

# Qualified Health Plan Issuer Application Instructions

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2022

**Extracted section:  
Section 1A: Program Attestations**

[02/2021]

## Section 1A: Program Attestations

### 1. Introduction

In the Program Attestations section, you attest to your intent to comply with Federally-facilitated Exchange (FFE) requirements if you are an FFE issuer filing via HIOS (Figure 1A-1). It includes the following four subsections of attestations (in order):

- Attestations required of both Medical QHP and stand-alone dental plan (SADP) issuers
- Attestations required of Medical QHP issuers only

This subsection includes the Interoperability Attestation and Justification Form required of individual Medical QHP issuers in the FFE only. This form is not required for Federally-facilitated Small Business Health Options Program (FF-SHOP), State-based Exchange on the Federal Platform (SBE-FP), or SADP issuers.

- Attestations required of SADP issuers only
- Optional attestations.

You must respond to all four subsections. Respond “Not Applicable” to any subsections that do not apply to you.

If your state performs plan management functions, complete and submit the [2022 State Partnership Exchange Issuer Program Attestation Response Form](#) and the [Interoperability Attestation and Justification Form](#) via the National Association of Insurance Commissioners’ (NAIC’s) System for Electronic Rate and Form Filing (SERFF).

The instructions for this section apply to the following issuer types:

- QHP
- SADP

See Appendix E for additional information.

Figure 1A-1. Program Attestations Application Section

The screenshot shows the 'Program Attestations' application section. At the top, there is a title 'Program Attestations' and a link to 'Instructions and Reference Material (PDF) [3.21 MB]'. Below the title, a paragraph explains that the Issuer Module requires applicants to attest to their adherence to regulations set forth in 45 CFR Parts 146, 147, 153, 155, and 156, as applicable, for all applicants submitting Medical QHP, SADP, and/or dual QHP/SADP issuer applications. A navigation menu on the left includes 'Summary', 'Program Attestations' (highlighted), 'State Licensure', 'Good Standing', 'Accreditation', 'ECP/Network Adequacy', and 'Review'. The main content area has two tabs: 'Data Submitter' and 'Final Submission'. Below the tabs, a paragraph states that applicants must answer the following four attestation sections. The first section is titled 'Attestations required of both Medical QHP and SADP issuers'. It contains a text box with the statement: 'Applicant agrees to adhere to all of the certification standards and operational requirements applicable to applicant in 45 CFR Parts 153, 155, and 156.' Below this is a question: '\* Do you agree with the QHP and SADP Attestations statement above?' with radio buttons for 'Yes' and 'No'. At the bottom, there is an 'Upload File(s)' section with a 'Document Type' dropdown menu, an 'Upload File(s)' section with a 'Choose File' button and 'No file chosen' text, and an 'Upload' button.

### 2. Data Requirements

Compile the following information to complete this section:

1. Company organizational chart: Save the organizational chart using the naming convention in Table C-1.
2. Company compliance plan

3. [Compliance Plan and Organizational Chart Cover Sheet](#): To merge the Compliance Plan and Organization Chart Cover Sheet PDF with an existing compliance plan PDF file, use the Combine Files or Insert Pages functions in Adobe Acrobat. Save the compliance plan using the naming convention in Table C-1.
4. [Justification Form](#): Only required if you select **No** for the optional compliance plan attestation. Save the justification form using the naming convention in Table C-1.
5. [State Partnership Exchange Issuer Program Attestation Response Form](#): Only required if your state performs plan management functions and you are submitting in SERFF. Save the form using the naming convention in Table C-1.
6. [Interoperability Attestation and Justification Form](#): Only required for individual Medical QHPs in the FFE. This form is not required for FF-SHOP, SBE-FP, or SADP issuers.

### 3. Quick Reference

#### Key Changes for 2022

If you are applying to issue Medical QHPs, you must submit an [Interoperability Attestation and Justification Form](#) indicating that you meet the requirements of the Centers for Medicare & Medicaid Services (CMS) Interoperability & Patient Access Final Rule. If you cannot meet the requirements, you are required to include a narrative justification in the form. This requirement does not apply for SADP-only, FF-SHOP, or SBE-FP issuers.

#### Tips for the Program Attestations Section

- ◆ You must respond to all attestation subsections.
- ◆ If you only issue Medical QHPs, respond **Not Applicable** to the Attestations required in the SADP-only issuers subsection.
- ◆ If you only issue SADPs, respond **Not Applicable** to the Attestations required in the Medical QHP-only issuers subsection.
- ◆ We strongly encourage you to respond **Yes** to the optional compliance plan attestation and upload a compliance plan that includes the Compliance Plan and Organizational Chart Cover Sheet. If you respond **No** to the optional compliance plan attestation, you must upload a justification form.
- ◆ You must upload supporting documents for your responses to the attestations.
- ◆ Use the justification form only if you are submitting plans to the FFE using HIOS.
- ◆ Use the State Partnership Exchange Issuer Program Attestation Response Form only if your state performs plan management functions.
- ◆ If you issue Medical QHPs in the FFE or in a state that performs plan management functions, you must complete the Interoperability Attestation and Justification Form. If you do not attest to meeting all requirements by July 1, 2021, you must provide a narrative justification. If you did not offer plans on the Exchange in PY2021, you have until January 1, 2022, to implement these requirements.

#### Additional Resources

- ◆ There are [supporting documents](#) for this section.
- ◆ There are no instructional videos for this section.
- ◆ There are no templates for this section.

### 4. Detailed Section Instructions

To participate in the FFE, you must respond to all Program Attestations subsections and upload supporting documentation or justifications.

Attestation Area	Steps
Attestations required of both Medical QHP and SADP issuers	Choose from the following to attest to the attestations in this section: <ul style="list-style-type: none"> <li>◆ <b>Yes</b>—if you agree to the listed attestation. If you select <b>Yes</b>, you must submit an Organizational Chart. Use the document upload feature in this subsection and select “Organizational Chart” as the document type.</li> </ul>

Attestation Area	Steps
	<ul style="list-style-type: none"> <li>◆ <b>No</b>—if you do <u>not</u> agree to the listed attestation. If you select <b>No</b>, you must still submit an Organizational Chart or “Other” document.</li> </ul> <p>Note: To offer certified QHPs or SADPs you must respond <b>Yes</b>.</p>
Attestations required of Medical QHP issuers only	<p>Choose from the following to attest to the attestations in this section:</p> <ul style="list-style-type: none"> <li>◆ <b>Yes</b>—if you agree to the listed attestation.</li> <li>◆ <b>No</b>—if you do <u>not</u> agree to the listed attestation.</li> <li>◆ <b>Not Applicable</b>—if you are not submitting for Medical QHP certification.</li> </ul> <p>Note: If you are applying to offer Medical QHPs, you must respond <b>Yes</b> with regard to those Medical QHPs. If you are not applying to offer Medical QHPs, select <b>Not Applicable</b>.</p> <p>Complete and upload the Interoperability Attestation and Justification Form. This form is not required for FF-SHOP, SBE-FP, or SADP issuers. Complete the four attestations with the following choices:</p> <ul style="list-style-type: none"> <li>◆ <b>July 1, 2021</b>—if you will be in compliance with the stated requirement by this date.</li> <li>◆ <b>November 1, 2021</b>—if you will be in compliance with the stated requirement by this date.</li> <li>◆ <b>January 1, 2022</b>—if you will be in compliance with the stated requirement by this date.</li> <li>◆ <b>Other</b>—if you will be in compliance with the stated requirement at a date later than January 1, 2022 (this requires a write-in response).</li> </ul> <p>If you do not select <b>July 1, 2021</b>, for every question, you must complete the Justification at the end of the document, which consists of pre-populated responses (select all that apply) and a narrative response (required if completing the justification section). If you did not offer plans on the Exchange in PY21, you are not required to implement these requirements until <b>January 1, 2022</b>, and may indicate this on the form.</p>
Attestations required of SADP issuers only	<p>Choose from the following to attest to the attestations in this section:</p> <ul style="list-style-type: none"> <li>◆ <b>Yes</b>—if you agree to the listed attestation.</li> <li>◆ <b>No</b>—if you do <u>not</u> agree to the listed attestation.</li> <li>◆ <b>Not Applicable</b>—if you are not submitting for SADP certification.</li> </ul> <p>Note: If you are applying to offer SADPs, you must respond <b>Yes</b> with regard to those SADPs. If you are not applying to offer SADPs, select <b>Not Applicable</b>.</p>
Optional Attestations	<p>Choose from the following to attest to the attestations in this section:</p> <ul style="list-style-type: none"> <li>◆ <b>Yes</b>—if you agree to the listed compliance plan attestation. If you select <b>Yes</b>, submit the Compliance Plan and the Compliance Plan and Organizational Chart Cover Sheet. Use the document upload feature in this subsection and select <b>Compliance Plan</b> as the document type.</li> <li>◆ <b>No</b>—if you do <u>not</u> agree to the listed compliance plan attestation. If you select <b>No</b>, complete and submit the justification form. Use the document upload feature in this subsection and select <b>Other</b> as the document type. You may still submit a Compliance Plan if you select <b>No</b>.</li> </ul> <p>Note: We strongly encourage you to respond <b>Yes</b> and upload a Compliance Plan and the Compliance Plan Cover Sheet.</p>

The specific attestations for each of the four subsections are shown below.

Attestation Area	Attestation
Attestations required of both Medical QHP and SADP issuers	Applicant agrees to adhere to all of the certification standards and operational requirements applicable to applicant in 45 Code of Federal Regulations (CFR) Parts 153, 155, and 156.
Attestations required of Medical QHP issuers only	Applicant agrees to adhere to all applicable requirements in 45 CFR Parts 146, 147, 155, and 156, including those related to the segregation of funds for abortion services. Applicant attests to compliance with requirements finalized in Interoperability and Patient Access Final Rule by uploading the Interoperability Attestation and Justification Form. This form is not required for SADP, FF-SHOP, or SBE-FP issuers.

Attestation Area	Attestation
Attestations required of SADP issuers only	Applicant agrees to adhere to all of the certification standards and operational requirements applicable to applicant in 45 CFR Parts 155 and 156.
Optional Attestations	Applicant attests that it is submitting a compliance plan that adheres to all applicable laws, regulations, and guidance; that the compliance plan is ready for implementation; and that the applicant agrees to reasonably adhere to the compliance plan provided. The applicant agrees to submit in advance any changes to the compliance plan to the Department of Health and Human Services (HHS) for review. Applicant will upload a copy of the applicant's compliance plan.

If you respond **No** to the optional attestation, you must provide a justification for why you are not providing a compliance plan. See Figure 1A-2 for a sample justification form.

**Figure 1A-2. Sample Justification Form**

**Optional Program Attestation Justification  
for the Federally-facilitated Exchange**


Complete this form if you are a Federally-facilitated Exchange (FFE) issuer who is submitting your Qualified Health Plan (QHP) Application in the Health Insurance Oversight System (HIOS). If you apply via the System for Electronic Rate and Form Filing (SERFF), submit a justification on the State Partnership Exchange Issuer Program Attestations Response form.

The compliance plan attestation is optional, but we encourage all issuers to respond **Yes** and upload a Compliance Plan and the Compliance Plan Cover Sheet in the Issuer Module.

If you respond **No** to the optional Compliance Plan Program attestation, provide an explanation below.

Issuer Name:

HIOS ID:


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As you complete the Compliance Plan and Organizational Chart Cover Sheet, respond **Yes** or **No** to each evaluation criterion and identify the page number in the compliance plan where language supporting the evaluation criterion is found. Provide any requested organizational chart information on the same cover sheet.

We expect you to acknowledge that your compliance plans apply to Exchange products and operations and to provide examples of specific plans or processes that comply with Exchange requirements (see the Compliance Plan Contents section of the Compliance Plan and Organizational Chart Cover Sheet). For example, you might use an Exchange module as a part of employees' compliance training or develop audit plans to evaluate Exchange compliance risks.

See Figure 1A-3 for a sample partially completed Compliance Plan and Organizational Chart Cover Sheet.

**Figure 1A-3. Sample Compliance Plan and Organizational Chart Review Cover Sheet**


### QHP Issuer Compliance Plan and Organizational Chart

**Review Cover Sheet**

*Submit a Compliance Plan and Organizational Chart as part of your QHP Application. We review Compliance Plans based on criteria listed below. Respond to the evaluation criteria and, where applicable, state the page number where language supporting the response can be found. We will use this initial evaluation and review cover sheet to evaluate the adequacy of the Compliance Plan and Organizational Chart and to help us monitor ongoing compliance.*

*We reserve the right to identify weaknesses in your Compliance Plan or the Organizational Chart and to require you to address those weaknesses at a later date.*

Evaluation Criteria	Yes	No	Page Number
<b>Compliance Plan and Organizational Chart Submissions</b>			
Applicant included a completed PY2022 cover sheet in the QHP application.	<input type="radio"/>	<input type="radio"/>	N/A
Applicant uploaded a copy of its Compliance Plan.	<input type="radio"/>	<input type="radio"/>	N/A
Applicant uploaded a copy of the Organizational Chart.	<input type="radio"/>	<input type="radio"/>	N/A
<b>Compliance Plan Contents</b>			
<b>A. Written Policies and Procedures</b>			
1. Does the Compliance Plan include a statement that articulates the issuer's commitment to comply with all applicable federal and state rules, regulations, and standards?	<input type="radio"/>	<input type="radio"/>	
2. Does the Compliance Plan include written standards of conduct for employees?	<input type="radio"/>	<input type="radio"/>	
3. Does the Compliance Plan provide guidance for employees, contractors, subcontractors, or other applicable entities on the process for dealing with potential compliance issues?	<input type="radio"/>	<input type="radio"/>	
4. Does the Compliance Plan describe the methods, process, and procedures used to implement the Compliance Program?	<input type="radio"/>	<input type="radio"/>	


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Attestations 1-4 in the Interoperability Attestation and Justification Form each summarize a separate requirement of the Interoperability and Patient Access Final Rule, detailed in 45 CFR 156.221. As you complete this form, respond to each attestation with the earliest listed date by which you will have completed the stated requirement. The expected implementation date for each requirement is July 1, 2020. If you will not comply by July 1, 2020, and enter a different response, you must provide a justification at the end of the Interoperability Attestation and Justification Form. You should select all suggested responses that apply and provide a narrative response. If you did not offer QHPs on the Exchange in PY2021, you have an extended deadline of January 1, 2022. See Figure 1A-4 for a sample justification form.

Additional details for each attestation are listed below:

**Attestation 1:** A secure API and its necessary features are detailed in full in 45 CFR 156.221. You may also read our [Best Practices for Payers and App Developers](#) document online, which includes implementation and testing guidance for payers.

**Attestation 2:** The information detailed in full in 45 CFR 156.221 includes the following:

- a) Data concerning adjudicated claims, including claims data for payment decisions that may be appealed, were appealed, or are being appealed, and provider remittances and enrollee cost-sharing pertaining to such claims, no later than one business day after a claim is processed
- b) Encounter data from capitated providers, no later than one business day after data concerning the encounter is received by the QHP issuer
- c) Clinical data, including laboratory results, if the QHP issuer maintains any such data, no later than one business day after data is received by the issuer.

**Attestation 3:** The information to be included on the issuer's website is detailed in full in 45 CFR 156.221 and includes the following:

- a) API syntax, function names, required/optional parameters and their data types, return variables and their types/structures, and exception and exception handling methods and their returns
- b) Software components and configurations an application must use to interact with the API and process its response(s)
- c) Technical requirements for an application to be registered with any authorization server(s) deployed along with the API.

**Attestation 4:** The information to be included on the issuer's website for enrollees is detailed in full in 45 CFR 156.221 and includes the following:

- a) General information on steps the individual may consider taking to help protect the privacy and security of enrollee health information, including factors to consider in selecting an application including secondary uses of data, and the importance of understanding the security and privacy practices of any application to which they entrust their health information
- b) An overview of which types of organizations or individuals are and are not likely to be HIPAA-covered entities, the oversight responsibilities of the Office for Civil Rights and the Federal Trade Commission, and how to submit a complaint to the HHS Office for Civil Rights and the Federal Trade Commission. as described in 45 CFR 156.221.

You may find the following best practices resource on [Patient Privacy and Security Resources – Supporting Payers Educating their Patients](#) helpful.

Figure 1A-4. Sample Interoperability Attestation and Justification Form

### Interoperability Attestation and Justification Form: Compliance with Health Data and Plan Information Interoperability Requirements

Issuer Name: \_\_\_\_\_

HIOS ID: \_\_\_\_\_

**Instructions:** This program attestation will evaluate your compliance with the requirements finalized in the Interoperability and Patient Access Final Rule published on May 1, 2020. By July 1, 2021, you must implement the requirements detailed in 45 Code of Federal Regulations (CFR) 156.221, which require the implementation and maintenance of a patient access application programming interface (API) and related documentation. If you did not offer a plan on the Marketplace in plan year (PY) 2021, you have an extended implementation deadline of January 1, 2022, for each requirement listed below. Please refer to PY2022 Issuer Instructions for further detail.

If you issue plans on the Federally-facilitated Exchange, submit this form as part of your Qualified Health Plan Application in the Health Insurance Oversight System (HIOS). If you issue plans on a State Partnership Exchange, submit your application, including this form, via the System for Electronic Rate and Form Filing. This form is not required for stand-alone dental plans, Federally-facilitated Small Business Health Options Programs, and State-based Exchanges on the Federal platform. You must respond to the questions below to attest to your compliance with each requirement. If you respond anything other than "July 1, 2021" for each attestation, you must submit a narrative justification at the end of the form.

**Attestation 1:** The issuer must fully implement a secure API that both:

- a) Allows all enrollees to access their claims and encounter information through a third-party application of the enrollee's choice and

After entering all data, click **Save** to ensure no data are lost. The next section of the Instructions for the plan year (PY) 2022 QHP Application is State Licensure.