

STATE OF NEW MEXICO
OFFICE OF SUPERINTENDENT OF INSURANCE



SUPERINTENDENT OF INSURANCE
Alice T. Kane

DEPUTY SUPERINTENDENT
Colin Baillio

BULLETIN 2024-002

January 10, 2024

TO: ALL INSURERS OFFERING EXCEPTED BENEFIT PLANS SUBJECT TO 13.10.34 NMAC

RE: NOTICE OF EXCEPTED BENEFIT DATA CALL AND COMPLIANCE PERIOD

The Legislature enacted the Short-Term Health Plan and Excepted Benefit Act, NMSA 1978 § 59A-23G-1 through 59A-23G-6, on June 14, 2019. Pursuant to the Act, the Superintendent promulgated 13.10.34 NMAC to establish rules for excepted benefit insurance products subject to the Act (hereinafter “Excepted Benefit” or “Excepted Benefits”), which went into effect on January 1, 2024. On December 20, 2023, the Superintendent also adopted an amendment to 13.10.34 NMAC, adding Sections 23 and 24, which will be effective on January 1, 2025, and April 1, 2026.

The Superintendent is issuing this Bulletin to announce a mandatory Data Call for all plans subject to 13.10.34 NMAC and provide guidance to insurers for compliance with 13.10.34.23 NMAC.

Data Call:

Insurers offering Excepted Benefits subject to 13.10.34 NMAC are required to provide the following information in an excel spreadsheet format, via SERFF, no later than February 15, 2024, for each existing Excepted Benefits product:

Main Office: 1120 Paseo de Peralta, Fourth Floor, Santa Fe, NM 87501
Satellite Office: 6200 Uptown Blvd NE, Suite 400, Albuquerque, NM 87110
Main Phone: (505) 827-4601 | Toll Free: (855) 4 - ASK - OSI

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- Product Type – Identify if the existing Excepted Benefits plan is accident only, specified disease or illness, hospital indemnity, other fixed indemnity, disability income, supplemental, insurance similar to workers’ compensation (non-subject worker) or other.
- Market Type – Identify the existing Excepted Benefits plan issued to an individual, group, or as blanket insurance.
- Form Number – Identify the form number of the existing Excepted Benefits plan, policy or certificate of insurance.
- SERFF Filing Number – Identify the SERFF number of the previously approved Excepted Benefits plan(s).
- Number of plans – Provide the number of policies issued for individual plans, the number of certificates issued for group plans, and the number of policies or contracts issued for blanket insurance.
- 13.10.34 NMAC – Provide information to indicate if the previously approved product filing has been revised to comply with 13.10.34 NMAC or terminated.
 - Enter the SERFF tracking number of the existing Excepted Benefits product filing that has been reviewed and approved subject to the January 1, 2024, version of 13.10.34 NMAC.
 - Enter “No” if the Excepted Benefits product filing will not be amended to comply with 13.10.34.23 NMAC.
- 13.10.34.2(C) NMAC - Enter “Yes” if the company believes the plan(s) included in the previously approved product filing qualify for grandfathered status under 13.10.34.2(C) NMAC. In addition, attach a completed Grandfathered Status Form under the Supporting Documentation tab.
- 13.10.34.23 NMAC - Enter “Yes” if the insurer will submit form/rate product filing(s) to revise their existing Excepted Benefits plan(s) to comply with 13.10.34.23 NMAC.

The spreadsheet template is provided with this Bulletin and is available on OSI’s website. Insurers’ responses to the Data Call must be submitted for review via SERFF as informational filings under the “Health Other” TOI and Sub-TOI. Each filing must be identified as “2024 Excepted Benefits Data Call” in the “Project Name” section of the General Information tab in SERFF and address all Excepted Benefits products subject to 13.10.34 NMAC that the insurer

offers in New Mexico. Insurers' responses to the Data Call will be subject to confidentiality protections afforded by NMSA 1978, §59A-4-2.

Excepted Benefits Guidance:

The Superintendent has previously approved forms and rates for Excepted Benefit products in accordance with statutory authority under NMSA 1978 §59A-18-13. To help reduce market disruption, insurers choosing to comply with 13.10.34.23 NMAC to offer Excepted Benefit products in New Mexico, may continue to issue Excepted Benefit products previously approved by the Office of the Superintendent of Insurance (hereinafter "OSI") until 13.10.34.23 NMAC becomes effective, if the insurer:

1. Provides an accurate and complete response to the OSI's Excepted Benefit Data Call, via SERFF, which must be accepted by the OSI as complete; and
2. Actively pursues approval of Excepted Benefits product forms, rates, applications, and enrollment forms to comply with 13.10.34.23 NMAC.

The OSI recommends that insurers choosing to comply with 13.10.34.23 NMAC file all products and required forms with the OSI, via SERFF, by March 1, 2024, to allow sufficient time for review, approval, and insurer implementation by January 1, 2025. The OSI shall not consider any extensions of the compliance date for 13.10.34.23 NMAC and insurers will be subject to penalties if the January 1, 2025, implementation date is not met.

After January 1, 2024, insurers may only continue to offer Excepted Benefits plans if:

- The plan(s) meet grandfathering criteria of 13.10.34 NMAC; or
- The plan(s) have been reviewed subject to the January 1, 2024, version of 13.10.34 NMAC, have been approved by the OSI in SERFF, and are identified in the insurer's Data Call response as such; or
- The plan(s) will be revised to comply with the requirements of 13.10.34.23 NMAC, are identified in the insurer's Data Call response as plans that will be revised to comply with

13.10.34.23 NMAC, and are filed for review and approval in SERFF in a timely manner that allows for implementation by the insurer no later than January 1, 2025; or

- The plan(s) are issued as blanket insurance subject to Bulletin #2023-038.

The OSI will take enforcement actions for instances of insurer non-compliance with this Bulletin, or 13.10.34 NMAC.

If you have questions regarding this Bulletin, please contact Viara Ianakieva at viara.ianakieva@osi.nm.gov.

ISSUED this 10th day of January 2024.



ALICE T. KANE
Superintendent of Insurance

