TITLE 760 DEPARTMENT OF INSURANCE

Emergency Rule
LSA Document #23-127

DIGEST

Temporarily adds rules to require health payers to submit necessary information to the administrator of the Indiana all payer claims data base and to otherwise implement IC 27-1-44.5. Statutory authority: IC 27-1-44.5-11. Effective 03/28/2023.

SECTION 1. **The definitions in this rule apply throughout this document.**

SECTION 2: **"Administrator" has the meaning set forth in IC 27-1-44.5-0.2.**

SECTION 3: **"APCD" or "data base" has the meaning set forth in IC 27-1-44.5-1.**

SECTION 4. **"APCD-CDL™" means the common data layout for all payer claims databases, as developed by the University of New Hampshire and the National Association of Health Data Organizations, January 2023, and hereby incorporated by reference.**

SECTION 5. **"Department" means the Indiana department of insurance.**

SECTION 6. **"Designated submitter" means an entity designated by a registered submitter to:**
(1) submit data to the APCD on behalf of the registered submitter; and
(2) receive all communications from the administrator and the department regarding the registered submitter's APCD data submissions.

SECTION 7. **"Designated submitter representative" means an individual or individuals authorized by a designated submitter to:**
(1) submit data to the APCD on behalf of the registered submitter; and
(2) receive all communications from the administrator and the department regarding the registered submitter's APCD data submissions.

SECTION 8. **"Eligibility file" means a file that includes data about each individual member residing in Indiana, according to the requirements contained in the submission guide.**

SECTION 9. **"ERISA" means the federal Employee Retirement Income Security Act of 1974 (29 U.S.C. 1001 et. seq.).**

SECTION 10. **"Executive director" has the meaning set forth in IC 27-1-44.5-1.2.**

SECTION 11. **"Health payer" has the meaning set forth in IC 27-1-44.5-2. For purposes of this document, the term also includes a state employee health plan as defined in IC 5-10-8-6.7.**

SECTION 12. **"Health plan" means health insurance coverage offered to a member by a health payer. For purposes of this document, the term does not include health insurance coverage offered through a plan subject to ERISA.**

SECTION 13. **"Historical and catch-up data" means:**
(1) eligibility files;
(2) medical claims files;
(3) pharmacy claims files; and
(4) provider files;
for the period commencing January 1, 2020, through July 31, 2023.

SECTION 14. **"Medical claims file" means a file that includes data about medical claims and other encounter information, according to the requirements contained in the submission guide.**

SECTION 15. "**Member" means a person who is covered by, or enrolled in a health plan administered by, a health payer.**

SECTION 16. **"Pharmacy claims file" means a file that includes data about prescription medications and claims filed by pharmacies, according to the requirements contained in the submission guide.**

SECTION 17. **The** "**plan size submission threshold" is an aggregate total of 3,000 or more members under a health payer.**

SECTION 18. **"Provider file" means a file which includes additional information about the individuals and entities that are included in the medical claims file, the pharmacy claims file, or the eligibility file and is submitted according to the requirements contained in the submission guide.**

SECTION 19. **"Registered submitter" includes the following:**
(1) Health payers.
(2) Voluntarily participating entities.
(3) Entities appointed as:
(i) designated submitters; or
(ii) designated submitter representatives;
of entities described in subsections (1) and (2).

SECTION 20. **"Submission guide" or "data submission guide" means the document entitled "Indiana All Payer Claims Database Data Submission Guide" developed by the administrator that sets forth the required schedules, data file format, record specifications, data elements, and definitions for submission of:**
(1) eligibility files;
(2) medical claims files;
(3) pharmacy claims files and
(4) provider data files;
to the APCD.

SECTION 21. **"Third party administrator" has the meaning set forth in IC 27-1-25-1(a).**

SECTION 22. **"Voluntarily participating entity" means an entity that:**
(1) is not required to submit data;
(2) chooses to voluntarily submit data; and
(3) has been approved by the department to submit data;
to the APCD.

SECTION 23. **(a) To request to become a voluntarily participating entity, an entity shall submit a request to the administrator to participate in the APCD through the data portal.**

(b) Each request described in subsection (a) must include the following information related to the voluntarily participating entity:
(1) Business type.
(2) Number of members.
(3) Types of coverage offered.
(4) Contact information.

(c) The administrator shall notify the requesting entity of the department's determination.

SECTION 24. **(a) A health payer that does not meet the plan size submission threshold is exempt from the submission requirements set forth in SECTIONS 27 and 28 of this document. The number of**

Indiana members shall be calculated by adding together the Indiana members in all of the entity's health plans as of December 31 of each calendar year.

(b) A health payer that drops below the plan size submission threshold as of December 31 must submit data files to the APCD for data through December of that calendar year. The health payer must notify the APCD of its change in status and may elect to become a voluntarily participating entity.

(c) A previously exempt health payer that ceases to be exempt by meeting the plan size submission threshold as of December 31 must submit data files to the APCD to report the next calendar year's data.

(d) A newly created health payer that meets the plan size submission threshold on December 31 of the year in which it is created must submit data files to the APCD beginning on January 1 of the next calendar year.

SECTION 25. **(a) If a health payer contracts with other entities to administer plan benefits, the health payer has sole responsibility for the timely submission of all data to the APCD. The health payer must either:**

(1) obtain necessary data from the contracted entity and submit the data to the APCD; or

(2) ensure that the contracted entity submits the data directly to the APCD.

(b) The health payer must identify each contracted entity through the registration process. Each contracted entity must register pursuant to SECTION 26 of this document. This entity will be referred to as a designated submitter.

SECTION 26. **(a) A health payer must register to submit data to the data portal. A health payer must:**

(1) complete its initial registration with the APCD by April 28, 2023; and

(2) review and update, or confirm, all registration information annually by January 31 of each subsequent year.

(b) When any health payer becomes subject to this document, it must register at least fifteen (15) calendar days before its first data files are due.

(c) A voluntarily participating entity shall register to submit data to the data portal. Prior to registering, the entity must have been approved to submit data pursuant to SECTION 23 of this document.

(d) Registered submitters must:

(1) register through the data portal;

(2) provide all required information as specified in the data submission guide; and

(3) update registration information;

within fifteen (15) calendar days of any change in the required contact information.

SECTION 27. **(a) Registered submitters must submit data files monthly through the data portal. Each monthly file must be submitted by the first business day of the second month after the report month.**

(b) The following files, as specified in the data submission guide in conjunction with the APCD-CDL™, must be submitted:

(1) Eligibility files.

(2) Medical claims files.

(3) Pharmacy claims files.

(4) Provider files.

(c) Files must exclude data for any members who are only enrolled in the types of coverages set forth in IC 27-1-44.5-2(3)(A) through (H).

(d) Data files must comply with file format, technical specifications, and other standards specified in the data submission guide in conjunction with the APCD-CDL™.

(e) If a health payer or a voluntarily participating entity has identified one or more designated submitters or designated submitter representatives to submit information directly to the data portal on behalf of the entity, the data submission shall not be considered complete until all required files have been received.

(f) Registered submitters must use the data portal to submit test files to confirm and test their ability to create data files meeting the standards set forth in the data submission guide. Test files will be identified as specified in the data submission guide. Test files will not be considered to have been submitted to the APCD.

SECTION 28. **(a) Each registered submitter must use the test function to prepare for historical and catch-up data file submission. Registered submitters must successfully complete the testing process by June 30, 2023.**

(b) Registered submitters must submit historical and catch-up data files in accordance with SECTION 27 of this document for the time period from January 1, 2020, through July 31, 2023, no later than August 31, 2023.

(c) Registered submitters must begin regular monthly reporting with monthly data files for the month of August 2023.

SECTION 29. **Data files that are submitted to the data portal but do not meet the file intake specifications detailed in the data submission guide will not be accepted. Registered submitters will be notified within two (2) business days of submission whether a data file has been accepted or rejected.**

SECTION 30. **If the administrator determines that a previously accepted file contains initially unidentified errors, the administrator will notify the registered submitter. The registered submitter must address the issues identified by the administrator by either:**

(1) providing confirmation to the administrator that the file is correct as initially submitted; or

(2) correcting and resubmitting the file within thirty (30) days of notification by the administrator.

SECTION 31. **(a) A registered submitter that is unable to submit data files meeting the standards set forth in the data submission guide may request a temporary variance to those requirements.**

(b) Variance requests may only be submitted through the data portal, and must clearly identify the following:

(1) the nature of the issues;

(2) the plan for correction of the issues; and

(3) the anticipated date of compliance;

with the data submission guide requirements.

(c) The administrator shall either approve or disapprove variance requests meeting the requirements of subsection (b) within five (5) calendar days of the date the request was submitted.

SECTION 32. **(a) If any health payer fails to perform any of the following actions:**

(1) submit required data to the APCD;

(2) submit required data that passes all data quality validations or variances in accordance with the time periods outlined in this document;

(3) register for the APCD; or

(4) correct submissions rejected because of errors;

the administrator shall provide written notice of the nature of the violation and required steps to cure the violation to the payer and copy the executive director on the written notice.

(b) If the health payer fails to provide the required information set forth in the written notice described in subsection (a) within thirty (30) days following receipt, the administrator shall provide the health payer with written notice of the failure to report and will notify the executive director of the health payer's failure to report.

(c) The executive director may assess a penalty for uncured violations of up to the following amounts:
(1) $100 per day per issue for the first thirty (30) days that a health payer fails to provide the required data to the APCD; and
(2) $1,000 for each day thereafter.
In determining whether to impose a penalty, the executive director may consider mitigating factors, including but not limited to, the reasons for the failure to report and the detrimental impact upon the public purpose served by the APCD.

(d) If the failure to perform any of the actions set forth in subsection (a) is a result of the action or inaction of a contracted entity identified as a designated submitter or a designated submitter representative, the penalty will be assessed to the health payer.

(e) The penalties specified in this SECTION shall not apply to voluntarily participating entities.

(f) Penalties will be deposited into the department of insurance fund created by IC 27-1-3-28.