



DOMESTIC AND FOREIGN INSURERS BULLETIN NO. 138

**TO: INSURERS, HEALTH SERVICE CORPORATIONS, AND
MANAGED CARE ORGANIZATIONS THAT DELIVER OR
ISSUE FOR DELIVERY IN THIS STATE INDIVIDUAL
AND GROUP INSURANCE POLICIES OR PLANS
SUBJECT TO REGULATION UNDER TITLE 18 OF THE
DELAWARE CODE.**

**RE: IMPLEMENTATION OF REGULATION 1322
REQUIREMENTS FOR MANDATORY MINIMUM
PAYMENT INNOVATIONS IN HEALTH INSURANCE**

DATED: March 15, 2023

REISSUED: March 15, 2024

What is the purpose of this Bulletin?

This Bulletin describes the procedures to be used by insurers and other entities subject to Regulation 1322 when completing the 2025 Affordability Standards Data Submission (ASDS) template. Regulation 1322, Requirements for Mandatory Minimum Payment Innovations in Health Insurance (18 DE Admin. Code 1322), became effective on August 11, 2022. Background on the regulation and on the underlying statute may be found in the public notices in which the Department proposed the new regulation, which were published in the *Register of Regulations* (see 25 DE Reg. 684 (January 1, 2022) and 25 DE Reg. 828 (March 1, 2022)). This Bulletin provides information on updates to the process for completing and submitting the ASDS template.

Which Carriers Are Required to Complete the ASDS Template?

Any carrier making rate filings for health benefit plans, as defined in 18 Del. C. §§ 3342A(a)(3)a. and 3559(a)(3)a. Please note that carriers with fewer than 250 members in a market segment and “expat plans” may request a waiver of the data submission completion requirement by completing Waiver Request on the Office of Value Based Health Care Delivery (OVBHCD) website and emailing it to OVBHCD@delaware.gov.

How has the ASDS template been updated?

The Department’s OVBHCD has updated the ASDS template in the following ways:

- Included requirement for carriers submitting waivers to submit Waiver Demographic Data, linked in waiver request form on OVBHCD website, as part of their waivers.
- Included option for carriers who have previously submitted data in compliance with Medicare Fee-for-Service parity, as defined in Section 5.1 of Regulation 1322 to attest to continued implementation instead of submitting data.

- Note the Centers for Medicare and Medicaid Services (CMS) allows payment adjustments for the following business rules, so the OVBHCD will permit them:
 - Modifiers applied, such as when multiple services were provided in a single day.
 - Advanced Practice Practitioner provided the service.
- Revised the worksheet on non-fee-for-service primary care programs related to Section 5.2 of Regulation 1322 to include a question on participation in the Delaware Primary Care Model. Carriers with questions regarding the Delaware Primary Care Model should contact Nancy Fan, M.D., email: nfanmd@gmail.com, and Dionna Reddy, email: dionna.reddy@delaware.gov.
- Revised the worksheet on fixed payment methodologies related to Section 8.1 of Regulation 1322 to streamline the data submission.
- Made minor updates to the primary care definition. These updates include adding place of service POS code 27, a new POS code related to Outreach/Street medicine, adding CPT code G2211, a new “add-on” code designed to provide additional reimbursement to providers offering ongoing care, and adding behavioral health assessment CPT codes 97151 and 97152.

What is the price growth limit for non-professional services for plan year 2025?

Compliance with Section 7.0 of 1322 dictates that carriers’ price trends must not exceed 6.35% for plan year 2025 for each of the following service categories: Inpatient Hospital, Outpatient Hospital, and Other Medical.

What is the Process for Completing and Submitting the ASDS Template?

Carriers must complete the ASDS template annually, for each line of business and submit the completed ASDS template to the OVBHCD as part of their rate filings.

A draft template and detailed instructions for completing the template are attached to this Bulletin and are also posted on the OVBHCD website. Questions regarding the template or its completion should be submitted to OVBHCD Director at OVBHCD@delaware.gov.

Carriers should send a copy of the completed template via secure email to the OVBHCD Director at OVBHCD@delaware.gov no later than the applicable submission deadline. Carriers are encouraged to submit the ASDS template before the deadline, even if the full corresponding rate filing is not complete.

What are the completed ASDS template submission deadlines?

The completed ASDS template submission deadlines are as follows:

Line of Business	Deadline
Individual	June 15, 2024
Small Group	June 15, 2024
Large Group	September 1, 2024

The OVBHCD will evaluate each carrier's compliance with Regulation 1322. Details on the evaluation of carrier-specific compliance with the regulation will be included in the OVBHCD annual report.

Questions concerning this bulletin should be emailed to: OVBHCD@delaware.gov.

This bulletin shall be effective immediately and shall remain in effect unless otherwise withdrawn or superseded by subsequent law, regulation, or bulletin.



Trinidad Navarro
Delaware Insurance Commissioner

NOTE: This Bulletin is intended solely for informational purposes. It is not intended to set forth legal rights, duties, or privileges, nor is it intended to provide legal advice. Readers should consult applicable statutes and rules and contact the Delaware Department of Insurance if additional information is needed.

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