



FAQs for Federally-facilitated Marketplace (FFM) User Fee Adjustment Submission Requirements

Frequently Asked Questions and Answers:

Date: August 22, 2016

Purpose: For the 2015 benefit year, the Centers for Medicare & Medicaid Services (CMS) is releasing a web-based form through which Third-Party Administrators (TPAs), including Pharmacy Benefit Managers (PBMs) that provide services to a self-insured group health plan offered by an eligible organization, and Federally-facilitated Marketplace (FFM) issuers that have entered into an agreement with these TPAs (including PBMs) can report contraceptive claims costs incurred by plan participants and beneficiaries.

Completion of the web-based form for the 2015 benefit year will allow CMS to: 1) determine the reduction to the FFM user fee for the participating FFM issuer; 2) ensure that these adjustments to the monthly FFM user fee reflect payments for contraceptive services paid for under this accommodation under 45 C.F.R. §§ 147.131(b) and 156.50(d); and 3) ensure that the adjustment, equal to cost of contraceptive claims incurred during the applicable benefit year plus a 15 percent administrative margin, is applied to the appropriate FFM issuer.

The FAQs below are intended to assist issuers and TPAs (including PBMs) with navigating the submission requirements and understanding the mechanism through which CMS will apply the FFM user fee adjustment to FFM issuers.

Background: The final rule “Coverage of Certain Preventive Services Under the Affordable Care Act” (78 FR 39870) published by the Department of Health and Human Services (HHS), the Department of the Treasury, and the Department of Labor (the Departments) on July 2, 2013, set forth regulations regarding coverage for certain contraceptive services, that individuals in group health plans have access to the full range of FDA-approved contraceptives without cost-sharing, while respecting eligible organizations’ religious-based objections to contraception. Under these final rules, eligible organizations can receive an accommodation relating to contraceptive coverage so that they are not required to provide, arrange, or make payment for these services.

The July 2, 2013 and July 14, 2015 (80 FR 41346) final rules also set forth processes and standards to reimburse the payments for contraceptive services made by a TPA on behalf of participants and beneficiaries in self-insured plans of eligible organizations, through an adjustment in the FFM user fee payable by an issuer participating in an FFM that has agreed to reimburse the TPA for the cost of the contraceptive services. In order to facilitate the FFM user fee adjustment, the final rules require an information collection from applicable participating FFM issuers and TPAs.



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Submission Process & Deadlines

Q: How will CMS collect 2015 data for the Federally-facilitated Marketplace (FFM) User Fee Adjustment?

A: For the 2015 FFM User Fee Adjustment, CMS will collect data through a web-based form which will be available on the Center for Consumer Information and Insurance Oversight (CCIIO) website and will be described on the Registration for Technical Assistance Portal (REGTAP). An e-mail will be sent to participants that participated for the 2014 benefit year FFM user fee adjustment. TPAs (including, as discussed below, PBMs) will also be required to submit the Notice of Intent Disclosure Form through the web-based form.

We note that this is different from the 2014 benefit year data collection where CMS collected information through forms submitted to a CMS email address.

Q: When is the submission window for the 2015 FFM User Fee Adjustment and Notice of Intent Disclosure Form?

A: The data submission window for the 2015 FFM User Fee Adjustment, including submission of the Notice of Intent Disclosure Form by TPAs (including PBMs), will be August 22, 2016 - September 20, 2016 at 11:59 P.M. ET.

Q: How should TPAs (including PBMs) submit the Notice of Intent Disclosure Form indicating that they intend to partner with an FFM issuer to seek a user fee adjustment for the 2015 benefit year?

A: TPAs (including PBMs) should submit the Notice of Intent Disclosure Form through the web-based form from August 22, 2016 through September 20, 2016. The web-based form is the same form that they will use to report contraceptive claims costs incurred in the 2015 benefit year.

Q: How should FFM issuers and TPAs (including PBMs) submit the required information to CMS? Is this data collected through the Health Insurance Oversight System (HIOS) or the External Data Gathering Environment (EDGE) server? What format should be used?

A: CMS will not be collecting this information through HIOS or through the EDGE server. CMS has a web-based form that will be used to collect the information necessary to process the user fee adjustment. FFM issuers and TPAs (including PBMs) should complete the information



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requested for their respective circumstances by completing the web-based form by September 20, 2016.

Q: Will CMS provide training on how to use the web-based form? Is there a resource for additional questions?

A: Yes, CMS will conduct a webinar to train issuers and TPAs (including PBMs) on successfully completing and submitting the web-based form. A training will be held on August 22, 2016, with a repeat training session on August 31, 2016. Details will be announced through <https://www.regtap.info/>. Policy questions can be emailed to FFMuserfeeadjustments@cms.hhs.gov.

Eligible Submitters

Q: Can a Pharmacy Benefit Manager (PBM) enter into an identical arrangement with an issuer in order to receive reimbursement for contraceptive services that it has provided to participants and beneficiaries of a self-insured group health plan of an eligible organization?

A: Yes. Like other TPAs, PBMs that perform these functions for participants and beneficiaries of a self-insured group health plan of an eligible organization can enter into an arrangement with an issuer to receive reimbursement for contraceptive services that it has provided. If a PBM intends to enter into this arrangement with an FFM issuer for reimbursement for contraceptive services provided, it will be subject to all of the requirements that apply to TPAs generally, including, but not limited to, submission of the “Notification of Intent” to HHS through the web-based form.

Q: If the TPA (including a PBM) and the FFM issuer are part of the same entity (e.g., parent company or holding group), do the TPA and FFM issuer each have to submit separate web-based forms to CMS in order to receive the user fee adjustment?

A: If the TPA (including a PBM) is part of the same entity or parent company as the FFM issuer, the TPA does not need to submit the TPA submission form. If part of the same entity, the submitter should only complete the portion of the web-based form that applies to FFM issuers.



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Q: Can an FFM issuer simply include the paid claims amount on the participating issuer form without the TPA (including a PBM) needing to also complete and submit the separate form applicable to TPAs?

A: If the TPA (including a PBM) and FFM issuer are not part of the same entity, the TPA must still fill out a web-based form indicating the total value of eligible contraceptive claims that were paid. The FFM issuer must also submit the total dollar value of eligible contraceptive claims incurred during the applicable benefit year and the total amount that was paid, or that it has agreed to pay, to the TPA. Receiving the information from both entities will help CMS ensure that the amounts are being reported consistently and that the FFM issuer is reporting eligible claims for which it has actually reimbursed the TPA, or will do so.

Claims Reporting & FFM User Fee Calculation

Q: Can the FFM issuer or TPA (including a PBM) include claims costs incurred in 2016 as part of its claims submission for the 2015 benefit year?

A: For the 2015 benefit year, FFM issuers and TPAs (including PBMs) should report the total dollar amount for payments for contraceptive claims provided consistent with the guidelines identified at 45 CFR 147.130(a)(1)(iv), incurred by plan participants and beneficiaries as of December 31, 2015. FFM issuers and TPAs (including PBMs) should count the dollar value of payments for claims incurred by December 31, 2015 in the total amount reported, even if the claims were not paid by December 31, 2015.

Q: Can HHS conduct the FFM user fee adjustment data collection earlier in the year, so that FFM issuers and TPAs (including PBMs) do not have to carry claims costs over for an additional benefit year before receiving reimbursement?

A: The data collection window for the 2015 benefit year will be August 22, 2016 through September 20, 2016, and only applies to claims that were incurred during the 2015 benefit year. However, HHS will consider beginning data submission for the 2016 benefit year user fee adjustment earlier in the 2017 calendar year. We intend to publish future guidance regarding the manner and timeframe of data submission for the FFM user fee adjustment for the 2016 benefit year.

Q: Is the FFM user fee adjustment amount limited to the dollar amount of contraceptive claims? Is there a way that the FFM issuer can be reimbursed for the administrative costs associated with entering into an agreement with a TPA (including a PBM)?



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A: Yes, the user fee adjustment amount that is credited toward an FFM issuer's user fee obligation is equal to the dollar amount of contraceptive claims reimbursement paid to the TPA (including a PBM), plus an additional 15 percent for administrative costs incurred. For example, if the FFM issuer paid \$100,000 in reimbursement for contraceptive claims to a TPA for claims incurred through December 31, 2015, the issuer's total user fee adjustment amount would be \$115,000.

Q: Can a TPA (including a PBM) be reimbursed for the administrative costs associated with entering into an agreement with a FFM issuer?

A: CMS has not established a mechanism through which TPAs (including PBMs) can be directly reimbursed for the administrative costs associated with administering contraceptive claims for eligible organizations. However, the agreement between the FFM issuer and the TPA (including a PBM) may provide that the FFM issuer will share a portion of its administrative margin with the TPA in order to help offset the TPA's administrative costs.

Transfer of FFM User Fee Adjustment Amount to FFM Issuers

Q: How will issuers receive payment for the contraceptive claims costs and associated administrative costs that they have incurred? Does an FFM issuer need to do something to ensure that CMS can properly transfer the monies to the issuer's account?

A: After an FFM issuer has submitted the required data to CMS through the web-based form, the FFM issuer does not need to take any further action to ensure that the user fee adjustment is applied. CMS will not make direct payments to FFM issuers for the user fee adjustment amount. Instead, CMS will automatically deduct the user fee adjustment amount from the user fee amount that the issuer otherwise owes for a given month. CMS collects FFM user fees by automatically deducting the user fee amount from issuers' Advance Monthly Payment of Premium Tax Credits (APTCs) and Cost-sharing Reductions (CSRs).

Q: When will the FFM issuer receive the FFM user fee adjustment?

A: CMS anticipates applying the FFM user fee adjustment for the 2015 benefit year on a monthly basis beginning in the Fall of 2016, and will automatically deduct the user fee adjustment amount from the issuer's monthly user fee obligation. We will provide future guidance on the timing of the user fee adjustment for forthcoming benefit years.



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CMS will credit the user fee adjustment amount for a month against an FFM issuer's monthly user fee obligation until the user fee obligation for that month has been completely offset. Any remaining user fee adjustment amount will be credited towards the issuer's user fee obligation for the next month. CMS will continue this process until the user fee adjustment amount is fully exhausted.

Q: What happens if the FFM user fee adjustment amount is greater than the FFM issuer's total user fee obligation for the year?

A: CMS will credit the user fee adjustment amount against the FFM issuer's user fee obligation on a monthly basis. If the FFM issuer's user fee obligation has been fully offset at the end of the year and a user fee adjustment amount still remains, CMS will roll-over the amount of the adjustment to the next year and will credit the remaining amount against the next year's user fees.