From: DMHC Licensing eFiling
Subject: APL 19-011 (OPL) - QIF Plan Regulatory Requirements
Date: Thursday, May 9, 2019 4:17:51 PM
Attachments: APL19-011 (OPL) - QIF Plan Regulatory Requirements (5.9.19).pdf

Dear Health Plan Representative,

Please see attached All Plan Letter regarding upcoming changes to the treatment of QIF Plans.
Thank you.

Gavin Newsom, Governor
State of California
Health and Human Services Agency
DEPARTMENT OF MANAGED HEALTH CARE
980 9th Street, Suite 500
Sacramento, CA 95814
Phone: 916-324-8176 | Fax: 916-255-5241
www.HealthHelp.ca.gov

ALL PLAN LETTER

DATE: May 09, 2019

TO: All Health Care Service Plans

FROM: Phuc Nguyen
Acting Deputy Director, Office of Plan Licensing

SUBJECT: APL 19-011 (OPL) QIF Plan Regulatory Requirements

The Department of Managed Health Care (the DMHC or Department) issues this All Plan Letter (APL) to notify health care service plans (plans) about upcoming changes to the treatment of QIF Plans, and steps plans with an affiliated QIF Plan should take to maintain compliance with the Knox-Keene Health Care Service Plan Act of 1975 (the Knox-Keene Act).[1] As detailed below, beginning January 1, 2020, the Department will treat QIF Plans as distinct from affiliate plans, in all respects.

A. BACKGROUND

In 2003, the Legislature amended the California Welfare and Institutions Code to authorize the Department of Health Care Services (DHCS) to impose a Quality Improvement Fee on capitation payments to Medi-Cal managed care plans.[2] To protect their commercial and non-Medi-Cal managed care contracts from being included in the calculation of the Quality Improvement Fee, some managed care plans created separate affiliate entities, often referred to as "QIF Plans," to allow the affiliate plan to segregate Medi-Cal managed care contracts from its other lines of business.

Effective October 1, 2009, the Legislature eliminated DHCS's authority to impose the Quality Improvement Fee on Medi-Cal plans.[3] Accordingly, the reason for the formation of the QIF Plans no longer exists. However, a QIF Plan's Knox-Keene Act license, like the license of any other health plan, remains in effect until the plan surrenders the license or the DMHC suspends or revokes the license.[4] For this reason, QIF Plans

---

[1] Knox-Keene Health Care Service Plan Act of 1975, as amended (Health and Safety Code Section 1340, *et seq.*).
[2] Statutes of 2003, chapter 230, section 73 (AB 1762), effective August 11, 2003.
[3] Statutes of 2007, chapter 188, section 91 (AB 203).
[4] Health & Saf. Code, § 1355.

continue to operate notwithstanding the absence of the need for protection from the Quality Improvement Fee.

Despite the separate status of QIF Plans from affiliate plans, the DMHC historically has treated QIF Plans as indistinct from the affiliate plan with respect to, among other things, filings with the DMHC, assessments, grievance tracking, and DMHC surveys and examinations. For this reason, QIF Plans have not typically been required to separately demonstrate compliance with the Knox-Keene Act.

After due consideration, the DMHC determined the more appropriate approach is to treat QIF Plans as distinct from the affiliate plans. Thus, beginning January 1, 2020, the Department will treat QIF Plans as distinct plans.

B. DEADLINES

By **July 1, 2019**, plans with an affiliated QIF Plan license must notify the Department's Office of Plan Licensing reviewer assigned to the QIF Plan, in writing,[5] whether the plan intends to:

(1) maintain its QIF Plan license by demonstrating compliance with applicable Knox-Keene Act requirements; or

(2) transfer plan products and enrollees from its QIF Plan to the affiliate plan, and surrender the QIF Plan license.[6]

A plan that intends to maintain its QIF Plan license will need to attend a prefiling conference and submit a Notice of Material Modification. The Department will issue guidance tailored to the plan at the prefiling conference.

A QIF Plan *with* lives that intend to surrender its QIF Plan license may transfer products and lives to its affiliate plan, and will need to attend a prefiling conference and submit an Application for Surrender.[7] A QIF Plan *without* lives that intends to surrender its license is not required to attend a prefiling conference, and may immediately file an Application for Surrender.[8]

---

[5] Email will suffice.

[6] If an entity's Medi-Cal lives are not *with* its QIF Plan but instead *with* its affiliate plan, the entity should decide whether to maintain or surrender its QIF Plan license and take the appropriate action(s). For example, an entity may decide to maintain its QIF Plan license containing Medi-Cal lives, and surrender the affiliate plan. In this case, the QIF Plan would file the Notice of Material Modification to demonstrate compliance with the Knox-Keene Act, and the affiliate plan would file the Application to Surrender.

[7] *See* Footnote 6.

[8] The surrendering licensee should file the Application to Surrender under its eFiling Health Plan ID. *See* Health & Saf. Code, § 1399, and Cal. Code of Regulations, title 28, section 1300.99.

Plans that intend to surrender their QIF license must notify the Department of Health Care Services (DHCS) of its intention to surrender by **July 1, 2019**

Plans are encouraged to schedule prefiling conferences to occur as soon as possible, but no later than **August 1, 2019**. Plans are also encouraged to file the Notice of Material Modifications and/or Applications for Surrender as soon as possible, but no later than **September 1, 2019**.

C. QIF PLAN REQUIREMENTS BEGINNING JANUARY 1, 2020

The following sections of this APL provide a non-exhaustive overview of Knox-Keene Act requirements to which the DMHC will hold QIF Plans and affiliate Plans on a going-forward basis beginning January 1, 2020.

Plans that decide to maintain both QIF and affiliate licenses must demonstrate that each entity has the infrastructure, administrative capacity, and financial solvency necessary to comply with the Knox-Keene Act.

A plan that decides to surrender its QIF license shall notify DMHC and DHCS by July 1, 2019. DHCS will notify Centers for Medicare and Medicaid Services (CMS) of the change. Plans with lives in their QIF license shall follow DHCS' instructions relating to CMS notification. DHCS shall notify DMHC and the Plan if CMS requires additional documents and when the CMS notification process is complete. Plans with lives in their QIF license will not be considered non-compliant with this APL until thirty (30) days after DHCS notifies DMHC and the Plan that all notices and any documentation required by CMS has been completed.

1. Financial Requirements

The DMHC will require QIF Plans to comply with all financial requirements of the Knox-Keene Act. These financial requirements cannot be waived. QIF Plans will be required to:

(a) Submit the following quarterly and annual reports separately from the reports submitted by the affiliate plan:

i. Financial reports

ii. Claims settlement practices reports

(b) Maintain bank accounts and its books and records separately from the affiliate plan.

(c) Comply with the Knox-Keene Act's restricted deposit and minimum tangible net equity (TNE) requirements. The QIF Plan's restricted deposit and minimum required TNE will be in addition to those required of the affiliate plan.

(d) Demonstrate that it has a financially viable operation on a stand-alone basis.

(e) Maintain the various insurance requirements, including compliance with the fidelity bond requirements.

(f) Submit other reports (e.g., federal MLR, SB 546, and SB 17) separately from the affiliate plan.

(g) Undergo routine and non-routine financial examinations separately from the affiliate plan. The DMHC will schedule an orientation examination for the QIF Plan sometime during the first half of 2020.

2. Survey and Networks Requirements

The DMHC will require a QIF Plan to comply, separately from the affiliate plan, with all applicable survey, network adequacy and reporting requirements. Specifically, QIF Plans will be required to:

(a) Submit timely access compliance reports and annual network data separate from the affiliate plan;

(b) Submit block transfer filings separate from the affiliate plan; and,

(c) Undergo routine and non-routine medical surveys separately from the affiliate plan. The DMHC will add the QIF Plans to its routine survey schedules.

3. Office of Plan Licensing (OPL) Filing Requirements

The DMHC will require a QIF Plan to submit operating documents, such as Evidences of Coverage and subscriber agreements, separately from the affiliate plan, even if the QIF Plan's and affiliate plan's documents are similar or identical. Previously, OPL allowed QIF Plans to either file an abbreviated filing indicating the affiliate plan filed the documents, or not file at all. As of January 1, 2020, this will no longer be sufficient for licensing purposes.

4. Help Center Requirements

The Help Center will record contacts it receives from enrollees and others regarding a QIF Plan as pertaining to the QIF Plan, rather than pertaining to the affiliate plan. The DMHC's annual report of the number of consumer complaints and Independent Medical Reviews received for each plan will list separately the numbers for the QIF Plans and their affiliate plans.

The QIF Plan also must maintain on file with the DMHC an up-to-date Exhibit W-11 listing the QIF Plan's contacts. The QIF Plan cannot rely on the Exhibit W-11s submitted by its affiliate plan.

D. SUMMARY OF KEY DATES

By **July 1, 2019**, plans with an affiliated QIF Plan must notify the Department in writing of its intentions regarding its QIF Plan license, i.e., to maintain or surrender. A plan that intends to surrender must also notify DHCS of its intention to surrender by this date.

By **August 1, 2019**, if required above, plans must attend a prefiling conference.

By **September 1, 2019**, if required above, plans must file a Notice of Material Modification.

On **January 1, 2020,** the Department will treat QIF Plans as distinct from affiliate plans and subject to the requirements of the Knox-Keene Act.[9]

If you have questions or concerns regarding this APL, please contact your plan's assigned Office of Plan Licensing reviewer.

[9] A plan that decides to surrender its QIF license shall notify DMHC and DHCS by July 1, 2019. DHCS will notify Centers for Medicare and Medicaid Services (CMS) of the change. Plans with lives in their QIF license shall follow DHCS' instructions relating to CMS notification. DHCS shall notify DMHC and the Plan if CMS requires additional documents and when the CMS notification process is complete. Plans with lives in their QIF license will not be considered non-compliant with this APL until thirty (30) days after DHCS notifies DMHC and the Plan that all notices and any documentation required by CMS has been completed.