



**THE STATE OF NEW HAMPSHIRE
INSURANCE DEPARTMENT**

21 SOUTH FRUIT STREET SUITE 14
CONCORD, NEW HAMPSHIRE 03301

Roger A. Sevigny
Commissioner

Alexander K. Feldvebel
Deputy Commissioner

**BULLETIN
Docket No.: INS-14-015-AB**

TO: All New Hampshire Licensed Health Carriers and Dental Insurers

FROM: Roger A. Sevigny

A handwritten signature in black ink, appearing to be "RAS", is placed next to the name Roger A. Sevigny.

DATE: May 9, 2014

RE: 2015 QHP Certification: Guidance on the Filing of Advertising Materials

I. Guidance to Issuers

New Hampshire law requires that health maintenance organizations (HMOs) submit advertising materials to the Insurance Department for review "prior to use." RSA 420-B:8, VI. As defined under the law, "advertising" includes all types of printed and published materials, as well as any descriptive literature, presentations or sales aids used by a carrier or producer in presenting information to consumers. RSA 420-B:1, I. The law specifically prohibits the use of advertising or other solicitations which are "untrue or misleading," and sets forth standards for identifying prohibited practices RSA 420-B:12, I.

For purposes of the Department's review of proposed 2015 Qualified Health Plans (QHPs) as well as its review of non-QHP major medical policies, the Department interprets the requirement of review "prior to use" under RSA 420-B:8, VI to mean the following:

Before an HMO uses any materials meeting the definition of advertising in RSA 420-B:1, I, the HMO shall file the materials with the Department for review. Issuers must submit all such advertisements through SERFF in the filing mode of "information only," with the filing type marked as "Advertising." Per NHCAR Ins 401.03, all forms must have a form number in the lower left hand corner.

In addition to the informational filing, issuers shall submit an attestation in the supporting documentation tab in SERFF stating that all advertising materials are in compliance with applicable state and federal regulations, including the standards set forth in RSA 420-B:12, I. (*Attestation attached hereto as Appendix I.*)

The issuer may commence using the advertising materials once the filing requirements above have been completed. However, the Department reserves the right to disapprove any and all filed advertisements, to the extent they do not conform with the substantive requirements under RSA 420-B:12 or other applicable laws. All issuers should be prepared to participate in a full review of all filed materials.

Responsible advertising ensures that a consumer has clear and transparent information regarding benefits and cost sharing provisions. The Department will require corrective action, as necessary, in circumstances where there is harm or potential harm to consumers created by advertising that is misleading or untrue, or which otherwise violates consumer protection standards. In addition, where advertising would lead a reasonable consumer to believe a policy confers a greater benefit than stated in the approved policy or certificate, the Department will take enforcement action as necessary to protect the consumer, potentially including holding the carrier to the policy terms created by the advertising materials.

II. Contact Information

Questions related to this guidance should be directed to Michael Wilkey, Director of Compliance and Consumer Services at the New Hampshire Insurance Department, at michael.wilkey@ins.nh.gov or by phone at (603) 271-2261 ext. 330.

Appendix I: State of New Hampshire

**CERTIFICATION FOR ADVERTISING/MARKETING SUBMISSION FOR COMPLIANCE WITH THE PATIENT
PROTECTION AND AFFORDABLE CARE ACT OF 2010**

I, the undersigned officer of _____ do hereby attest that:

(NAME OF ENTITY)

I am knowledgeable of health coverages and have carefully reviewed the contents of this submission in regards to advertising/marketing guidelines as set forth in RSA 420-B:8 VI, NHCAR PART INS 2600, and federal Health Insurance Marketplace branding guide and logo for QHPs found at:

<http://marketplace.cms.gov/getofficialresources/marketplace-brand-guide.pdf>

I have read the advertisements/marketing material of health care coverage identified on the attached compliance filing as submitted to the New Hampshire Commissioner of Insurance; have read and understand each of the applicable New Hampshire laws and regulations; am aware of the penalties which may be enforced for certification of a noncomplying form;

All advertisements/marketing material of health care coverage identified in the SERFF filing for PPACA compliance filed with this certification provide all required benefits and are in full compliance with all New Hampshire insurance laws and regulations, enforced through use of state remedies, including decertification for QHPs.

(Original Signature of Officer*) (Title of Officer*)

(Printed Name of Officer*) (Date)

* If the individual signing the certification is someone other than the president, vice president, assistant vice president, corporate secretary, assistant corporate secretary, CEO, CFO, COO, general counsel, or an actuary that is also a corporate officer, documentation must be included that shows that this individual has been appointed as an officer of the organization by the Board of Directors.