



Illinois Department of Insurance

JB PRITZKER
Governor

ROBERT H. MURIEL
Director

MEMORANDUM

TO: 2020 QHP Issuers

FROM: Robert H. Muriel, Director of Insurance *RHM*

DATE: March 12, 2020

RE: Company Bulletin 2020-3

Re: 2019 Health and Human Services Exchange Program Integrity Final Rule

On December 27, 2019, the Centers for Medicare & Medicaid Services (CMS) issued the 2019 Health and Human Services Exchange Program Integrity Final Rule.¹ In addition to revising standards relating to Exchange oversight and data matching, the final rule notably includes new requirements for issuers of qualified health plans (QHPs) sold through an Exchange that cover non-Hyde abortion health care services.

The final rule outlines the requirements for billing consumers who have enrolled through an Exchange in a QHP that covers non-Hyde abortion health care services. The rule emphasizes the requirement for issuers to send a separate bill of at least \$1 per enrollee per month specifically for premiums for covered non-Hyde abortion health care services, and it provides standards for paper or electronic billing for this premium collection.

CMS acknowledged in the Federal Register the potential that, in the wake of its new rule, there is a “risk of terminations related to inadvertent failure to pay the separately billed amount for non-Hyde abortion services.” In reaction, CMS stated that the U.S. Department of Health and Human Services “will not take enforcement action against a QHP issuer that adopts and implements a policy, applied uniformly to all its QHP enrollees, under which an issuer does not place an enrollee into a grace period and does not terminate QHP coverage based solely on the policy holder’s failure to pay the separate payment for coverage of non-Hyde abortion services.”

¹ Patient Protection and Affordable Care Act; Exchange Program Integrity, 84 Fed. Reg. 71674 (Dec. 27, 2019), *available at* <https://www.federalregister.gov/documents/2019/12/27/2019-27713/patient-protection-and-affordable-care-act-exchange-program-integrity>.

It is important to note that CMS' statement offers issuers flexibility to protect at least some of their Exchange enrollees from automatic termination because of non-payment of premiums solely for certain abortion services.

The Department of Insurance encourages issuers that implement the separate billing requirement to adopt a policy that refrains from placing an enrollee into a grace period or terminating QHP coverage based solely on the policy holder's failure to pay the separate payment for coverage of non-Hyde abortion services. It is also important to note that CMS' policy of enforcement discretion does not relieve an issuer from any obligations arising under any Illinois laws.

Please consult the official rulemaking in the Federal Register for full details about the billing and payment requirements and the conditions for CMS' enforcement discretion. Refer any questions to the Centers for Medicare and Medicaid Services.