

From: DMHC Licensing eFiling

Subject: APL 17-010 (OPL) Qualified Health Plan Guidance Regarding Silver and Dual Rates

Date: Monday, July 10, 2017 12:07:00 PM

Attachments: APL – Off-Exchange Silver and Dual Rates.pdf
FAQs to APL for Off-Exchange Silver and Dual Rates.pdf

Dear Health Plan Representative,

Please find the attached All Plan Letter and FAQs regarding Qualified Health Plan Guidance Regarding Silver and Dual Rates. If you have any questions regarding the letter, please contact the Office of Plan Licensing through your assigned counsel.

Thank you.

Dear Health Plan Representative:

This email supplements the All Plan Letter (APL 17-010) the DMHC issued on July 10, 2017.

Extension Of Date For Submitting Request For Exemption From Mirroring Requirement For Silver70 Plan And Filing For Non-Mirrored Silver Plan

In its July 10 APL, the DMHC instructed plans participating in Covered California to file with the DMHC's Office of Plan Licensing (OPL):

- (1) a request for an exemption from the off-Exchange mirroring requirement in Health and Safety Code section 1366.6; and,
- (2) documents to establish an off-Exchange Silver plan that is "virtually identical" to the on-Exchange Silver 70 plan.

The DMHC directed plans to file this information by July 17, 2017. **However, the DMHC is extending the above-described filing deadline to August 15, 2017.**

Please note, health plans still must file their rate information through the System for Electronic Rates & Forms Filing (SERFF) by July 17, 2017.

Naming Convention For Non-Mirrored Silver Plan

The DMHC has received questions regarding the appropriate naming convention for the non-mirrored but virtually identical off-Exchange Silver 70 plan. Based on guidance from Covered California, please identify this plan as the "Silver 70 Off Exchange" plan in your filing with OPL.

Rate Filings

Covered California is requiring QHP issuers to submit to the DMHC and/or the California Department of Insurance (CDI), as applicable, two formal rate proposals for 2018 QHPs, as follows:

1. Proposed rates that include the on-going funding of CSRs; and,
2. Proposed rates that reflect CSRs no longer being funded for plan year 2018.

Plans should submit two separate rate filings, with supporting documents, for the two formal rate proposals. In addition, documents within the filings should be named to indicate whether or not CSR funding is being assumed. DMHC is recommending using "CSR Funded" or "CSR not Funded" in the file name as shown below.

In addition to the DMHC required rate filing documents, plans must include the following documents in their rate filings submitted in SERFF:

Document	SERFF filing #1 assuming On-going funding of CSR	SERFF filing #2 assuming CSR no longer funded
1. Part 1 Unified Rate Review Template	URRT-CSR funded	URRT-CSR not funded
2. Part II Actuarial Memorandum	Act Memo-CSR funded	Act Memo-CSR not funded
3. Part III Consumer Justification	Justification-CSR funded	Justification-CSR not funded
4. Rate Tables Template	Rate Tables-CSR funded	Rate Tables-CSR not funded

If you have any questions or concerns regarding this email, please contact your Office of Plan Licensing assigned reviewer.

Sincerely,

Sarah Ream

Deputy

Director

Office of Plan Licensing

California Department of Managed Health

CarePhone: (916) 324-2522

From: DMHC Licensing eFiling
Subject: Update to DMHC APL 17-010 (OPL) Qualified Health Plan Guidance
Date: Friday, July 21, 2017 3:13:00 PM

Dear Health Plan Representative:

In APL 17-010, issued July 10, 2017, the Office of Plan Licensing stated we would provide supplemental guidance regarding the automatic renewal of on-Exchange Silver 70 enrollees who receive no Advance Premium Tax Credits.

Covered California informed the Department of Managed Health Care (DMHC) it intends to automatically renew on-Exchange Silver 70 enrollees who receive no Advance Premium Tax Credits into the “Silver 70 Off Exchange” plan.

After review, the DMHC determined we will not object to this automatic renewal process.

Sincerely,

Micki Winsett Gibbs | **Assistant Chief Counsel | Office of Plan Licensing |
Department of Managed Health Care**
Tel: 916-324-5196 | Fax: 916-327-6352

ALL PLAN LETTER

DATE: July 10, 2017

TO: All Health Plans Offering Individual Coverage Through Covered California

FROM: Sarah Ream, Deputy Director
Office of Plan Licensing

SUBJECT: APL 17-010 (OPL) Qualified Health Plan Guidance Regarding Dual Rates, Mirrored Off-Exchange Silver 70 Product, and Auto Renewals¹

A. Background

On June 15, 2017, due to the uncertainty regarding whether the federal government will continue direct funding of the Cost-Sharing Reduction program (CSRs) through the 2018 plan year, California's Health Benefit Exchange Board (Exchange or Board) directed Covered California to require Qualified Health Plan (QHP) Issuers to submit to the Department of Managed Health Care (DMHC) and the California Department of Insurance (CDI) two formal rate proposals for 2018 QHPs, as follows:

1. Proposed rates that include the on-going funding of CSRs; and,
2. Proposed rates that reflect CSRs no longer being funded for plan year 2018.

Covered California instructed QHP issuers to allocate the entire premium increase proposed in scenario number 2. above to the Silver QHPs. Covered California also indicated it intends to release both sets of rates publicly according to established Covered California timeframes.

The Board also authorized an amendment to QHP Issuer contracts requiring QHP Issuers to offer an additional individual, separately-rated, non-mirrored Silver plan outside of the Exchange that is "virtually identical" to Covered California's standard patient-centered Individual Silver plan (the "Silver 70" plan).^{2,3} The only difference in

¹ The information in this APL pertains to only the requirements in the Knox-Keene Health Care Service Plan Act of 1972 (the Act). The DMHC makes no representations regarding federal or other applicable laws.

² California Health Benefit Exchange Board Resolution No. 2017-34 (June 15, 2017).

³ Hereinafter, this APL refers to this "virtually identical" individual Silver product as the "Non-Mirror Silver" plan.

benefits between the Silver 70 plan and the Non-Mirror Silver plan will be a five-dollar increase to the emergency medical transportation benefit in the Non-Mirror Silver plan. However, the premium rates for the two plans will likely differ.

Covered California stated that QHP Issuers shall not attribute any rate increase attributable to the CSR program to the Non-Mirror Silver plan.⁴ The intent behind this proposal is to encourage enrollees not eligible for Advanced Premium Tax Credits to enroll in the off-Exchange Non-Mirror Silver product that would not include the premium attributable to the federal government ceasing to fund the CSR payments.

Health and Safety Code section 1366.6, subdivision (c)(1), requires QHP Issuers to offer, market and sell Covered California's standardized Patient-Centered Benefit Plan Designs, including the Silver 70 plan, outside the Exchange. Covered California and the DMHC are concerned that having multiple Individual Silver plans off-Exchange, with virtually identical benefits and cost-share structures but different premiums, may lead to consumer confusion and disruption in the California individual healthcare market.

B. Request for exemption from the “mirroring requirement” for the Non-Mirror Silver 70 plan

Health and Safety Code section 1343, subdivision (b), allows the DMHC to exempt health plans from compliance with the Act and regulations if the Director finds the action to be in the public interest and not detrimental to subscribers, enrollees, or persons regulated under the Act. Given the potential for confusion and disruption, the DMHC believes it is in the public interest to exempt QHP Issuers, upon request, from the Health and Safety Code section 1366.6, subdivision (c)(1), requirement that QHP Issuers offer all products off Exchange that they offer on Exchange.⁵ This exemption will only apply to the mirroring requirement for the Silver 70 plan that reflects no funding of the CSR program. QHP Issuers will still be required to offer mirrored off-Exchange products for other metal levels.

Upon the granting of an exemption, section 1366.6, subdivision (c)(1), will not prohibit a health plan from uniformly modifying its mirrored off-Exchange Silver 70 plan to the Non-Mirror Silver plan as described above. Health plans that request and receive an exemption shall issue renewal notices to impacted enrollees consistent with federal standards and as described below.

⁴ Appendix 1, Covered California: Guidance on Rate Filing Instructions Related to the Cost-Sharing Reduction Program (May 31, 2017).

⁵ Covered California and the DMHC generally refer to this requirement as a “mirroring” requirement and these products as “mirrored off-Exchange” plans.

C. Filing requirements for the Non-Mirror Silver plan and to request an exemption from the mirroring requirement

To offer the Non-Mirror Silver plan as required by Covered California and to request an Order of Exemption, as described above, health plans must submit to the DMHC a Notice of Material Modification with the subject title “**Section 1366.6 Exemption Request and Non-Mirror Silver Plan**” no later than **July 17, 2017**.

The Notice of Material Modification must contain the exhibits and information described below.

1. Exhibit E-1:

a. Provide the following affirmations in an E-1:

- i. With respect to cost-share, the Non-Mirror Silver plan does not deviate from the Silver 70 plan currently under review with the DMHC, in the health plan’s separate QHP eFiling No. _____, with exception of a five dollar increase to the Emergency Medical Transportation benefit.
- ii. The health plan shall send renewal Notices and federal Summary of Benefits and Comparison disclosures, consistent with state law and federal law and guidance.
- iii. The cost-share increase to the Emergency Medical Transportation benefit does not violate the MHPAEA.
- iv. The health plan shall submit an Evidence of Coverage (EOC) no later than 30 days after the DMHC issues an Order of Approval for the filing. The health plan shall submit the EOC through the eFiling system as either a stand-alone amendment or with the health plan’s other off-Exchange form filings. [Note: If the DMHC previously approved or is currently reviewing the EOC, include the eFiling number of that approval/review.]
- v. The health plan shall comply with the automatic renewal instructions set forth below in section E of this APL.

2. Exhibit S/T/U:

Submit a Schedule of Benefits denoting in redline/strikeout format the revised Emergency Medical Transportation benefit and the revised plan name. The DMHC contemplates the revised Schedule of Benefits for the Non-Mirror Silver plan will be identical to the Silver 70 plan with the exception of the Emergency Medical Transportation benefit and the name of the plan.

3. Exhibit I-9:

As described in more detail below, QHP Issuers shall submit via the eFiling system the renewal notices for their on-Exchange and off-Exchange Silver plans. QHP Issuers shall submit the renewal notices as Exhibit I-9s.

D. Rates

By no later than **July 17, 2017**, health plans shall submit to the DMHC, in conformance with the DMHC's previously established rate filing procedures, two formal rate proposals for 2018 as follows:

1. proposed rates assuming the on-going funding of CSRs; and,
2. proposed rates assuming CSRs are no longer being funded, including rates in connection with the off-Exchange Non-Mirror Silver plan.

E. Automatic renewal of certain enrollees

For the 2018 plan year, health plans shall automatically ("auto") renew enrollees as follows:

1. For on-Exchange Silver 70 enrollees who receive no Advance Premium Tax Credits, the DMHC will issue supplemental guidance at a later time.
2. For all off-Exchange Silver 70 enrollees, the health plan shall auto renew the enrollees into the Non-Mirror Silver plan.

As discussed in section C.3., above, by **July 17, 2017**, QHP Issuers shall submit via the eFiling system the renewal notices for their on-Exchange and off-Exchange Silver plans. QHP Issuers shall submit the renewal notices as Exhibit I-9s, which shall be included in the **Section 1366.6 Exemption Request and Non-Mirror Silver Plan** material modification, described above.

If you have questions about submitting your health plan's filings in regard to this APL, please contact the Office of Plan Licensing through your assigned counsel.

DMHC response to CAHP's comments regarding draft APL concerning Off-Exchange Silver Product

Below please find responses to inquiries by CAHP pertaining to the Draft All Plan Letter released in connection with Dual Rates, the Mirrored Off-Exchange Silver 70 Product, and Auto Renewals

1. **Comment:** If QHPs are required to provide Exhibit FF-4 for the new Silver 70 Off-Exchange non mirror plan then QHPs will need to use the AV Screenshots and Certification from Milliman that were provided for the On-Exchange Silver 70 plan from Covered California since this plan is virtually identical and the Ambulance benefit is not included in the AV calculator. Please confirm that DMHC agrees with this approach.

DMHC Response: The DMHC will not require an Exhibit FF-4 or an actuarial certification in connection with the off-Exchange non-mirror Silver plan, which is virtually identical standard Silver 70 plan offered on-Exchange.

2. **Comment:** Please confirm that plans should continue to file their Off-Exchange portfolio, including the current Mirror Silver 70 plan, as an Amendment filing under separate cover, and use the material modification filing only to file the potential changes outlined in this APL (i.e. exemption from mirroring requirement, Non-Mirror Silver 70 plan, and related affirmations, rates, and documents).

DMHC Response: Confirmed. Plans shall file their off-Exchange portfolio and associated exhibits as a separate Amendment or Material Modification pursuant to Section 1352. Note, Plans seeking an Exemption from offering the "mirrored" Silver 70 plan off-Exchange, should *not* file that benefit design with their off-Exchange portfolio and associate exhibits.

3. **Comment:** Please confirm that for section 2. "Exhibit S/T/U" by "Schedule of Benefits" the Department is referring to disclosure documents such as the Disclosure Form or Evidence of Coverage.

DMHC Response: The "Schedule of Benefits" is a description of the cost-share table which discloses the applicable copayment or coinsurance for each covered benefit. This information is generally embedded in the Evidence of Coverage (EOC). Note, the DMHC is instructing Plans to forego submitting a complete EOC with the Notice, and to only file the cost-share table with the Notice, to expedite review. Plans must affirm they will file their complete EOC(s) in connection with the off-Exchange non-mirror Silver plan, no later than 30 days after the Notice is approved, with the Plans' 2018 off-Exchange portfolio.

DMHC response to CAHP's comments regarding draft APL concerning Off-Exchange Silver Product

4. **Comment:** Please provide the naming convention for the “non-mirrored” off exchange silver plan and confirm that Covered California is in agreement with the naming convention.

DMHC Response: The Exchange is working with its issuers to formulate a naming convention. Further guidance will be provided by the Exchange at a later

time. Plans may file exhibits with a placeholder for the plan name if the Exchange has not issued guidance at such time when the Plan submits its filing.

5. **Comment:** Please provide more detail on how plans should handle members enrolled in the On Exchange Silver 70 American Indian-American Native plan who are not receiving APTC? If the plan renews them into an Off-Exchange plan, then they lose the ability to visit an Indian Health Provider (IHP) for covered services at no cost share and it is not clear which is a better option for the member: lower premium overall versus no cost share for covered services when visiting an IHP. One suggestion is that it may be best to leave this smaller population alone, but include a message in the renewal letter about a lower priced plan option available if using the IHP network is not an important feature for them.

DMHC Response: The DHMC will issue supplemental guidance pertaining to the treatment of on-Exchange enrollees receiving no financial assistance at a later time.