



## OFFICE OF INSURANCE REGULATION

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COMMISSIONER

March 21, 2013

The Honorable Kathleen Sebelius, Secretary  
U.S. Department of Health and Human Services  
200 Independence Avenue SW  
Washington, DC 20101

**Re: State of Florida  
Geographical Rating Areas**

Dear Madam Secretary:

Thank you for the opportunity to submit the Rating Requirements, Geographical Rating Areas portion of the State Rating Requirements Disclosure Form for the State of Florida. We are submitting this information in advance of the March 29, 2013 deadline in order to give HHS/CCIO ample opportunity to review this submission and consider our request to approve the use of existing geographic rating areas for health insurers regulated under Florida's Insurance Code.

Florida requests that it be allowed to use its current uniform geographic rating areas – its 67 counties – as authorized by 45CFR 147.102(b)(3)(i). That provision allows a state to use existing geographic rating areas so long as the rating areas are based on either counties, three-digit zip codes, or MSAs and non-MSAs. The rule further provides that if one of those standards is met, a state's geographic divisions will be presumed to be adequate if the state established by law, rule, regulation, bulletin, or other executive action, uniform rating areas for the entire state as of January 1, 2013.

### **Justification**

#### *Florida Statute and Rules*

#### *Small Group Market*

In 1992, Florida enacted a statutory requirement specific to our state's small group health insurance market which established uniform geographic rating areas for the state. Section 627.6699(5)(j), Florida Statutes reads: *The boundaries of geographic areas used by a small employer carrier must coincide with county lines. A carrier may not apply different geographic rating factors to the rates of small employers located within the same county.*

Additionally, Rule 690-191.055, Actuarial Memorandum and Definitions, which applies to health plan rate filings, includes a requirement that any area factors to be used by a health plan, must be accompanied

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by explanation and justification.<sup>1</sup> The accompanying forms to be used by a health plan must show justification on a county by county basis before such factors can be aggregated into a multi-county “area factor.” This Rule has been in substantive force and effect since its inception in 1996 and was last amended in 2003.<sup>2</sup>

### *Individual Market*

Florida has established a set of actuarially supported county-by-county geographic factors to establish a standard risk rate for our state’s individual, small group, and health maintenance organization markets.

The Office of Insurance Regulation publishes an annual “standard risk rate” set of actuarial factors which include a county-by-county rating factor. The publication of annual standard risk rate tables is governed by Florida Administrative Code Chapter 69O-149, and has been in place since the year 2000. Standard risk rate publication is required for Indemnity products at 69O-149.205 (last amended in year 2009) and for health maintenance organizations at 69O-149.207 (last amended in year 2008).

### **Conclusion**

Florida’s insurance carriers are required by statute and by administrative rule to use county-by-county actuarial justification for purposes of arriving at rates which are reasonable in relation to the benefits provided. These statutes and rules requiring uniform rating areas were promulgated and in effect well before January 1, 2013.

The relevant portion of the State Rating Disclosure Form is attached, complete with necessary documentation and appropriate statutory and rule references. Should additional information be required, please let me know as quickly as possible.

We thank you for the opportunity to provide this documentation and look forward to your expeditious approval of the use of county-by-county geographic rating areas for the State of Florida, which will promote market stability and rating continuity for health insurers providing coverage to Floridians.

Sincerely,

  
Kevin M. McCarty  
Florida Insurance Commissioner

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<sup>1</sup> 69O-191.055(3)(b)6.

<sup>2</sup> [Rule 69O-191.055] Specific Authority 641.31, 641.36 FS. Law Implemented 641.22(2), 641.31(2), (3) FS. History—New 10-8-96, Amended 4-20-98, 8-15-02, 1-19-03, Formerly 4-191.055.

**ATTACHMENT A**

**Excerpt**

**State Rating Requirements Disclosure Form**

**VI. Geographical Rating Areas (45 CFR §147.103(a)(3))**

1. *Within the individual market*, are health insurance issuers in your state required to use state-defined geographical rating areas?

- Yes, details are provided in 2, 3, 4 and 5 below  
 No, the state has no specific rating areas in the individual market.

2. Enter the number of rating areas (if applicable): **67 Florida Counties**

3. Basis for rating areas (if applicable)

- Rating areas based on counties  
 Rating areas based on three-digit zip codes  
 Rating areas based on metropolitan statistical areas (MSAs) and non-MSAs

4. Date rating areas were established by law, rule, regulation, or other executive action (if applicable):

**Statute requiring creation of standard risk rates, individual market: s. 627.6675(3)(a), F.S., created in 1978, last amended in 2003<sup>3</sup>**

**Regulations for filing county by county information to develop the standard risk rate for individual market, 69O-149.205, created in 2000, last amended 2009<sup>4</sup>.**

5. Is the state seeking CMS approval for a number of rating areas in the individual market that is greater than the number described in 45 CFR §147.102(b)(3)(ii)?

*If yes, provide details in 11 and 12 below.*

- Yes  
 No

6. *Within the small group market*, are health insurance issuers in your state required to use state-defined geographical rating areas?

<sup>3</sup> *History.*—s. 2, ch. 78-385; ss. 1, 10, ch. 80-341; s. 2, ch. 81-318; ss. 519, 523, 809(2nd), ch. 82-243; ss. 64, 79, ch. 82-386; s. 112, ch. 83-216; s. 3, ch. 85-177; s. 6, ch. 90-249; ss. 138, 149, ch. 92-33; ss. 114, 116, ch. 92-318; s. 352, ch. 97-102; s. 13, ch. 97-179; s. 11, ch. 98-159; s. 13, ch. 99-204; s. 7, ch. 99-275; s. 12, ch. 99-393; s. 1167, ch. 2003-261.

<sup>4</sup> *History Notes: Specific Authority 624.308, 627.6675(3)(c) FS. Law Implemented 624.307(1), 627.6498(4), 627.6675(3), 641.3922(3) FS. History—New 3-2-00, Amended 4-2-01, 4-17-02, 1-20-03, Formerly 4-149.207, Amended 5-18-04, 5-22-05, 6-1-06, 8-23-07, 10-29-08.*

- Yes, details are provided in 7, 8, 9 and 10 below.  
 No, the state has no specific rating areas in the small group market.

7. Enter the number of rating areas (if applicable): **67 Florida Counties**

8. Basis for rating areas (if applicable)

- Rating areas based on counties  
 Rating areas based on three-digit zip codes  
 Rating areas based on metropolitan statistical areas (MSAs) and non-MSAs

9. Date rating areas were established by law, rule, regulation, or other executive action (if applicable):

**Section 627.6699, F.S. -- Employer Health Care Access Act (Small Group Market), created in 1992<sup>5</sup> at (5)(j) reads, "The boundaries of geographic areas used by a small employer carrier must coincide with county lines. A carrier may not apply different geographic rating factors to the rates of small employers located within the same county".**

**Office of Insurance Regulation Rule 69O-191.055, Actuarial Memorandum and Definitions, which applies to health plan rate filings, includes a requirement that any area factors to be used by a health plan, must be accompanied by explanation and justification.<sup>6</sup>**

**The accompanying forms to be used by a health plan must show justification on a county by county basis before such factors can be aggregated into a multi-county "area factor". This Rule has been in substantive force and effect since its inception in 1996 and was last amended in 2003.<sup>7</sup>**

10. Is the state seeking CMS approval for a number of rating areas in the small group market that is greater than the number described in 45 CFR §147.102(b)(3)(ii)?

- Yes  
 No

*If yes, provide details in 11 and 12 below.*

<sup>5</sup> History.—s. 117, ch. 92-33; s. 71, ch. 92-318; s. 65, ch. 93-129; s. 1, ch. 95-123; s. 2, ch. 96-319; s. 380, ch. 96-406; s. 10, ch. 97-48; s. 1735, ch. 97-102; s. 3, ch. 97-166; s. 15, ch. 97-179; s. 4, ch. 98-66; s. 13, ch. 98-159; s. 32, ch. 99-3; s. 79, ch. 2000-158; ss. 37, 46, ch. 2000-256; s. 1, ch. 2000-268; s. 4, ch. 2000-296; s. 70, ch. 2000-318; s. 60, ch. 2001-63; s. 15, ch. 2002-389; s. 1170, ch. 2003-261; s. 24, ch. 2004-297; s. 80, ch. 2004-390; s. 120, ch. 2005-2; s. 8, ch. 2005-231; s. 6, ch. 2008-212; s. 23, ch. 2009-51; s. 5, ch. 2011-111; s. 2, ch. 2012-93; s. 13, ch. 2012-151.

<sup>6</sup> 69O-191.055(3)(b)6.

<sup>7</sup> [Rule 69O-191.055] Specific Authority 641.31, 641.36 FS. Law Implemented 641.22(2), 641.31(2), (3) FS. History—New 10-8-96, Amended 4-20-98, 8-15-02, 1-19-03, Formerly 4-191.055.

11. Provide detailed description of the proposed rating areas, specifying market.

**Florida has statutes and regulations providing for county by county geographical areas for purposes of establishing health plan rates that are reasonable in relation to the benefits provided and those statutes and regulations were enacted or promulgated prior to January 1, 2013. (See Above)**

**The rating areas are determined by Florida's 67 counties.**

690-149.037 Calculation of Premium Rates.<sup>8</sup>

(4) Rate filing requirements –

(b) SERCS. Small group rates must be filed on a 2-50 life basis using the Small Employer Rate Collection System (SERCS), Form OIR-B2-SERCS (Rev. 6/19/06), which is hereby adopted and incorporated by reference.

*Form required to be submitted by carriers: form OIR-B2-SERCS (Rev. 6/19/06) – SERCS. The SERCS form was last revised June, 2006 – but this form (and statute from which it was derived) was in existence prior to this date.*

*Excerpt: Instructions to Carriers in filing form OIR-B2 SERCS*

#### **County\_Factor\_Table Worksheet**

**For each county schedule used to determine small group premium rates**, please enter a schedule name under the column labeled County Schedule Name (i.e., PPO county factors, Indemnity county factors, EPO county factors, etc.).

**A SERCS spreadsheet must have at least one County Schedule.**

Please enter a 1 in the County Schedule Number column for the first County Schedule listed. All other County Schedules should be numbered consecutively.

The County Schedule Number will be referenced by the Insurer in the Relativity Factor Table.

The rest of the columns should reflect the county factors associated with the particular county indicated. All factors must be greater than or equal to zero.

12. List supporting documents attached, if any.  
(see above)

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<sup>8</sup> Specific Authority 624.308(1), 624.424(1)(c), 627.6699(17) FS. Law Implemented 627.410, 627.6692, 627.6699(3), (6), (12)(e), (13), (13)(i) FS. History—New 3-1-93, Amended 11-7-93, 5-11-94, 4-23-95, 8-4-02, 6-19-03, Formerly 4-149.037, Amended 7-6-06, 5-24-07.