



July 28, 2017

Guidance on Rate and Binder Filings Related to the Cost-Sharing Reduction (CSR) Funding Issue, the Weak Enforcement of the ACA Individual Mandate, and Risk Adjustment and Reinsurance

This Guidance provides rate and binder filing instructions for carriers issuing individual health plans for Plan Year 2018 (PY18) related to the cost-sharing reduction (CSR) funding issue, the weak enforcement of the ACA individual mandate, and risk adjustment and reinsurance.

I. Rate and Binder Filing Related to the Cost-Sharing Reduction (CSR) Funding Issue:

Applicability: PY18 on-Exchange Issuers Only

As stated in the Note to Filer dated July 24, 2017, due to the unique circumstance that the federal government may no longer directly fund the CSR program at any time while still requiring that CSR plans be offered, issuers need clarification on how to increase premium rates to offset the cost in the event they do not receive direct CSR reimbursement payments.

The OIC's interpretation of this funding issue is that any charge to support the costs of the CSR program should be loaded only on the Silver qualified health plans (QHP) offered on-Exchange.

The OIC's interpretation is based on the requirements of the single risk pool and the allowable adjustment for plan specific factors. Based on the requirements for single risk pool, issuers must establish an annual index rate for the individual market based on the total combined claims costs for providing essential health benefits within the single risk pool of the state. The premium rate for an issuer's health plans must use this annual index rate, subject only to certain plan-specific factors. One such plan-specific factor is the actuarial value and the cost-sharing design of the health benefit plan. This provision means that issuers should charge premium rates that are sufficient to cover the costs of the benefits included in a specific plan offered at a specific metal level. It is justified and appropriate for issuers to increase the premium rate for the Silver plans to

receive premium revenue sufficient to cover the actual cost of providing Silver plans to their enrollees. This includes collecting enough premium revenue to cover the cost of the standard Silver plan, and to cover the costs of the three Cost-Sharing Reduction Silver variant plans (Silver 73%, Silver 87% and Silver 94%). Since only those enrollees in Silver plans receive the reduced cost sharing benefits, it is appropriate to load the cost of those benefits solely on the Silver plans.

Based on this interpretation, issuers should submit additional rates that they would charge if the CSR program is not funded, by loading the rate increase attributable to the CSR program only on the standard Silver QHPs.

This means that PY18 on-Exchange issuers are required to have two sets of rates – one set of rate and documentation assuming that CSR will be funded and a second set of rate and documentation assuming that CSR will not be funded.

Please note that requiring the issuers to have two sets of rate schedules due to CSR funding issue does not mean that we are setting a precedent for allowing multiple rate schedules for various rate-setting assumptions. It is arguable that it is not unreasonable to assume either that CSRs will continue for a time, or that they will cease at some point mid plan year. Due to this unique circumstance, we are asking issuers to include two sets of rate schedules simply because CSR is either funded or not-funded and, and at this point, no one can make a definitive argument to assume one way or the other.

For PY18 off-Exchange issuers, the CSR funding issue does not impact you and you are required to have just one set of rates as you currently do.

Below are the procedures how issuers should follow to incorporate the documentation for the second set of rates that assume CSR is not funded

Rate Filing:

1. **Rate Schedule under Rate/Rule Schedule tab:** Provide two rate schedule documents, one for with CSR Funding and one for without CSR funding.
 - a. The only differences for these two rate schedules should be the file names, and the rates and rate sheet heading for silver plans offered on-Exchange.
 - b. Both files should use the prescribed rate schedule format.
 - c. Rate Schedule for with CSR funding:
 - i. Name the file “Rate Schedule with CSR Funding;”
 - ii. For the rate sheet of silver plan offered on-Exchange, change the heading “RATE SCHEDULE” To “RATE SCHEDULE WITH CSR FUNDING.”

- d. Rate Schedule without CSR funding:
 - i. Name the file “Rate Schedule without CSR Funding;”
 - ii. For the rate sheet of silver plan offered on-Exchange, use the heading “RATE SCHEDULE WITHOUT CSR FUNDING.”
 - iii. Except for silver plans offered on-Exchange, rates for all plans should match the rate schedule with CSR funding.

For your convenience to change the heading of the rate sheet, we will update the Excel version of the rate schedule format. See OIC’s website for the new version:
<https://www.insurance.wa.gov/checklists-health-coverage-analysts>.

2. Other Rate filing Documents in the Supporting Documentation tab:

- a. Do not change the file names for current documents - all documents to support the case that CSR will be funded will follow the naming convention of existing filing instructions.
- b. For those documents that are impacted by CSR funding and to support the development of rates without CSR funding, you must include “without CSR funding” in the naming convention of the file names. For example, for your actuarial memorandum, you will have two separate files called “Part III Rate Filing Documentation and Actuarial Memorandum.pdf” and “Part III Rate Filing Documentation and Actuarial Memorandum without CSR funding.pdf”
- c. For all Exhibits to support the rate development related to “without CSR funding,” you must include the wording “without CSR funding” in the heading of the Exhibit.
- d. The Company Rate Information and Rate Review Detail should remain as submitted, unless you receive a specific objection regarding changes.
- e. The submission of updated applicable documents must include a separate actuarial certification from the opining actuary indicating that the changes to the rate documents are either to respond to pending objections or to update applicable documents and rating information related to CSR funding issue, individual mandate to buy health insurance, and risk adjustment and reinsurance data, and there are no other changes to the pricing assumptions. You must name this certification “Certification to Update CSR Funding Issue, Individual Mandate, and Risk Adjustment and Reinsurance Data,”

3. Health Insurance Oversight System (HIOS) Submission of Part I (URRT) and Part III (Actuarial Memorandum):

- a. For purposes of submitting Part I (URRT), Part II, and Part III (Actuarial Memorandum) to CMS through HIOS, since HIOS can accept only one version of the document, issuers are expected to load the version supporting the current situation that CSR is funded. Unless instructed otherwise, issuers are not required to submit Parts I, II, and III to HIOS the version without CSR funding.

Binder Filing:

1. Rate Data Template:

- a. For rates without CSR funding: Load a duplicate version of the rate data template without CSR funding on the Supporting Documentation tab in the binder.

- i. The only difference between the CSR funded Rate Data template and the non-CSR funded Rate Data Template should be the filing name and the rates for silver plans offered on-Exchange.
 - ii. Include “Without CSR Funding” in the file name of the duplicate Rate Data template.
 - b. For rates with CSR funding: Leave the Rate Data Template on the Templates tab as usual.
2. **Actuarial Memo and URRT:** Provide duplicates of these documents on the Supporting Documentation tab in the binder. Follow the naming convention prescribed for the documents in the rate filing.

II. Rating Assumption Related to the Weak Enforcement of the ACA Individual Mandate:

Applicability: All PY18 individual market Issuers

As discussed separately with the actuarial staff from each individual market issuer on 6/29/17 regarding the potential rate impacts related to the ACA individual mandate to buy health insurance, there was not a consensus among issuers regarding the potential impact on rates due to a weaker individual mandate to buy health insurance. The OIC believes there are either no rate impacts or minimal rate impacts due to a weaker individual mandate for the following reasons:

- The individual mandate to buy health insurance has not been implemented as it is supposed to be (a weak mandate already).
- Some of the rate impacts (if any) due to this are already part of the rating methodology.

As stated earlier, the Commissioner is committed to address this issue and treat each individual carrier in a fair and equitable manner. Since there are no concrete studies or data to definitively support a rate impact for a weaker individual mandate, and to be fair to all parties (OIC, issuers and consumers), we asked issuers to work with the Association of Washington Health Plans and come up with a consensus assumption for this issue and apply the assumption in the individual rate filings.

Not surprisingly, the issuers in the individual market could not come to a consensus for this subject. While the OIC agrees that each company should establish its rating methodology to account for its unique member mix on and off-Exchange, risk pool health experience and trend, age, and the location of and type of plan designs offered in the market, the basis for a requested rate adjustment due to the uncertainty arising from a probable lack of mandate enforcement can be very subjective by a particular issuer due to lack of knowledge or understanding of the **entire** Washington State market. For example, some issuers have rearranged their service area counties or added or removed certain products – this may affect other issuers’ actual member mix on and off-Exchange and risk pool health experience.

With that being said, here is the guidance how we would review the potential rate impacts related to the ACA individual mandate to buy health insurance:

- If you had not included a rate impact in your current rate filing and decide to not change it, we will not object to it.
- If you change your assumption from no rate impact to some type of rate impacts, or if you currently include a rate impact in your rate filing, we will review the rate development. For us to make a determination, your justification must prove that the assumptions used are not subjective and your supporting documentation must be complete. In addition, if the rate impact is not within the industry norm of this type of rate impacts filed by Washington individual market issuers, we may request additional justification for your analysis of your rate impacts. In proving that the development of the rate impacts is not subjective, the OIC may request the issuer to retain a third party vendor to perform a study for this type of rate impacts specifically to Washington individual market, and this may prolong the review of your rate filing.

III. Rating Assumption Related to Risk Adjustment and Reinsurance:

Applicability: All PY18 individual market Issuers

For guidance related to risk adjustment and reinsurance, please see Note to Filer dated July 12, 2017 to all PY18 individual market issuers.

IV. Procedures to update the rate filing related to items I, II, and III above:

For issuers with the rate filing currently in “active suspense,” please add the items above to your current objections, and include the response of above items to your response to current objection letter. Do not send your response through a “Note to Reviewer.” You may request an extension to respond to the objection letter due to this additional objection. If you need an extension, please send a “Note to Reviewer” and provide a new proposed “Respond By” date. However, delays will prolong the review of your rate filing.

For issuers with the rate filing currently under review (not in active suspense), please add the items above in the response to your next objection letter.