

§ 403.235

(4) A copy of the outline of coverage, in the form prescribed by the NAIC model standards.

(5) A copy of the Medicare supplement buyers' guide to be provided to all applicants if the buyers' guide is not the CMS/NAIC buyers' guide.

(6) A statement of when and how the outline of coverage and the buyers' guide will be delivered and copies of applicable receipt forms.

(7) A copy of the notice of replacement and statement as to when and how that notice will be delivered.

(8) A list of States in which the policy is authorized for sale. If the policy was approved under a deemer provision in any State, the conditions involved must be specified.

(9) A copy of the loss ratio calculations, as specified in § 403.250.

(10) Loss ratio supporting data, as specified in § 403.256.

(11) A statement of actuarial opinion, as specified in § 403.258.

(12) A statement that the insuring organization will notify the policyholders in writing, within the period of time specified in § 403.245(c), if the policy is identified as a certified policy at the time of sale and later loses certification.

(13) A signed statement in which the president of the insuring organization, or a designee, attests that—

(i) The policy meets the requirements specified in paragraph (a) of this section; and

(ii) The information submitted to CMS for review is accurate and complete and does not misrepresent any material fact.

§ 403.235 Review and certification of policies.

(a) CMS will review policies that the insuring organization voluntarily submits, except that CMS will not review a policy issued in a State with an approved regulatory program under § 403.222.

(b) If the requirements specified in § 403.232 are met, CMS will—

(1) Certify the policy; and

(2) Authorize the insuring organization to display the emblem on the policy, as provided for in § 403.231.

(c) If CMS certifies a policy, it will inform all State Commissioners and

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Superintendents of Insurance of that fact.

§ 403.239 Submittal of material to retain certification.

(a) CMS certification of a policy that continues to meet the standards will remain in effect, if the insuring organization files the following material with CMS no later than the date specified in paragraph (b) or (c) of this section—

(1) Any changes in the material, specified in § 403.232(b), that was submitted for previous certification.

(2) The loss ratio supporting data specified in § 403.256(b).

(3) A signed statement in which the president of the insuring organization, or a designee, attests that—

(i) The policy continues to meet the requirements specified in § 403.232(a); and

(ii) The information submitted to CMS for review is accurate and complete and does not misrepresent any material fact.

(b) Except as specified in paragraph (c) of this section, the insuring organization must file the material with CMS no later than June 30 of each year. The first time the insuring organization must file the material is no later than June 30 of the calendar year that follows the year in which CMS—

(1) Certifies a new policy; or

(2) Certifies a policy that lost certification as provided in § 403.245.

(c) If the loss ratio calculation period, used to calculate the expected loss ratio for the last actuarial certification submitted to CMS, ends before the June 30 date of paragraph (b) of this section, the insuring organization must file the material with CMS no later than the last day of that rate calculation period.

§ 403.245 Loss of certification.

(a) A policy loses certification if—

(1) The insuring organization withdraws the policy from the voluntary certification program; or

(2) CMS determines that—

(i) The policy fails to meet the requirements specified in § 403.232(a); or

(ii) The insuring organization has failed to meet the requirements for submittal of material specified in § 403.239.

(b) If a policy loses its certification, CMS will inform all State Commissioners and Superintendents of Insurance of that fact.

(c) If a policy that displays the emblem, or that has been marketed as a certified policy without the emblem, loses certification, the insuring organization must notify each holder of the policy, or of a certificate issued under the policy, of that fact. The notice must be in writing and sent by the earlier of—

- (1) The date of the first regular premium notice after the date the policy loses its certification; or
- (2) 60 days after the date the policy loses its certification.

§ 403.248 Administrative review of CMS determinations.

(a) This section provides for administrative review if CMS determines—

- (1) Not to certify a policy; or
- (2) That a policy no longer meets the standards for certification.

(b) If CMS makes a determination specified in paragraph (a) of this section, it will send a notice to the insuring organization containing the following information:

- (1) That CMS has made such a determination.
- (2) The reasons for the determination.
- (3) That the insuring organization has 30 days from the date of the notice to—
 - (i) Request, in writing, an administrative review of the CMS determination; and
 - (ii) Submit additional information to CMS for review.

(4) That, if the insuring organization requests an administrative review, CMS will conduct the review, as provided for in paragraph (c) of this section.

(5) That, in a case involving loss of certification, the CMS determination will go into effect 30 days from the date of the notice, unless the insuring organization requests an administrative review. If the insuring organization requests an administrative review, the policy retains its certification until CMS makes a final determination.

(c) If the insuring organization requests an administrative review, CMS will conduct the review as follows—

(1) A CMS official, not involved in the initial CMS determination, will initiate and complete an administrative review within 90 days of the date of the notice provided for in paragraph (b) of this section.

(2) The official will consider—

- (i) The original material submitted to CMS for review, as specified in § 403.232(b) or § 403.239(a); and
- (ii) Any additional information, that the insuring organization submits to CMS.

(3) Within 15 days after the administrative review is completed, CMS will inform the insuring organization in writing of the final decision, with an explanation of the final decision.

(4) If the final decision is that a policy lose its certification, the loss of certification will go into effect 15 days after the date of CMS's notice informing the insuring organization of the final decision.

**VOLUNTARY CERTIFICATION PROGRAM:
LOSS RATIO PROVISIONS**

§ 403.250 Loss ratio calculations: General provisions.

(a) *Basic formula.* The expected loss ratio is calculated by determining the ratio of benefits to premiums.

(b) *Calculations.* The insuring organization must calculate loss ratios according to the provisions of §§ 403.251, 403.253, and 403.254.

§ 403.251 Loss ratio date and time frame provisions.

(a) *Initial calculation date* means the first date of the period that the insuring organization uses to calculate the policy's expected loss ratio.

(1) The initial calculation date may be before, the same as, or after the date the insuring organization sends the policy to CMS for review, except—

(2) The initial calculation date must not be earlier than January 1 of the calendar year in which the policy is sent to CMS.

(b) *Loss ratio calculation period* means the period beginning with the initial calculation date and ending with the