

This is an emergency amendment to 13.10.36 NMAC, which went into effect on May 1, 2022, Sections 7, 8, 10, and 11. These amendments will be effective on June 1, 2022.

13.10.36.7 DEFINITIONS: Terms are as defined in the Insurance Code, and as supplemented below.

A. “Advance state payments” means marketplace affordability program payments by the fund to a participating health insurance issuer on a monthly basis to lower premium and state out-of-pocket assistance for consumers.

B. “Affordability criteria” means the factors used to determine the amount of premium assistance or state out-of-pocket assistance that will be provided from the fund on behalf of an eligible individual.

~~**C. “Attachment range”** means the amount of claims costs incurred by a participating health insurance issuer for a covered person’s covered benefits in a plan year, above and below which the claims costs for benefits are eligible for reinsurance payments under the small group reinsurance program.~~

~~**D. “Coinsurance rate”** means the reimbursement percentage paid by the fund to a health insurance issuer participating in the small group reinsurance program for claims incurred for a covered person’s covered benefits in a plan year which are in the attachment range.~~

~~**E. “Eligible plan”** means a health plan sold on the New Mexico health insurance exchange (the “exchange” or “marketplace”) that meets the requirements for the state premium assistance program.~~

~~**F. “Federal poverty level or FPL”** means the federal poverty level issued annually by the U.S. department of health and human services at aspe.hhs.gov/poverty-guidelines/.~~

~~**G. “Income criteria”** means parameters to establish eligibility for marketplace affordability programs.~~

~~**H. “Modified adjusted gross income or MAGI”** [means household size and income calculated to determine eligibility for financial assistance on the New Mexico health insurance exchange.] means modified adjusted gross income as defined in 42 CFR § 435.60.~~

~~**I. “Marketplace affordability program”** means a fund program that reduces premiums and OOP costs for individuals and families who purchase individual or family coverage on the exchange.~~

~~**J. “OOP”** means out-of-pocket.~~

~~**K. “Participating health insurance issuer”** means a health insurance issuer who is authorized to sell a QHP on the exchange or in the fully-insured small group market who has confirmed in writing its intention to participate in a specified fund program prior to the commencement of the plan year.~~

~~**L. “Plan year”** means the year for which a participating health insurance issuer underwrites qualifying health insurance coverage.~~

~~**M. “Premium assistance”** means a fund program that pays a participating health insurance issuer to cover a portion of the premium obligation of a person who meets premium assistance affordability criteria.~~

~~**N. “QHP”** means a qualified health plan.~~

~~**O. “Reinsurance payment”** means an amount paid to a participating health insurance issuer under the small group reinsurance program.] **“Small business health insurance premium relief initiative”** means a program to reduce premiums for small businesses that purchase QHPs in the small group health insurance market.~~

~~**P. “Small group reinsurance program”** means a program to reduce premium rates for small businesses that purchase coverage in the fully insured small group market through the purchase of reinsurance for claim costs that fall in the attachment range.] **“Small group QHP purchaser”** means an employer who purchases one or more QHPs for any of its employees or owners through the small business health options program or directly from a health insurance issuer selling QHPs in the small group health insurance market.~~

~~**Q. “State benchmark plan”** means a qualified health plan that has been approved for sale on the exchange and that is identified by the superintendent as the plan to be used in developing affordability criteria.~~

~~**R. “State out-of-pocket assistance program”** means a fund program that reduces OOP costs for households that meet eligibility and income criteria established by the superintendent.~~

[13.10.36.7 NMAC – N, 5/1/2022; A/E, 6/1/2022]

13.10.36.8 APPROPRIATIONS REQUESTS: This rule governs appropriation requests.

A. Annually, the superintendent will submit appropriation requests to the legislative finance committee for each fund program. OSI will post proposed program parameters associated with the budget request on the agency’s website upon submission to the legislative finance committee.

B. The request for each fund program shall meet these minimum standards:

(1) for the affordability program, sufficient funding to provide premium reductions for individuals under four hundred percent of the FPL and OOP cost reductions for individuals under [~~two hundred fifty~~] three hundred percent of the FPL;

(2) for the small business affordability program, sufficient funding to realize premium reductions for qualified health plans across the small group market; and

(3) for the uninsured program, sufficient funding to expand coverage to eligible individuals under two hundred percent of the FPL before expanding further up the income scale.

[13.10.36.8 NMAC – N, 5/1/2022; A/E, 6/1/2022]

13.10.36.10 MINIMIZING COVERAGE DISRUPTIONS AFTER THE FEDERAL MEDICAID

CONTINUOUS COVERAGE REQUIREMENT EXPIRES: This rule governs the agency’s efforts to ensure a smooth transition into a QHP offered on the New Mexico health insurance exchange for individuals who no longer qualify for medicaid after the expiration continuous coverage requirement in the federal “families first coronavirus response act”.

A. Temporary medicaid transition premium relief program. The superintendent may issue a bulletin establishing a program that fully covers the cost of the first month’s premium for any QHP sold on the individual health insurance exchange for eligible individuals and families. The premium relief will be available to all members of a household that meet the eligibility requirements in Subsection B of this section. The payment may be used to effectuate coverage.

B. Eligibility for medicaid transition premium relief program. To qualify, a person must:

(1) be a resident of the state of New Mexico who is eligible to purchase a QHP on the New Mexico health insurance exchange;

(2) have lost medicaid coverage or expect to lose medicaid coverage within 60 days of submitting an application to the New Mexico health insurance exchange;

(3) no longer be enrolled in medicaid at the time their QHP coverage begins;

(4) be eligible for federal premium tax credits; and

(5) have an expected household income below four hundred percent of the federal poverty level during the 2022 plan year.

C. Duration. The program shall be available beginning on a date established by the superintendent and continue until the marketplace affordability program begins.

[13.10.36.10 NMAC – N/E, 6/1/2022]

13.10.36.11 SMALL BUSINESS HEALTH INSURANCE PREMIUM RELIEF INITIATIVE: This rule governs the agency’s small business health insurance premium relief initiative, which applies to fully-insured small group health benefit plans that meet QHP standards and are sold on or off the exchange.

A. Premium reduction percentage bulletin. Annually, based on available funding, the superintendent will issue a bulletin establishing a premium reduction percentage that will apply to all QHPs sold in the small group health insurance market. Health insurance issuers participating in the market shall discount charges to small group QHP purchasers by the percentage established by the superintendent and show the amount of the discount in all invoices to the purchaser. The superintendent may allow issuers to apply the discount directly or through a credit on the following month’s premium. The bulletin will establish the percentage reduction, reporting requirements, timetable and process for issuer reimbursement, and other requirements. The superintendent may issue additional guidance, if needed.

B. Reporting requirements and annual verification of accurate payments. Health insurance issuers selling QHPs in the small group health insurance market must report data related to enrollment, premiums, and reimbursement from the health care affordability fund to the office of superintendent of insurance on a regular basis, based on the requirements of the bulletin. Following each calendar year, on a date established by the superintendent, issuers must report annualized data requested by the agency to verify the accuracy of payments made from the fund. The superintendent will require issuers to replenish the fund if it is determined that any overpayment has been issued.

C. Payments to participating issuers. On a regular basis, as established in the bulletin, the office of superintendent of insurance will make payments from the health care affordability fund to issuers for the remainder

of the gross premium that that would otherwise be owed by small group QHP purchasers if the small business health insurance premium relief initiative were not in effect. The data received by OSI pursuant to Subsection B of Section 10 of this rule serves as the basis for OSI's regular payments to issuers from the health care affordability fund. Issuers must invoice the agency according to the bulletin's instructions in order to receive payment.

D. Notification of small group QHP purchasers. The superintendent will specify a date before the initiative goes into effect by which health insurance issuers must notify their small group QHP purchasers about the premium reductions provided by the initiative. Issuers subject to the rule should reflect the premium reduction amount in all invoices.

E. Treatment as third-party payment. For the purposes of the federal risk adjustment program and federal medical loss ratio requirements, the state payment under this section should be considered a third-party payment that is part of the gross premium.

[13.10.36.11 NMAC – N/E, 6/1/2022]