

## § 158.613

(b) *Burden of establishing knowledge.* The burden is on the responsible entity or entities to establish to HHS's satisfaction that no responsible entity knew, or exercising reasonable diligence would have known, that the failure existed.

### § 158.613 Notice of proposed penalty.

(a) *Contents of notice.* If HHS proposes to assess a penalty in accordance with this part, it must provide the issuer written notice of its intent to assess a penalty, which includes the following:

(1) A description of the requirements under this part that HHS has determined the issuer violated.

(2) A description of the information upon which HHS based its determination, including the basis for determining the number of affected individuals and the number of days or weeks for which the violations occurred.

(3) The amount of the proposed penalty as of the date of the notice.

(4) Any considerations described in § 158.607 through § 158.610 of this subpart that were taken into account in determining the amount of the proposed penalty.

(5) A specific statement of the issuer's right to a hearing.

(6) A statement that failure to request a hearing within 30 days after the date of the notice permits the assessment of the proposed penalty without right of appeal in accordance with § 158.615 of this subpart.

(b) *Delivery of notice.* This notice must be either hand delivered, sent by certified mail, return receipt requested, or sent by overnight delivery service with signature upon delivery required.

### § 158.614 Appeal of proposed penalty.

Any issuer against which HHS has assessed a penalty under this part may appeal that penalty in accordance with § 150.400 *et seq.*

### § 158.615 Failure to request a hearing.

If the issuer does not request a hearing within 30 days of the issuance of the notice described in § 158.613 of this subpart, HHS may assess the proposed civil monetary penalty indicated in such notice and may impose additional penalties as described in § 158.606 of this

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subpart. HHS must notify the issuer in writing of any penalty that has been assessed and of the means by which the issuer may satisfy the penalty. The issuer has no right to appeal a penalty with respect to which it has not requested a hearing in accordance with § 150.405 of this subchapter, unless the responsible entity can show good cause, as determined at § 150.405(b) of this subchapter, for failing to timely exercise its right to a hearing.

## PART 159—HEALTH CARE REFORM INSURANCE WEB PORTAL

Sec.

159.100 Basis and Scope.

159.110 Definitions.

159.120 Data Submission for the individual and small group markets.

AUTHORITY: Section 1103 of the Patient Protection and Affordable Care Act (Pub. L. 111–148).

SOURCE: 75 FR 24482, May 5, 2010, unless otherwise noted.

### § 159.100 Basis and scope.

This part establishes provisions governing a Web portal that will provide information on health insurance coverage options in each of the 50 States and the District of Columbia. It sets forth data submission requirements for health insurance issuers. It covers the individual market and the small group market.

### § 159.110 Definitions.

For purposes of part 159, the following definitions apply unless otherwise provided:

*Health Insurance Coverage:* We adopt the Public Health Service Act (PHSA) definition of “health insurance coverage” found at section 2791(b)(1) of the Public Health Service Act (PHSA).

*Health Insurance Issuer:* We adopt the PHSA definition of “health insurance issuer” found at section 2791(b)(2) of the PHSA.

*Health Insurance Product:* Means a package of benefits that an issuer offers that is reported to State regulators in an insurance filing.

*Individual Health Insurance Coverage:* We adopt the PHSA definition of “individual health insurance coverage” found at section 2791(b)(5) of the PHSA.

*Individual Market:* We adopt the Affordable Care Act definition of “individual market” found at section 1304(a)(2) of the Affordable Care Act and 2791(e)(1)(A) of the PHSA.

*Portal Plan:* Means the discrete pairing of a package of benefits and a particular cost sharing option (not including premium rates or premium quotes).

*Section 1101 High Risk Pools:* We define section 1101 high risk pools as any entity described in regulations implementing section 1101 of the Affordable Care Act.

*Small Employer:* We adopt the Affordable Care Act definition of “small employer” found at section 1304(b)(2) and (3).

*Small Group Coverage:* Means health insurance coverage offered to employees of small employers in the small group market.

*Small Group Market:* We adopt the Affordable Care Act definition of “small group market” found at section 1304(a)(3).

*State Health Benefits High Risk Pools:* Means nonprofit organizations created by State law to offer comprehensive health insurance to individuals who otherwise would be unable to secure such coverage because of their health status.

**§ 159.120 Data submission for the individual and small group markets.**

(a) Health insurance issuers (hereinafter referred to as issuers) must, in accordance with guidance issued by the Secretary, submit corporate and contact information; administrative information; enrollment data by health insurance product; product names and types; whether enrollment is currently open for each health insurance product; geographic availability information; customer service phone numbers; and Web site links to the issuer Web site,

brochure documents, and provider networks; and financial ratings on or before May 21, 2010, and annually thereafter.

(b) Issuers must, as determined by the Secretary, submit pricing and benefit information for their portal plans on or before September 3, 2010, and annually thereafter.

(c) Issuers must submit updated pricing and benefit data for their portal plans whenever they change premiums, cost-sharing, types of services covered, coverage limitations, or exclusions for one or more of their individual or small group portal plans.

(d) Issuers must submit pricing and benefit data for portal plans associated with products that are newly open or newly reopened for enrollment within 30 days of opening for enrollment.

(e) Issuers must annually verify the data submitted under paragraphs (a) through (d) of this section, and make corrections to any errors that are found.

(f) Issuers must submit administrative data on products and portal plans, and these performance ratings, percent of individual market and small group market policies that are rescinded; the percent of individual market policies sold at the manual rate; the percent of claims that are denied under individual market and small group market policies; and the number and disposition of appeals on denials to insure, pay claims and provide required preauthorizations, for future releases of the Web portal in accordance with guidance issued by the Secretary.

(g) The issuer’s CEO or CFO must electronically certify to the completeness and accuracy of all data submitted for the October 1, 2010, release of the Web portal and for any future updates to these requirements.