>

3.			
********OSI use only******* Reviewer Determination as to Index No. 3	Request Approved Y/N	IPRA Y/N	Reviewer Comments:
4.			
********OSI use only******* Reviewer Determination as to Index No. 4	Request Approved Y/N	IPRA Y/N	Reviewer Comments:
5.			
********OSI use only******* Reviewer Determination as to Index No. 5	Request Approved Y/N	IPRA Y/N	Reviewer Comments:

OSI Reviewer Signature _____ (print name and title) _____ Date _____

FILER CERTIFICATION: *I certify that the document(s) filed with this notice is/are the document(s) described in the confidentiality request.*
(To be signed following Reviewer's Determination.)

Filer Signature _____ (print name and title) _____ Date _____

JUSTIFICATION DECLARATION IN SUPPORT OF REQUEST FOR CONFIDENTIAL OR PRIVILEGED STATUS

If the information provided in the justification declaration is not sufficiently detailed to evaluate the confidentiality request, the OSI reviewer may summarily reject your request. If you contend that the justification may disclose confidential information, note that in the justification and the reviewer will contact you to obtain additional information or to arrange a virtual viewing of the proffered materials. Any legal justification for a request must be submitted in writing to OSI.

I, _____ declare, under penalty of perjury of the state of New Mexico, that the facts related in this declaration are true and correct:

I make this declaration upon personal knowledge, in support of _____'s assertion that the following documents or their specified segments/contents should be deemed confidential by OSI.
[Requestor's Name]

Index No.	Grounds for Request, Including Legal Authority and Risk of Actual or Potential Harm If Disclosed
1.	
2.	
3.	

Index No.	Grounds for Request, Including Legal Authority and Risk of Actual or Potential Harm If Disclosed
4.	
5.	

Signature _____ (print name and title) _____ Date _____