



The State of New Hampshire Insurance Department


21 South Fruit Street, Suite 14
Concord, NH 03301

David J. Bettencourt
Commissioner

Bulletin

Docket No: INS 23-035-AB

To: All Health Carriers, Third-Party Administrators, and Entities Providing Group Excess Loss Coverage to Health Plans with Covered Lives in New Hampshire

From: David J. Bettencourt, Commissioner 

Date: October 12, 2023

Re: Recent Amendments to RSA 404-G and Required Changes to the New Hampshire Health Plan's Process for the Collection of Assessments

Background

In 1998, New Hampshire RSA 404-G was enacted with the purpose of creating “a nonprofit, voluntary organization to facilitate the availability of affordable individual nongroup health insurance by establishing an assessment mechanism and an individual health insurance market mandatory risk sharing plan as a mechanism to distribute the risks associated within the individual nongroup market.” RSA 404-G:1 (1998). For many years, the organization, known as the New Hampshire Health Plan (NHHP), fulfilled this purpose by administering New Hampshire’s high-risk pool. New Hampshire’s passage of guaranteed issue protections and the implementation of the ACA have since eliminated the need for the high-risk pool, but the NHHP continues to collect assessments and administer the New Hampshire Reinsurance Program to provide stability to the individual market by addressing the excess risk that is associated with that market. NHHP also collects assessments and administers the Granite Advantage Program to support the expansion of Medicaid in New Hampshire.

On June 20, 2023, the New Hampshire legislature enacted HB 613, which significantly revised RSA 404-G. It becomes effective January 1, 2024. The RSA 404-G amendments update the statute by removing all outdated language relating to the high-risk pool, including unnecessary definitions. It also clarifies the organization’s assessment authority and creates a new definition for assessable entity to better ensure assessments are paid on substantially all covered lives in New Hampshire.

Assessments

In order to carry out the Plan of Operation, the NHHP has the authority to collect assessments. RSA 404-G:5. Assessments are calculated¹ based on the number of “covered lives.”² In 2008, the definition of “covered lives” in RSA 404-G:2 was amended to clarify that all lives in self-insured groups protected by excess loss insurance should be included as “covered lives” when calculating the NHHP assessment base. The Department has always interpreted covered lives as defined in RSA 404-G:2 to include employees who live in New Hampshire and work at a business location in New Hampshire regardless of where the master policy may have been issued. The recently enacted RSA 404-G amends the definition of “covered lives” to further clarify that the term includes New Hampshire residents covered by a health plan that is subject to group excess loss insurance.

The revised statute also includes the new term “assessable entity.”³ “Assessable entity” includes health maintenance organizations (HMO), third party administrators (TPA), licensed insurance companies, health service corporations, and entities providing group excess loss insurance.⁴ Although the obligation to pay the assessment is triggered by providing coverage for a covered life within the meaning of the statute, the statute now allows an assessable entity to be responsible for having a role in the process of reporting assessable lives or otherwise having a role in the process of collecting and remitting the assessments.

New Procedure for Reporting Covered Lives for Calendar Year 2024.

RSA 404-G:5, III(c)⁵ requires NHHP to adopt necessary procedures to ensure no covered life is counted more than once. The purpose of this bulletin is to provide guidance to assessable entities regarding the new procedures for submitting reports of covered lives to the NHHP which will be effective for calendar year 2024.

In accordance with the NHHP Plan of Operation, an assessment report must be submitted and the assessment amount paid for each calendar quarter. The assessment report includes an account of the entity’s covered lives in aggregate for each month of the applicable quarter.

NHHP’s practice has been to collect the reports and assessment amounts on covered lives from health carriers and insurers providing group excess loss coverage. At this time, the NHHP is not changing the reporting requirements and expects health carriers and excess loss insurers to continue to submit reports and assessments in the same manner they have been.

¹ The Plan of Operation details the process and factors considered in determining the assessment rate. The Plan of Operation as well as additional information regarding prior years assessment rates can be found on NHHP’s website at <https://nhhp.org/>.

² *Id.*

³ Under the current statute, NHHP’s “members” must pay assessments. HB 613 replaces “member” with this broader new term “assessable entity,” which includes entities that are responsible for paying assessments as well as entities that are responsible for reporting covered lives or otherwise having a role in the process of collecting and remitting assessments.

⁴ RSA 404-G:2, I (eff. Jan. 1, 2024).

⁵ RSA 404-G:5-a, I(b) eff. Jan. 1, 2024

To ensure that all covered lives are being properly accounted for, effective for calendar year 2024, the Department is also requiring all TPAs and insurers acting under an administrative services only arrangement who are administering coverage for persons who qualify as a “covered life” under RSA 404-G, and entities providing group excess loss insurance to submit quarterly reports for calendar year 2024 regardless of whether they are the party responsible for paying the assessments to the NHHP. The reports must be submitted using the RSA 404-G Reporting Template located at <https://www.nh.gov/insurance/lah/nh-section-1332-waiver.htm> on the Department’s website. These reports must be submitted no later than the assessment deadlines for each quarter as listed below and must be submitted by email to doi.healthcareanalytics@ins.nh.gov. These reports will be used by the Department and NHHP to ensure that all reports and assessments are properly remitted for all covered lives in New Hampshire.

Quarter	Due Date
1 st Quarter (January-March)	May 15
2 nd Quarter (April-June)	August 15
3 rd Quarter (July-September)	November 15
4 th Quarter (October-December)	February 15