



Texas Association of Health Plans
1001 Congress Ave., Suite 300
Austin, Texas 78701
P: 512.476.2091
www.tahp.org

November 4, 2024

Re: Life, Health, and HMO Filings Rule Proposal

Texas Department of Insurance,

As the statewide trade association representing health insurers, HMOs, Medicaid managed care, and other health plans that serve over 20 million Texans, the Texas Association of Health Plans (TAHP) is committed to ensuring that Texas families and employers have access to affordable, comprehensive, and high-quality coverage. We are writing today to express concerns raised by our member plans relating to the Life, Health, and HMO Filings rule proposal.

§3.16. Certifications

Proposed Subdivision (a)(3) would make an individual certifying a filing responsible for being “familiar with all statutes and regulations of this state and United States that are applicable to the filing.” Existing rules apply that requirement only to the company. Of additional concern, subsection (c) makes the individual potentially criminally liable for a false certification. Generally, these forms are compiled by multiple operational areas of the issuer, and while each area can contribute their own knowledge that a filing is compliant with state and federal law, it may be difficult to find one individual who is able to certify to this across the entire filing. This would be particularly difficult to accomplish if the consequence of making an error is potential criminal liability. We ask that the agency revert to existing language, making the certification by the issuer rather than the individual, and strike Subsection (c) to remove the criminal liability.

§3.17. Form and Rate Filing Requirements

Subsection (f) appears to require that all newly issued forms include any approved amendments. Oftentimes, amendments are filed because of revised requirements outside of the issuer’s control that may not feasibly be encompassed into the base forms prior to issuance of the forms to members. Typically, there is significant lead time to load, test, and quality control new forms before issuance. It would be administratively burdensome to immediately incorporate newly approved amendments into all forms, particularly given that forms are issued to members throughout the calendar year. For example, if an amendment is approved in December, it is highly unlikely that new booklets issued on January 1st could include the amendment in the base policy.



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We ask that the agency designate some amount of time after which newly issued forms would have to include the language. This could be some set amount of time, such as six months after approval, that would give issuers time to incorporate the amendments. Given that many plans renew on July 1st, the 6-month window would give issuers the ability to incorporate all of the amendments to those plans that become effective January 1st and provide the updated plan documents at the expected time.

§3.23. Acceptance, Rejection, and Disposition of Filings

Subdivision (c)(3) requires issuers to submit corrections within 10 business days after a notice of deficiency. As we witnessed during the most recent round of filings, some of these corrections are minor, but others can be extremely burdensome and time consuming, particularly when new statutes or regulations are being applied. While 10 business days may be reasonable in most scenarios, we ask that the agency add language allowing the issuer and the Department to extend the time frames upon agreement by both parties. This would build in some flexibility but ensure that the agency is still able to hold issuers accountable when appropriate.

§3.51. Payment of Premiums or Cost Sharing

This proposal would require issuers to accept premium payments and apply cost-sharing payments from certain persons. We are extremely concerned with this proposal, as these third-party payment schemes have been abused by bad actors in the past. While we appreciate that the Department added guardrails, specifically in subdivision (3), we would like to suggest instead codifying existing practice, as provided by the agency's [FAQ](#):

Third Party Premium Payment

Are companies required to accept premium payments from third parties?

Generally, *Texas law does not require a company to accept premium payments from third parties*; however, a company may not reject third-party premium payments unless this limitation is clearly disclosed in the policy or evidence of coverage. Contractual language that limits or refuses third party payments must not interfere with enrollees' other contractual rights, and must be consistent with 28 TAC §3.3038, which specifies the circumstances under which it is permissible to terminate coverage.

In other words, by the agency's own admission, this proposed rule is not supported by statute. With that being said, we believe the current policy, which requires plans to expressly disclose limitations on third-party payments, is an acceptable middle ground. We ask that the agency



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either align with statute, by removing the provision entirely, or replace the proposed language by instead codifying this long standing practice.

§3.52. Filings Required for Termination of Guaranteed Renewable Coverage

Subsection (e) currently requires plans to submit a filing to the department related to termination by discontinuance or refusal to renew at least 180 days before coverage under the first plan terminates. The provisions cited in this Subsection address both discontinuance and withdrawal scenarios, yet the current discontinuance rules require only 90 days.¹ We ask that the agency bifurcate the requirements for withdrawal and discontinuation, leaving discontinuation at 90 days, or clarify that the current 180-day notice requirement only applies to withdrawal.

We appreciate the opportunity to comment on this proposal, and we look forward to working with the agency to address these concerns. Please contact us if you have any questions.

Sincerely,

A handwritten signature in black ink that reads "Jamie Dudensing". The signature is written in a cursive, flowing style.

Jamie Dudensing, RN
CEO
Texas Association of Health Plans

¹ §§ 3.3038(d), 11.506(b)(3)(D)(v), 21.2704(d)(1), 26.16(c), and 26.309(c), Texas Administrative Code.