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Subject: Qualified Health Plan (QHP) Certification Updates for the Federally-facilitated Exchange (FFE) and State-based Exchanges on the Federal Platform (SBEs-FP) in Response to *City of Columbus v. Kennedy*, No. 25-cv-2114-BAH (D.Md.)

Purpose

This update provides issuers and states with important information, instructions, and immediate action you may need to take for Plan Year 2026, including changes that may be required to QHP data, rates, and form filings, as well as recommendations for when states should approve such changes to preserve the ability to revert to the current filings depending on the outcome of motions now under consideration by the Maryland District Court and the United States Court of Appeals for the Fourth Circuit.

Background

Pursuant to an order of the United States District Court for the District of Maryland in *City of Columbus v. Kennedy*, No. 25-cv-2114-BAH (D. Md.), the implementation of certain provisions of the recently promulgated [Marketplace Integrity and Affordability Final Rule](#), 90 Fed. Reg. 27074 (June 25, 2025), has been stayed while the litigation remains pending. These provisions were scheduled to go into effect on August 25, 2025.

As a result of the court's order, the following provisions of the final rule did not go into effect:

- a. The requirement that enrollees in fully subsidized Exchange coverage who fail to timely submit an application for an updated eligibility determination be subject to a \$5 monthly premium until such an application is submitted, as reflected through the addition of 45 C.F.R. § 155.335(a)(3) and (n).
- b. The policy permitting issuers, subject to applicable state law, to decline to effectuate new coverage if a customer fails to pay premiums owed for prior coverage, as reflected through revisions to 45 C.F.R. § 147.104(i);

- c. The failure to reconcile policy in 45 C.F.R. § 155.305(f)(4), including the Marketplace Integrity and Affordability Final Rule’s amendments to that policy through the addition of 45 C.F.R. § 155.305(f)(4)(iii);
- d. The imposition of pre-enrollment eligibility verification requirements for all special enrollment periods, through revisions to 45 C.F.R. § 155.420(g);
- e. The imposition of a requirement that Exchanges verify household income inconsistencies when a tax filer’s attested projected annual household income differs from “trusted data sources,” through revisions to 45 C.F.R. § 155.320(c)(3)(iii)(A) and the addition of 45 C.F.R. § 155.320(c)(3)(vi)(C)(2);
- f. The imposition of a requirement that Exchanges verify a consumer’s annual household income when tax return data is unavailable, through revisions to 45 C.F.R. § 155.320(c)(5);
- g. The changes to the de minimis ranges for actuarial value calculations, through revisions to 45 C.F.R. §§ 156.140(c), 156.200(b)(3), and 156.400.

On August 29, 2025, the Department of Justice filed motions for a stay pending appeal on behalf of the U.S. Department of Health and Human Services in *City of Columbus v. Kennedy* (D. Md.). The motions ask the Maryland District Court and the United States Court of Appeals for the Fourth Circuit to stay the order with respect to the actuarial value policy under the Marketplace Integrity and Affordability Final Rule.

In the interim, absent any additional developments in the *City of Columbus v. Kennedy* litigation, issuers seeking certification of QHPs on the FFE (and SBEs-FP)¹ may need to revise their plan designs for Plan Year 2026 and submit updated rate and form filings for Centers for Medicare & Medicaid Services (CMS) or state review. In particular, issuers that filed plans with actuarial values that took advantage of the expanded de minimis ranges at 45 C.F.R. §§ 156.140(c), 156.200(b)(3), and 156.400 under the Marketplace Integrity and Affordability Final Rule must submit updated rate and form filings and revise their QHP certification applications to reflect the allowable de minimis ranges under the court’s order. If these plans are not revised to be compliant with the allowable ranges, CMS will be unable to certify them for Plan Year 2026.

CMS will make available a brief window, September 30 – October 1, 2025 (the Data Change Window), during which FFE and SBE-FP issuers seeking certification of QHPs may refile their QHP plan data submission for plans with actuarial values that comply with the court’s order. This window is in addition to the existing September 11 – 12 Data Change Window².

¹ These instructions generally apply to issuers in FFE and SBE-FP states. However, CMS reminds issuers that certain provisions of the Marketplace Integrity and Affordability Final Rule that are subject to the stay apply market-wide. Therefore, issuers in all states should review all planned Plan Year 2026 plan offerings (QHPs and non-QHPs) to assess whether any revisions are required in response to the stay.

² In a Data Change Window after completion of the QHP certification process, CMS will only consider allowing critical corrections, or changes that do not alter the QHP’s certification status. Before making QHP Application data changes, applicable issuers must request to make the change and receive approval from

This document details revised timelines for the **required** revision of plan actuarial values, and corresponding plan design changes issuers need to make to comply with the court's order. CMS will announce additional updates to the Plan Year 2026 QHP Certification Timeline in the coming days.

Rate and Form Review

Rate Review

Issuers in states with an Effective Rate Review Program³ should refer to any instructions from state regulators on refiling QHP rate changes in response to the court's order. If permitted by the state, such issuers may withdraw previously finalized QHP rate filings in the System for Electronic Rates and Forms Filing (SERFF).⁴ ⁵ Once an updated rate filing is submitted and validated in SERFF, it will automatically transfer to the Unified Rate Review (URR) Submissions Page in the Marketplace Plan Management System (MPMS) and replace the prior filing.

Issuers in states without an Effective Rate Review Program (OK, TN, and WY) with QHPs that require revisions because of the court's order must submit a revised rate filing to CMS via the URR Submissions Page in MPMS by September 16, 2025. Because MPMS can host only one rate filing per issuer and market (individual or small group), such issuers should contact CMS Rate Review at ratereview@cms.hhs.gov by September 11, 2025, to request that CMS deactivate the existing, previously finalized rate filing prior to submitting a revised rate filing.

Issuers in states without an Effective Rate Review Program must provide the following materials in the Supplemental Documents field of the revised rate filing in MPMS:

- A redline version of the actuarial memorandum reflecting any updates;
 - The associated clean version must be provided in the designated actuarial memorandum field in MPMS;
- A cover letter with a concise overview of the actuarial memorandum changes and the rationale for such changes;
- An Excel spreadsheet providing qualitative and quantitative support for each factor change in a separate tab;
 - This must include a narrative explanation for the factor change, including the methodology, assumptions, market conditions, or policy updates;

CMS and their state regulator. More information on Data Change Windows is available at <https://www.qhpcertification.cms.gov/QHP/certificationforms/Data-Change-Windows>.

³ See 45 CFR 154.301 for the list of criteria CMS considers when evaluating whether a state has an Effective Rate Review Program.

⁴ Rate filings are considered finalized and cannot be modified once the state enters the applicable final determination in SERFF.

⁵ Any state with an Effective Rate Review Program that does not participate in SERFF (FL) must contact CMS Rate Review at ratereview@cms.hhs.gov to request CMS deactivate any previously finalized rate filings for issuers that the state is permitting to submit revised rate filings in the URR Submissions Page in MPMS.

- This must also include detailed data analysis, calculations, and supporting figures that justify the factor change and resultant rate adjustment;
- Any relevant reports, actuarial analyses, or external data sources used in developing the revised rate filing;
- A copy of the Rates Table Template in an Excel format; and
- A screen shot of the results of the Actuarial Value Calculator.

CMS Rate Review will review these revised QHP rate filings from issuers in states without an Effective Rate Review Program and finalize our determinations by September 29, 2025. Similarly, FFE and SBE-FP states with an Effective Rate Review Program must finalize determinations for any permitted revised QHP rate filings in SERFF by September 29, 2025.⁶ Issuers can then submit revised Rates Table Templates and other QHP application materials to CMS Plan Management during the September 30 – October 1, 2025, Data Change Window.

If CMS is able to obtain a stay pending appeal by September 19, we intend to allow issuers to revert to the actuarial values that fall within the revised de minimis ranges under the Marketplace Integrity and Affordability Final Rule and included in the previously finalized rate filings. However, to avoid confusion and ensure an orderly open enrollment period, if CMS is unable to obtain such a stay by September 19, we do not anticipate allowing issuers to revert to those de minimis actuarial value ranges.

To preserve the opportunity for issuers to update their QHP rate filings accordingly, CMS will not begin finalizing our QHP rate filing determinations until after September 19, 2025, or the date on which the court issues an opinion on the August 29, 2025 motions, whichever is earlier. CMS reminds states that once a rate filing determination is entered in SERFF, the rate filing cannot be updated. Instead, the issuer is only able to withdraw the finalized rate filing and then submit a new rate filing for review. Therefore, CMS encourages states with an Effective Rate Review Program to take a similar approach.

CMS will communicate directly with issuers in states without an Effective Rate Review Program regarding any necessary revisions to non-QHP rate filings through the standard review process. Under current CMS guidance,⁷ CMS and FFE and SBE-FP states with an

⁶ States with an Effective Rate Review Program that participate in SERFF must enter in SERFF the applicable final determination, which will then be automatically uploaded to the URR Submissions Page in MPMS. Any state with an Effective Rate Review Program that does not participate in SERFF (FL) must enter the applicable final determination directly in the URR Submissions Page in MPMS. There are three final determination statuses. All submissions that do not have any rate increases subject to review (rate increases less than 15%) must be in a status of “Rate Filing Accepted.” For submissions with rate increases that are subject to review (rate increase of 15% or greater), the submission must be in a status of “Review Complete” if the rate increase received a determination of “not unreasonable,” or in a status of “Final Justification Submitted” if the rate increase received a determination of “unreasonable” and the issuer has submitted the final justification.

⁷ See Bulletin: Timing of Submission of Rate Filing Justifications for the 2025 Filing Year for Single Risk Pool Coverage Effective on or after January 1, 2026 available at: <https://www.cms.gov/files/document/2025-rate-review-bulletindocx-508-compliant.pdf>.

Effective Rate Review Program must finalize determinations for non-QHP rate filings by October 15, 2025. However, CMS is extending this deadline to October 22, 2025. Similarly, CMS is extending the deadline for states with an Effective Rate Review Program with a State-based Exchange that does not use the HealthCare.gov platform to finalize determinations for QHP and non-QHP rate filings from October 15, 2025 to October 22, 2025. See Appendix 1 for a summary of the updated data change and rate review deadlines.

Form Review

Issuers in states where CMS is directly enforcing the Affordable Care Act (ACA) market-wide reforms (MO, OK, TN, TX, and WY) must review all forms and templates included in Tables 1 and 2 of CMS's Form Filing Instructions for SERFF for Plan Year 2026 (Form Filing Instructions).⁸ This includes any forms and templates that are listed as required for non-QHPs only (e.g., the Plans & Benefits Template and the Results of the Actuarial Value Calculator). If any materials listed in these tables require revisions in response to the court's order, the issuer must send CMS a request to reopen the filing, via SERFF, in accordance with the directions for acknowledged/closed filings under *Section IX*.

Coordination with State Reviewers of the Form Filing Instructions. This includes providing a description of and reason for the changes made (e.g., August 22, 2025, *City of Columbus v. Kennedy* court order), including the corresponding document names, impacted sections, and their respective page numbers. The issuer must submit the reopen request in SERFF by September 11, 2025.

Once the filing has been reopened, the issuer must use the Amendment Filing Function within SERFF to upload the clean and redlined versions of the revised form(s) and template(s) by September 16, 2025.

CMS will review the revised form(s) and template(s) by September 29, 2025. Issuers can then submit revised QHP application materials to CMS Plan Management during the September 30 – October 1, 2025, Data Change Window. This includes any revised QHP templates that were submitted to CMS Form Filing.

The issuer should not send the *Change Analysis Report*⁹ or *State Authorization Form*¹⁰ to CMS Form Filing for review in advance of submitting the Data Change Request to CMS Plan Management. Instead, the issuer should coordinate directly with the state insurance department to obtain state authorization prior to submitting the Data Change Request to CMS Plan Management.

⁸ See <https://www.cms.gov/files/document/py-2026-form-filing-instructions.pdf>.

⁹ See <https://www.qhpcertification.cms.gov/QHPvforcesite/apex/FileDownload?file=Change-Analysis-Report-Overview-v1-v1>.

¹⁰ See https://spidr.file.force.com/sfc/dist/version/download/?oid=00Dt000000LBQB&ids=068SJ00000UlvOR&d=%2Fa%2FSJ000003Bygf%2FBcXxIzj2ZccVavYyoHHlufvc4tYla4mwX1M5R_mvHq4&asPdf=false.

CMS is not accepting requests to reopen QHP form filings from issuers in states where CMS enforces only the Consolidated Appropriations Act, 2021 (CAA, 2021) requirements, if the requested changes are limited to those in response to the court's order.¹¹ Such issuers should refer to instructions from state regulators on reopening QHP form filings for state review in response to the court's order. CMS reminds these issuers to ensure that any revised forms and templates remain in compliance with the Public Health Service Act (PHS Act) provisions added by the CAA, 2021. For example, issuers that update their plan designs to comply with the actuarial value policy under the court's order must ensure that the cost sharing requirements for out-of-network services are compliant with section 2799A-1(a)(1) and (b)(1) of the PHS Act, and the insurance identification card includes any revised applicable deductible and out-of-pocket maximum limitation as required by section 2799A-1(e)(1) and (2).

QHP Application Data Change Window

During the September 30 – October 1 Data Change Window, affected issuers are required to make all QHP application data changes needed to account for the narrowing of the actuarial value de minimis ranges as required by the court's order. However, all QHP issuers can request and make approved changes to their plan data. Issuers will not be approved to change a plan's metal level or add new plans.

In the coming days, CMS will notify affected issuers and states of the applicable plan variants that require updating. So long as the August 22, 2025, District Court order is in effect, CMS cannot certify a QHP with an actuarial value that does not comply with the de minimis ranges in effect under the court's order.

Issuer Action Required

Issuers in FFE states and states performing plan management functions **are required to submit and receive approval on a Data Change Request** to enter the Data Change Window. Instructions for submitting data change requests, including new guidance on Change Analysis Reports, can be found on the [Data Change Windows webpage](#) of the QHP certification website. Issuers in SBEs-FP should work with their state to communicate any data changes that the state intends to transfer during the Data Change Window.

CMS requests that issuers in FFE states and states performing plan management functions submit any Data Change Request as soon as possible, but by no later than 5:00 p.m. ET on Thursday, September 25, 2025. Issuers in FFE states that are approved to update their QHP Application during the Data Change Window will be required to validate, cross validate, and submit any revised data to CMS within the MPMS Module during the September 30 – October 1 Data Change Window. Issuers in states performing plan

¹¹ CMS collects form filings from issuers in Alabama, American Samoa, Arizona, Arkansas, Connecticut, Delaware, Florida, Guam, Hawaii, Illinois, Indiana, Louisiana, Massachusetts, New Hampshire, Northern Mariana Islands, Rhode Island, and Virginia to verify compliance with certain CAA provisions.

management functions and SBE-FPs will be required to work with their state to transfer updated data from SERFF to HIOS for submission to CMS in the MPMS Module, as applicable.

State Action Required

States that provide state authorization for data changes should anticipate receiving requests to sign state authorization forms from issuers required to enter the Data Change Window, to be submitted as part of their complete Data Change Requests. SBE-FP states must contact PlanManagementStateCoordination@cms.hhs.gov **by no later than 5:00 p.m. ET on Thursday, September 25, 2025**, to request to transfer plan data during this window; this email should include the issuer IDs for which the state plans to transfer data. States performing plan management functions and SBE-FPs should transfer any updated data for issuers in their state from SERFF to HIOS during the communicated Data Change Window.

CMS will review all submitted data changes for any possible compliance action and will contact issuers and states at a later date regarding further actions, as applicable.

Questions regarding this communication should be directed to the Marketplace Service Desk (MSD) at CMS_FEPS@cms.hhs.gov or 1-855-CMS-1515. States may direct questions to PlanManagementStateCoordination@cms.hhs.gov.

Appendix 1. QHP Data Change Window and Form and Rate Review Timeline

QHP Data Change Window	September 11 – 12, 2025
Deadline for issuers in states without an Effective Rate Review Program to request CMS Rate Review deactivate QHP rate filings that require revisions	September 11, 2025
Deadline for issuers in states where CMS is directly enforcing the ACA market-wide reforms to request CMS Form Filing reopen any QHP form filings that require revisions	September 11, 2025
Deadline for issuers in states without an Effective Rate Review Program to submit revised QHP rate filings	September 16, 2025
Deadline for issuers in FFE and SBE-FP states to submit a Data Change Request to CMS Plan Management	September 25, 2025
CMS finalizes determinations for revised QHP rate filings from issuers in states without an Effective Rate Review Program	September 25 – 29, 2025
Deadline for FFE and SBE-FP Effective Rate Review states to finalize determinations for revised QHP rate filings in SERFF	September 29, 2025
Deadline for CMS to finalize review of revised QHP form filings	September 29, 2025
Data Change Window for issuers in FFE and SBE-FP states with approved Data Change Requests to submit revised Rates Table Templates and other QHP Application Materials	September 30 – October 1, 2025
Deadline for CMS to finalize determinations for revised rate filings containing only non-QHPs from issuers in states without an Effective Rate Review Program	October 22, 2025

Deadline for FFE and SBE-FP states with an Effective Rate Review Program to finalize determinations for rate filings containing only non-QHPs	October 22, 2025
Deadline for Effective Rate Review states with a State-based Exchange that does not use the HealthCare.gov platform to finalize determinations for QHP and non-QHP rate filings	October 22, 2025
Target date on which CMS will post all final rate changes. ¹²	October 31, 2025
Deadline for Effective Rate Review States to post all final rate increases, including those not subject to review (or link to ratereview.healthcare.gov for such information). ¹³	October 31, 2025

¹² CMS will post rate change information for all single risk pool coverage final rate filings. CMS will not post information that is a trade secret or confidential commercial or financial information, consistent with HHS's Freedom of Information Act regulations at 45 CFR 5.31(d).

¹³ See 45 CFR 154.301(b)(1)(ii).