

## Overview of Possible Implementation of Active Selector Process

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Under Minn. Stat. § 62V.05, subd. 5(c), MNSure is required to certify and select a health plan as a qualified health plan to be offered through MNSure if:

- (1) the health plan meets all of the market regulatory requirements related to offering a health plan in the individual and small group markets under Minnesota law;
- (2) MNSure determines that making the health plan available through MNSure is in the interest of qualified individuals and qualified employers;
- (3) the health carrier applying to offer the health plan through MNSure also applies to offer health plans at each actuarial value level and service area that the health carrier currently offers in the individual and small group markets; and
- (4) the health carrier does not apply to offer health plans in the individual and small group markets through MNSure under a separate license of a parent organization or holding company under section 60D.15, that is different from what the health carrier offers in the individual and small group markets outside MNSure.

The construction of this statutory provision is such that selection and certification of a health plan to be a qualified health plan offered through MNSure is mandatory if all of the above criteria are met.

In reviewing each of the criteria, it appears that only the second criteria requires substantial evaluation and review by MNSure to reach a determination.

For example, the first criteria is determined by other state agencies, so there is no evaluation or review necessary by MNSure other than verification that these regulatory requirements were met according to the appropriate regulatory entities.

Additionally, for the third and fourth criteria, all that is required is for MNSure to verify that an action was taken – there is no evaluation against a set of factors, rather, the review is simply whether the action was taken or not.

In contrast, the second criteria requires that MNSure come to a determination regarding the health plan based on various subjective factors listed in Minn. Stat. § 62V.05, subd. 5.

Therefore, in carrying out the active selector process, the proposed rule documents a process for MNSure to reach a determination on the second criteria, recognizing that the first, third and fourth criteria will also need to be verified for a health plan or health carrier prior to any health plan being certified and selected as a qualified health plan offered through MNSure.