



# Illinois Department of Insurance

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**PAT QUINN**  
Governor

**MICHAEL T. McRAITH**  
Director

**TO:** ALL LIFE, ACCIDENT AND HEALTH COMPANIES, HMOs, LHSOs, and VHSPs  
WRITING POLICIES OR CONTRACTS SUBJECT TO THE FEDERAL HEALTH  
CARE REFORM LEGISLATION CONTAINED IN THE **PATIENT PROTECTION  
AND AFFORDABLE CARE ACT OF 2010 (PPACA)**

**FROM:** MICHAEL T. MCRAITH *MTM*

**DATE:** AUGUST 9, 2010

**RE:** COMPANY BULLETIN 2010 – 04A

## **DIRECTIONS FOR CERTIFIED PPACA COMPLIANCE FILINGS – UPDATED**

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The Department issued Company Bulletin 2010-04 on June 10, 2010, to provide guidance and enable companies to file amendatory policy language compliant with the Patient Protection and Affordable Care Act of 2010 (PPACA) in an expedited and certified manner. After the Company Bulletin was issued, the U.S. Department of Health and Human Services and other federal agencies published interim final regulations implementing certain sections of PPACA. *See* 75 FR 34538; 75 FR 37188; 75 FR 41726; and 75 FR 43330. In response to the federal guidance, and to ensure that amended policies are fully compliant with the requirements of PPACA, the Department has amended certain sections of the PPACA Endorsement Template (Exhibit A) that accompanied Company Bulletin 2010-04. The amended Exhibit A is attached to this bulletin, which replaces Company Bulletin 2010-04 in its entirety.

The Endorsement Template reflects the requirements of PPACA as well as corresponding provisions of State law that exceed PPACA requirements and do not prevent PPACA's application. For example, the Endorsement Template may include a provision of State law or regulation that applies to "grandfathered" plans exempt from the corresponding PPACA provision, or a provision of State law or regulation that is more favorable to insureds than the corresponding PPACA provision.

The Department is currently working with the NAIC to make a "fillable PDF" version of the amended Exhibit A and Exhibit B available through SERFF.

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The federal Patient Protection and Affordable Care Act of 2010 (PPACA) requires health care plans to issue policies compliant with relevant PPACA provisions by September 23, 2010. Through this bulletin and accompanying exhibits, the Department provides directions to companies on how to make PPACA-compliant changes to existing policies. The Department's objective is to ensure Illinois consumers have access to health coverage policies containing the PPACA required mandates.

The Department is also issuing this bulletin to enable companies to file amendatory policy language in an expedited and certified manner. The instructions attached as Exhibit C explain the use of Illinois' PPACA Endorsement Template. The endorsement template incorporates the PPACA standards required in health policies, including:

- Limited annual and lifetime dollar limits
- Restrictions on rescissions
- First-dollar coverage for preventive services
- Extension of coverage to dependents
- Internal and external appeal rights
- Coverage for emergency services
- Direct access to obstetricians and gynecologists
- Selection of a primary care provider
- Limitations on preexisting condition exclusions

The PPACA Endorsement Template includes brackets to take into account requirements for individual and group policies as well as for grandfathered and non-grandfathered policies. It is the companies' responsibility to ensure that the proper mandates correspond to the proper policy type. The Department has provided guidance where necessary through the use of drafting notes within the template. These drafting notes are to be deleted when making the filing.

The PPACA Endorsement Template, if submitted verbatim and certified as such by an officer of the company, will be accepted by the Department as satisfying the requirements of PPACA and will be approved in an expedited manner. This does not preclude subsequent Department action should the certification have been made in error or if the policy does not otherwise meet the standards established in the template. If a problem is discovered within a filing after its submission, the certification will not be valid and the filing must then be withdrawn and resubmitted in order to ensure it conforms with Department requirements. The company will be responsible for ensuring that all insureds are provided the full benefits provided by PPACA.

Companies that choose not to use the PPACA Endorsement Template may file under the standard filing process and the filing will not be expedited.

The endorsement template and complete directions regarding the filing process are included with this bulletin. The Department recognizes that time is of the essence in amending existing policies to ensure that the citizens of Illinois receive the consumer protections provided by PPACA. We look forward to the cooperation of the insurance industry in this process and strongly encourage the use of the endorsement template.

Questions regarding this bulletin should be directed to David Grant at [dave.grant@illinois.gov](mailto:dave.grant@illinois.gov).

Enclosed:      Exhibit A – PPACA Endorsement Template  
                  Exhibit B – PPACA Certification of Compliance  
                  Exhibit C – Filing Directions

Exhibit A

[INSURANCE COMPANY]  
ILLINOIS

**PPACA Endorsement Template**

**PATIENT PROTECTION AND AFFORDABLE CARE ACT OF 2010**

[Grandfathered/Non-grandfathered] [GROUP/INDIVIDUAL] [POLICY/CERTIFICATE] **RIDER**

The [Policy/Certificate], to which this rider is attached and becomes a part, is amended as stated below.

A new section titled “Patient Protection and Affordable Care Act” is hereby added to the [Policy/Certificate] as follows:

**PATIENT PROTECTION AND AFFORDABLE CARE ACT OF 2010**

Effective [mm/dd/yyyy], some of the benefits, terms, conditions, limitations, and exclusions contained in Your [Policy/Certificate] will change as a result of the Patient Protection and Affordable Care Act of 2010. Notwithstanding any other provision of Your [Policy/Certificate], the provisions below shall apply. In the event of a conflict between the provisions of any other Section of Your [Policy/Certificate] and the provisions of this Rider, the provisions of this Rider shall prevail, except to the extent the provisions of Your [Policy/Certificate] are more beneficial to You than are the provisions of this Rider.

**Definitions**

For the purposes of this Rider, the following definitions shall apply:

“Emergency services” means, with respect to an emergency medical condition, a medical screening examination that is within the capability of the emergency department of a hospital, including ancillary services routinely available to the emergency department to evaluate such emergency medical condition, and, within the capabilities of the staff and facilities available at the hospital, such further medical examination and treatment as are required to stabilize the patient.

(COMPANY DRAFTING NOTE – HMOs: To maintain compliance with State law, the definition of “emergency services” shall be deleted from this Rider when modifying an individual or group HMO plan.)

“Essential health benefits” means benefits covered under the [Policy/Certificate], in at least the following categories: ambulatory patient services, emergency services, hospitalization, maternity and newborn care, mental health and substance use disorder services, including behavioral health treatment, prescription drugs, rehabilitative and habilitative services and devices, laboratory services, preventive and wellness services and chronic disease management, and pediatric services, including oral and vision care. Such benefits shall be consistent with those set forth under the Patient Protection and Affordable Care Act of 2010 and any regulations issued pursuant thereto.

“Patient Protection and Affordable Care Act of 2010” means the Patient Protection and Affordable Care Act of 2010 (Public Law 111-148) as amended by the Health Care and Education Reconciliation Act of 2010 (Public Law 111-152).

“Stabilize” means, with respect to an emergency medical condition, to provide such medical treatment of the condition as may be necessary to assure, within reasonable medical probability that no material deterioration of the condition is likely to result from or occur during the transfer of the individual from a facility.

**(COMPANY DRAFTING NOTE – HMOs:** To maintain compliance with State law, the definition of “stabilize” shall be deleted from this Rider when modifying an individual or group HMO plan.)

### **Lifetime Dollar Limits**

If Your [Policy/Certificate] contains a lifetime dollar maximum on the value of all benefits, such lifetime dollar maximum no longer applies. If Your [Policy/Certificate] contains a lifetime dollar maximum(s) on the value of specific benefits that are Essential Health Benefits, such lifetime dollar maximum(s) no longer apply.

If coverage under this [Policy/Certificate], for You or another person in Your family, ended by reason of reaching a lifetime dollar maximum, and You or Your family member are eligible for benefits under this [Policy/Certificate], You will receive written notice that You or Your family member are once again eligible for benefits under this [Policy/Certificate]. If Your family member is no longer enrolled under this [Policy/Certificate], he or she will be given an opportunity to re-enroll. We must provide You this written notice and, if applicable, the opportunity to re-enroll, by [mm/dd/yyyy].

### **Annual Dollar Limits**

Essential Health Benefits provided within Your [Policy/Certificate] [are subject to an annual dollar maximum that is the greater of: 1) \$750,000 (for the year beginning [mm/dd/yyyy]), \$1,250,000 (for the year beginning [mm/dd/yyyy]), \$2,000,000 (for the year beginning [mm/dd/yyyy]); or 2) the amount(s) shown on [page # and/or Section]] [or [are not subject to any annual dollar maximum(s)]].

[Coverage for benefits that are not Essential Health Benefits will not be taken into account when determining whether You have met or exceeded the annual dollar maximum, if any, as described above.]

**(COMPANY DRAFTING NOTE – GRANDFATHERED PLANS:** Pursuant to Section 1251 of the Patient Protection and Affordable Care Act of 2010 (PPACA), the Annual Dollar Limits section may be deleted when modifying an individual grandfathered policy.)

### **Rescissions**

We may not rescind Your [Policy/Certificate] based on a misrepresentation by You unless You have performed an act or practice that constitutes fraud, or made an intentional misrepresentation of material fact, as prohibited by the terms of Your [Policy/Certificate]. We must provide at least 30 days advance written notice before Your [Policy/Certificate] may be rescinded. You have the right to appeal any such rescission.

### **Preventive Services**

In addition to the [Covered Services] listed in [Section] of Your [Policy/Certificate], the following services shall be covered without regard to any deductible, copayment, or coinsurance requirement that would otherwise apply:

- (1) evidence-based items or services that have in effect a rating of “A” or “B” in the current recommendations of the United States Preventive Services Task Force;
- (2) immunizations that have in effect a recommendation from the Advisory Committee on Immunization Practices of the Centers for Disease Control and Prevention with respect to the Covered Person involved;
- (3) with respect to Covered Persons who are infants, children and adolescents, evidence-informed preventive care and screenings provided for in the comprehensive guidelines supported by the Health Resources and Services Administration;

(4) with respect to Covered Persons who are women, such additional preventive care and screenings not described in paragraph (1) as provided for in comprehensive guidelines supported by the Health Resources and Services Administration.

For purposes of this section, recommendations of the United States Preventive Service Task Force regarding breast cancer screening, mammography, and prevention issued in or around November 2009 are not considered to be current. No recommendation of the United States Preventive Service Task Force shall serve to reduce the mammogram benefits required by Illinois law [215 ILCS 356g(a)] and described on [Page # and/or Section] of your [Policy/Certificate].

**(COMPANY DRAFTING NOTE – GRANDFATHERED PLANS:** Pursuant to Section 1251 of PPACA, the Preventive Services section may be deleted when modifying an individual or group grandfathered policy.)

### **Extension of Coverage to Dependents**

Notwithstanding the eligibility requirements described in [Section] of Your [Policy/Certificate], a child in Your family is eligible to become a Covered Person if the child: 1) is under age 26, and 2) is related to You by one of the relationships listed in [Section] of Your [Policy/Certificate].

A child in Your family who is age 26 or older is also eligible to become a Covered Person if the child: 1) is an Illinois resident; 2) served as a member of the active or reserve components of any of the branches of the Armed Forces of the United States; 3) received a release or discharge other than a dishonorable discharge; 4) is under age 30; and 5) meets any additional eligibility requirements described in [Section] of Your [Policy/Certificate].

**(COMPANY DRAFTING NOTE:** This section may be deleted when modifying an individual or group policy that does not provide coverage for dependents.)

### **Right to Appeal**

You have the right to appeal any decision or action taken by Us to deny, reduce or terminate the provision of or payment for health care services requested or received under Your [Policy/Certificate]. When We have denied, reduced, or terminated a requested service or payment for a service covered by Your [Policy/Certificate] based on a judgment as to the medical necessity, appropriateness, health care setting, level of care, or effectiveness of the health care service, You have the right to have Our decision reviewed by an independent review organization not associated with Us.

We must provide you with certain written information, including the specific reason for Our decision and a description of Your appeal rights and procedures, every time We make a determination to deny, reduce or terminate the provision of or payment for health care services requested or received under Your [Policy/Certificate].

### **Emergency Services**

We shall cover Emergency Services without the need for any prior authorization determination and without regard as to whether the health care provider furnishing such services is a Participating Provider. Care provided by a Non-participating Provider will be paid at no greater cost to the Covered Person than if the services were provided by a Participating Provider.

### **Direct Access to Obstetricians and Gynecologists**

In addition to the Woman's Principal Health Care Provider described in [Section] of Your [Policy/Certificate], a female Covered Person may see any available participating health care professional who specializes in obstetrics or gynecology without referral from her Primary Care Provider.

Obstetrical and gynecological care authorized or ordered by a health care professional who specializes in obstetrics or gynecology will be treated as authorized by the Primary Care Provider.

**(COMPANY DRAFTING NOTE – GRANDFATHERED PLANS:** PPACA allows, but does not require the inclusion of this provision when modifying an individual or group grandfathered policy.)

**(COMPANY DRAFTING NOTE –** The Direct Access to Obstetricians and Gynecologists section may be deleted when modifying an individual or group policy that does not require the selection of a Primary Care Provider.)

### **Selection of a Primary Care Provider**

You may designate any available participating Primary Care Provider who is available to accept You to be Your Primary Care Provider as required under [Section] of Your [Policy/Certificate].

Your child's legal representative may designate a physician (allopathic or osteopathic) who specializes in pediatrics as his or her Primary Care Provider as required under [Section] of Your [Policy/Certificate].

**(COMPANY DRAFTING NOTE – GRANDFATHERED PLANS:** PPACA allows, but does not require the inclusion of this provision when modifying an individual or group grandfathered policy.)

**(COMPANY DRAFTING NOTE –** The Selection of a Primary Care Provider section may be deleted when modifying an individual or group policy that does not require the selection of a Primary Care Provider.)

### **Preexisting Condition Limitations**

With respect to Covered Persons who are under [19] [26] years of age, notwithstanding the Preexisting Condition Limitations described in [Section] of Your [Policy/Certificate/Rider], no health care service or treatment will be denied, limited, or excluded based on the fact that a medical condition was present before the effective date of Your [Policy/Certificate], whether or not any medical advice, diagnosis, care, or treatment was recommended or received before that day.

With respect to Covered Persons who are under [19] [26] years of age, any provision previously attached to the [Policy/Certificate] excluding coverage for a specific condition is removed and shall be considered null and void.

**(COMPANY DRAFTING NOTE – GRANDFATHERED PLANS:** PPACA allows, but does not require the inclusion of this provision when modifying an individual grandfathered policy.)

**(COMPANY DRAFTING NOTE –** Companies may voluntarily extend the prohibition on preexisting condition exclusions to individuals who are older than age 19.)

**Grandfathered Health Plan Disclosure Requirement**

This [group health plan/health insurance issuer] believes this [plan/coverage] is a “grandfathered health plan” under the Patient Protection and Affordable Care Act (the Affordable Care Act). As permitted by the Affordable Care Act, a grandfathered health plan can preserve certain basic health coverage that was already in effect when that law was enacted. Being a grandfathered health plan means that your [plan/policy] may not include certain consumer protections of the Affordable Care Act that apply to other plans, for example, the requirement for the provision of preventive health services without any cost sharing. However, grandfathered health plans must comply with certain other consumer protections in the Affordable Care Act, for example, the elimination of lifetime limits on benefits.

Questions regarding which protections apply and which protections do not apply to a grandfathered health plan and what might cause a plan to change from grandfathered health plan status can be directed to [insert contact information]. You may also contact the Illinois Department of Insurance at (877) 527-9431 or <http://insurance.illinois.gov>.

**(COMPANY DRATING NOTE – GRANDFATHERED PLANS:** Pursuant to the Interim Final Rule on grandfathered health plans under PPACA [45 CFR 147.40], in order to maintain status as a grandfathered health plan, a plan or health insurance coverage must include a statement, in any plan materials provided to a participant or beneficiary (in the individual market, primary subscriber), similar to the model statement above. This section may be deleted when modifying an individual or group policy that is not a grandfathered plan under PPACA.)

**Questions/Contact Information**

Questions regarding this Rider can be directed to [insert contact information]. You may also contact the Illinois Department of Insurance at (877) 527-9431 or <http://insurance.illinois.gov>.

This Rider takes effect on the [later of the] effective date [of the [Policy] [/] [Certificate] to which it is attached] [or [Month Day, Year]] [shown in the Certificate Schedule]. This Rider terminates concurrently with the [Policy] [/] [Certificate] to which it is attached. It is subject to all the definitions, limitations, exclusions and conditions of the [Policy] [/] [Certificate] except as stated.

IN WITNESS WHEREOF:

[Name of company]

[Signature]  
[President’s Name]  
President

Exhibit B – Company Certification

**State of Illinois**

**PPACA Certification of Compliance**

Company: \_\_\_\_\_ Company FEIN: \_\_\_\_\_

Company Filing Number: \_\_\_\_\_

I, \_\_\_\_\_, am a duly authorized officer of \_\_\_\_\_ (Company Name) \_\_\_\_\_, and hereby certify that I am knowledgeable concerning requirements necessary to comply with federal PPACA and associated health care reform legislation, and that the policy forms contained herein, along with associated documents, conform with the Department’s PPACA Endorsement Template contained in Exhibit A, and with the Department’s Filing Directions contained within Exhibit C – Filing Directions. I further certify that this submission is complete and contains all materials required by the PPACA Endorsement Template.

I understand that the Illinois Department of Insurance will rely on this Certification of Compliance for the policy forms listed, and should it subsequently be determined that the policy forms listed do not comply with Exhibit A or that this certification is false or incorrect; corrective and disciplinary action, including retroactive disapproval, as authorized by law, may be taken by the Department against the Company.

**Signature of Corporate Officer:** \_\_\_\_\_

**Name of Corporate Officer (typed or printed):**  
\_\_\_\_\_

**Title:** \_\_\_\_\_ **Direct Telephone Number:** \_\_\_\_\_

**Date:** \_\_\_\_\_

**(This certification does not change an insurer’s responsibility to comply with the Insurance Code. Failure to comply with all applicable provisions of the Code will cause an insurer to be subject to penalties ranging from suspension of authority to utilize the expedited process, discontinuation of authority to use of the form(s), examination, monetary penalties, or limitation or revocation of their certificate of authority. Insurers should be aware that the assignment of such penalties will be liberal to ensure continued compliance with all Code requirements.)**

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Company: \_\_\_\_\_ Company FEIN: \_\_\_\_\_

Company Filing Number: \_\_\_\_\_

SERFF Filing Number (if applicable): \_\_\_\_\_

(Please list all forms to which the filed endorsement will be applied.)

Form Number(s): \_\_\_\_\_ Form Title(s): \_\_\_\_\_

Company: \_\_\_\_\_ Company FEIN: \_\_\_\_\_

Company Filing Number: \_\_\_\_\_

SERFF Filing Number (if applicable): \_\_\_\_\_

(Please list all associated document filed with the endorsement.)

Form Number(s): \_\_\_\_\_ Form Title(s): \_\_\_\_\_

Exhibit C – Filing Directions

**PPACA Certification Directions**

- A. All documents must be submitted as indicated below.
1. The PPACA Endorsement Template and associated documents must be submitted in accordance with Illinois filing requirements. These forms must be attached under the SERFF Form Schedule Section when filed through SERFF.
  2. The PPACA Endorsement Template must comply with the format and content of Exhibit A (the content of the endorsement must be verbatim to the template applying applicable bracketed information and omitting drafting notes);
  3. The only documents that may be included in the filing are Exhibit A - PPACA Endorsement Template and associated documents (*i.e.*, applications, benefit booklets, *etc.*, **only** if changes are required by application of Exhibit A).

Other documents required to bring the policy into compliance with other laws and regulations (*i.e.*, endorsements to apply external review requirements or other state mandates) may not be included in the filing. Inclusion of such non-related documents will result in the rejection of the filing.

4. A properly completed and executed Exhibit B - PPACA Certification of Compliance must be submitted under the SERFF Supporting Documentation Section when filed through SERFF.
- B. For multiple company filings it is permissible to submit a single certification for all of the filings, but **only** if the company officer signing such certification has authority to sign on behalf of all of the companies, **and** if each company submits its own separate Form Number listing indicated on the Certification.
- C. Any filings submitted by CD-ROM must be mailed to the Department's Springfield address for processing:

Illinois Department of Insurance  
LAH Compliance Section  
320 W. Washington  
Springfield, IL 62767

- D. Once a filing has been received by the Department it is added to our system. This system produces a postcard that is sent to the company verifying that the filing has been received.

In addition, SERFF filings will be designated as “Certification Received” in the State Status box in the SERFF filing.

- E. Companies currently change filings frequently after they are submitted to the Department. This practice will not be allowed under this certification process. No changes may be made to a filing. If a problem has been discovered within a filing after a submission, the certification is not valid and the filing must be withdrawn and resubmitted in order to confirm compliance with the Department’s certification requirements. Policies issued under the withdrawn filing number will need to be reissued.
- F. Certified filings will be given priority and will only be reviewed to confirm compliance with the Department’s certification requirements. Companies may not issue endorsements until the filing is approved.