Maryland Health Benefit Exchange Carrier and Qualified Plan Certification

Interim Procedures

Authority: Insurance Article §§ 31-106(c)(1)(iv); 31-108(b)(4); 31-115(b)(5)(vi); 31-115(b)(6)(ii), Annotated Code of Maryland

.01 Scope and Definitions

A. These interim procedures apply to any carrier, licensed and in good standing with the State under the Insurance Article, Title 4, Subtitle 1 (for insurers) and Title 14, Subtitle 1 (for nonprofit health service plans); and the Health General Article, Title 19, Subtitle 7 (for Health Maintenance Organizations), that applies to receive certification by the Maryland Health Benefit Exchange and is required to receive certification by the Maryland Health Benefit Exchange under 45 C.F.R. §156.200(a) to sell qualified plans within the Small Business Health Options Program (SHOP) Exchange or Individual Exchange.

B. Except where specifically noted, all provisions of these procedures apply to health, dental, and visions plan carriers.

C. Definitions.

For purposes of these interim procedures, the following definitions apply:

(1) "Carrier" has the meaning set forth in Insurance Article §31-101(c), Annotated Code of Maryland.

(2) "Carrier Certification" means the certification provided to carriers under Insurance Article §31-115, Annotated Code of Maryland.

(3) "Commercial Market Service Area" means the service area a carrier develops and uses for health benefit plans it offers in the commercial market.

(4)"Commissioner" means the Maryland Insurance Commissioner.

(5)"Essential Community Providers" means health care providers defined in §340B(a)(4) of the Public Health Service Act and the providers described in §1927(c)(1)(D)(i)(IV) of the Social Security Act as set forth by section 221 of Public Law 11-8.

(6)"Maryland Health Benefit Exchange" has the meaning set forth under Insurance Article §31-101(e), Annotated Code of Maryland.

(7)"Maryland Health Benefit Exchange Carrier Fair Marketing Standards Policy" means the marketing standards jointly developed by the Maryland Health Benefit Exchange and the Maryland Insurance Administration related to any marketing communications for qualified plans offered for sale on the Individual Exchange or SHOP Exchange.

(8)"Health Benefit Plan" has the meaning set forth in the Insurance Article §31-101(g), Annotated Code of Maryland.

(9)"Individual Exchange" has the meaning set forth under Insurance Article §31-101(h), Annotated Code of Maryland.

(10)"Managed care organization (MCO)" has the meaning set forth in Health-General Article, §15-101(e), Annotated Code of Maryland.
(11) "Quality Data" means the data collected by the Maryland Health Care Commission under COMAR 10.25.08.
(12)"Qualified Dental Plan" has the meaning set forth under Insurance Article §31-101(p), Annotated Code of Maryland.
(13)"Qualified Employer" has the meaning set forth under Insurance Article §31-101(q), Annotated Code of Maryland.
(14)"Qualified Health Plan" has the meaning set forth under Insurance Article §31-101(r), Annotated Code of Maryland.
(15)"Qualified Individual" has the meaning set forth under Insurance Article §31-101(s), Annotated Code of Maryland.
(16)"Qualified Plan" has the meaning set forth under Insurance Article§31-101(t), Annotated Code of Maryland.
(17)"Qualified Vision Plan" has the meaning set forth under Insurance Article §31-101(u), Annotated Code of Maryland.
(18)"Race, Ethnicity, Language, Interpreter Need, and Cultural Competency (RELICC)" means a subset of the data collected by Maryland Health Care Commission under Insurance Article §31-119(d)(2)(iii), Annotated Code of Maryland.
(19)"SHOP Exchange" has the meaning set forth under Insurance Article §31-101(w), Annotated Code of Maryland.

.02 Maryland Health Benefit Exchange Plan Management Manual

The Maryland Health Benefit Exchange shall issue a Plan Management Manual that will include forms and additional guidance regarding all aspects of carrier and qualified plan certification. The Plan Management Manual will be available on the Maryland Health Benefit Exchange stakeholder website.

.03 Application Procedures

A. In order to obtain certification to participate in and sell qualified plans through the SHOP Exchange or Individual Exchange as a certified carrier, a carrier must submit an application on the form provided by the Maryland Health Benefit Exchange.
B. A carrier applying for carrier certification must submit documentation satisfactory to the Maryland Health Benefit Exchange that the carrier has a Certificate of Authority authorizing the carrier to act as an insurer and engage in the business of health insurance or operate as a nonprofit health service plan or a health maintenance organization in the State of Maryland, as prescribed under the Insurance Article, Title 4, Subtitle 1 (for insurers) and Title 14, Subtitle 1 (for non-profit health service plans); and the Health General Article, Title 19, Subtitle 7 (for HMOs).
C. A carrier certification applicant must attest to the following in its application for certification:
   (1) That the Commissioner has not taken action to suspend or revoke the Certificate of Authority of the carrier.

(2) That each health benefit plan the carrier intends to offer for sale through the SHOP Exchange or Individual Exchange will meet all requirements under the Patient Protection and Affordable Care Act, Pub. L. No. 111-148, 124 Stat. 119 (2010) (Affordable Care Act) and Title 31 of the Insurance Article, Annotated Code of Maryland (Maryland Health Benefit Exchange Act), when the carrier applies for certification of the health benefit plan as a qualified plan and at all times thereafter when the health benefit plan is offered for sale as a qualified plan through the SHOP Exchange or Individual Exchange.

(3) That the carrier will not engage in unfair methods of competition or unfair and deceptive acts or practices as set forth under Insurance Article § 27-202 -- 27-205, Annotated Code of Maryland; COMAR 31.12.01.09, if the carrier is an HMO; COMAR 31.10.32.04, if the carrier is a nonprofit health service plan; and the standards jointly developed by the Maryland Health Benefit Exchange and Maryland Insurance Administration that require the use of standardized text and established protocols for communicating with qualified plan enrollees.

(4) That the carrier will comply with Insurance Article §31-115(g).

(5) That the carrier will provide to the Maryland Health Benefit Exchange notice of any premium rate change, as approved by the Commissioner, for a qualified plan sold on the SHOP Exchange or Individual Exchange, at least 45 days before the effective date of the premium rate change.

(6) That the carrier, for any premium rate increase for a qualified plan sold on the SHOP Exchange or Individual Exchange, will provide to the Maryland Health Benefit Exchange the associated Preliminary Justification Forms I and II filed with the Maryland Insurance Administration, and will notify the Maryland Health Benefit Exchange of the final disposition of the premium rate increase request at least 45 days before its effective date.

(7) That the network requirements for each qualified plan the carrier offers for sale through the SHOP Exchange or Individual Exchange will meet:

(a) the network adequacy standards as specified under 45 CFR §156.230;

(b) Maryland Insurance Administration network adequacy reporting requirements as set forth under COMAR 31.10.34.05(C)(2);

(c) the requirement to report provider data to the CRISP Provider Information Management system; and

(d) any additional reporting requirements as specified by the Maryland Health Benefit Exchange.

(8) That the essential community provider:

(a) requirements for each qualified plan the carrier offers for sale through the SHOP Exchange or Individual Exchange meet the requirements set forth in 45 CFR §156.235; and

(b) data is reported to the Maryland Health Benefit Exchange in the manner specified by the Maryland Health Benefit Exchange.

(9) That the carrier holds current and valid accreditation, as follows, for years 2014 and 2015:

(a) That the carrier, unless the carrier offers only dental or vision benefits, is accredited by National Committee for Quality Assurance (NCQA) or URAC as an accredited commercial or Medicaid carrier.

(b) That the carrier, if offering only dental or vision benefits, holds a current and valid Maryland Insurance Administration Certificate of Authority.
(c) Non-accredited carriers.
(i) Non –accredited carriers shall receive a one-year grace period to obtain accreditation in year 2014.
(ii) Non-accredited carriers applying for certification shall apply for accreditation prior to July 1, 2013 to receive the one-year grace period set forth in subsection (i).

(10) Service Areas
(a) That any service area developed for a qualified plan the carrier offers for sale --
(i) utilizes:
(1) the commercial market service area, where the carrier offers only commercial health benefit plans for sale;
(2) the commercial market service area, where the carrier offers both commercial health benefit plans and managed care organizations, unless a request with justification for using the service area of the managed care organization has been filed and approved by the Maryland Health Benefit Exchange; or
(3) the service area of the managed care organization, where only serving a managed care organization.
(ii) meets the service area requirements under 45 CFR §155.1055.

(11) Transparency Data
That the carrier will provide the transparency data required under 45 CFR §156.220(a) for 2014 qualified plan certification and thereafter as required for maintaining plan certification and recertification.

(12) Quality Data and RELICC Data
That the carrier will provide quality data and RELICC data, as specified by the Maryland Health Benefit Exchange, to the Maryland Health Care Commission.

(13) That the carrier shall offer no more than four benefit designs per metal level in the Individual Exchange and four benefit designs per metal level in the SHOP Exchange.

D. Notice of approval or denial of carrier certification application
(1) An application will not be deemed complete until a carrier attests to all above requirements.
(2) The Maryland Health Benefit Exchange, within 45 days of receipt of a completed application, shall notify a carrier of the decision to approve or deny the application.
(3) If the application is denied, the Maryland Health Benefit Exchange shall provide the reasons for the denial and reapplication or appeal rights.

.04 Conditions for Participation
A. A carrier certified by the Maryland Health Benefit Exchange to sell qualified plans through the SHOP Exchange or Individual Exchange shall comply with all Affordable Care Act and Maryland Health Benefit Exchange Act requirements, including pertinent regulations and guidance, and all other applicable federal and State laws at all times while holding carrier certification by the Maryland Health Benefit Exchange.

B. In addition to complying with sections (C) through (F) below, a carrier certified by the Maryland Health Benefit Exchange to sell qualified plans through the SHOP Exchange or Individual Exchange shall maintain compliance with each attestation made as part of its application for certification.

C. Carrier Fair Marketing Standards
A carrier certified by the Maryland Health Benefit Exchange to sell qualified plans through the SHOP Exchange or Individual Exchange shall comply with all existing State marketing requirements as set forth under Insurance Article §§ 27-202 -- 27-205, Annotated Code of Maryland, and COMAR 31.12.01.09 and 31.10.32.04, and the standards jointly developed by the Maryland Health Benefit Exchange and Maryland Insurance Administration that require the use of standardized text and established protocols for communicating with qualified plan enrollees.

D. Service Area
For 2014, a carrier holding carrier certification by the Maryland Health Benefit Exchange shall provide:
(1) documentation of the service area of each qualified plan the carrier offers for sale through the SHOP Exchange or Individual Exchange; and
(2) data on demographics of areas served by each qualified plan the carrier offers for sale within the SHOP Exchange or Individual Exchange, in accordance with 45 CFR §155.1055(b), except where the carrier provides a statewide service area.

E. Transparency Data
Carriers shall provide the transparency data required under 45 CFR §156.220(a) for 2014 qualified plan certification and thereafter as required for maintaining plan certification and recertification.

F. Quality and RELICC Data
Carriers shall provide quality and RELICC data to the Maryland Health Care Commission, as specified by the Maryland Health Benefit Exchange at least on an annual basis.

.05 Maryland Health Benefit Exchange Annual Review Procedures

A. The Maryland Health Benefit Exchange shall review the performance of certified carriers on an annual basis.

B. The annual review shall include review of the following performance areas:
(1) Enrollment data;
(2) Network adequacy;
(3) Quality information; and
(4) Maryland Health Benefit Exchange-specific complaints and grievances.

C. The Maryland Health Benefit Exchange may require carriers to correct noncompliance with Federal and State requirements for plan certification as set forth under the Affordable Care Act, the Maryland Health Benefit Exchange Act, and these policies.

D. Failure to cure noncompliance may result in decertification of the qualified plan.

.06 Qualified Plan Certification Procedures

A. To obtain certification for a health benefit plan as a qualified plan to be sold through the SHOP Exchange or Individual Exchange, a carrier shall submit an application for

qualified plan certification on the form provided by the Maryland Health Benefit Exchange.

B. In support of the application for qualified plan certification, the carrier shall submit documentation satisfactory to the Maryland Health Benefit Exchange:
   (1) of its compliance with Insurance Article §31-115(b);
   (2) on the plan network;
   (3) on any contracts that the carrier has entered into with Essential Community Providers as necessary to meet certification standards for the health benefit plan; and
   (4) the transparency data the carrier has attested to providing under the certification application.

C. Maryland Health Benefit Exchange Determination Upon Receipt of a Complete Qualified Plan Certification Application
   (1) The Maryland Health Benefit Exchange, upon receipt of a completed application, shall determine, for each application, whether certification is in the best interests of qualified individuals and qualified employers, pursuant to standards to be adopted by the Maryland Health Benefit Exchange and issued through Maryland Health Benefit Exchange policy or guidance.
   (2) The Maryland Health Benefit Exchange shall determine whether the carrier has satisfied such other requirements as may be issued from time to time through policy or guidance.
   (3) The Maryland Health Benefit Exchange shall notify the carrier of the decision to approve or deny the application, and if the application is denied, the Maryland Health Benefit Exchange shall provide the reasons for the denial and appeal rights.

.07 Qualified Plan Recertification

A. A qualified plan certification expires two years after the date it is issued unless the qualified plan is recertified.
B. At least 90 days before a qualified plan certification expires, the carrier shall apply for recertification of the qualified plan in accordance with the Plan Management Manual.
C. The Maryland Health Benefit Exchange shall review all original and existing certification data when determining whether the qualified plan continues to meet the certification requirements.
D. A qualified plan that is not in full compliance with recertification requirements may be subject to a corrective action plan, the purpose of which is to enable the qualified plan to reach full compliance within 60 days of receipt of the corrective action plan.
E. The Maryland Health Benefit Exchange shall determine, for each application, whether recertification is in the best interests of qualified individuals and qualified employers, pursuant to standards to be adopted by the Maryland Health Benefit Exchange and issued through Maryland Health Benefit Exchange policy or guidance.
F. The Maryland Health Benefit Exchange shall notify the carrier of the decision to approve, deny, or require corrective action.
G. If the application is denied, the denial notice shall include the reasons for the denial and appeal rights.

.08 Qualified Plan Decertification

The Maryland Health Benefit Exchange may decertify any qualified plan that:

A. Fails to meet the requirements for recertification.
B. Fails to comply with a corrective action plan.

.09 Qualified Plan Certification and Decertification Appeals

The Maryland Health Benefit Exchange will develop procedures for appeals of Maryland Health Benefit Exchange determinations regarding certifications and decertifications of qualified plans.

.10 Waiver Authority

A. The Maryland Health Benefit Exchange, with the approval of the Board of Trustees, and for reasons satisfactory to the Maryland Health Benefit Exchange, may grant a waiver to a specific provision of these interim procedures, with or without conditions.
B. A waiver may only be granted to the extent it does not conflict with the provisions of the Insurance Article of the Annotated Code of Maryland or applicable federal and State law.
C. A carrier may submit a request for a waiver on a form developed by the Maryland Health Benefit Exchange.
D. The request shall state:
    (1) the provision from which a waiver is sought;
    (2) the reason the carrier is unable to comply with the provision; and
    (3) the reason that compliance with the provision will impose a substantial hardship.
E. The Maryland Health Benefit Exchange may grant a waiver if:
    (1) it determines that compliance with the provision from which the waiver is sought cannot be accomplished without substantial hardship;
    (2) a waiver will not conflict with applicable State and federal law; and
    (3) it is in the best interests of the State of Maryland.
F. If the Exchange determines that the conditions of Subsection D of this section are not satisfied, that a waiver is not in the best interests of the State, or that the waiver will conflict with applicable State or federal laws, it shall deny the request. A denial may not be appealed.
G. The Exchange shall issue a final written decision on a waiver request submitted under Subsection A of this section within 45 days from receipt of the request and all supporting information. If the Exchange grants a waiver, the decision shall include the duration of the waiver and any conditions imposed by the Maryland Health Benefit Exchange. The carrier will be notified of the decision by mail or electronically.
H. The Maryland Health Benefit Exchange may revoke a waiver if it appears that the reasons for granting it have ceased to exist. Revocation of a waiver may not be appealed.
I. The Maryland Health Benefit Exchange's decision and the request for waiver shall be subject to public disclosure.