

# **NAIC SCORI Workstream Meeting**

**Collection of Race and Ethnicity Data in Insurance Applications**

**September 2024**

[www.insurance.pa.gov](http://www.insurance.pa.gov)

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# Evolution of Policy & Regulations in Pennsylvania

- The Department's amendment to 31 Pa. Code § 89.12(e), effective 12/23/2023, **removed** the Civil-Rights-era prohibition for life, accident, and health insurers to collect race and ethnicity data on their insurance applications.
- Prior to this amendment, in April 2022, the Department **ended** its enforcement of the prohibition to collect race and ethnicity demographic data in insurance applications.
- The promulgation of the regulation went smoothly and garnered a few positive comments industry representatives.
  - "Collecting demographic data is vital in measuring and managing disparities in society. By gathering accurate data, we can identify and understand the extent of disparities, and implement effective solutions to eliminate them," said Ravi Chawla, chief analytics officer at Independence Blue Cross. (1/5/24)

# Evolution of Policy & Regulations in Pennsylvania

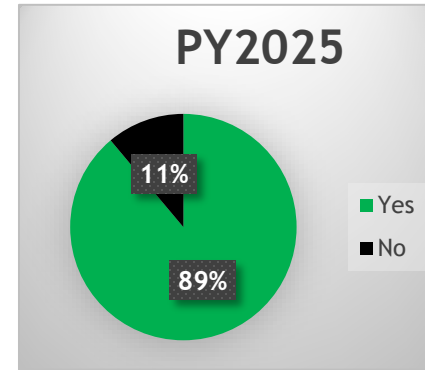
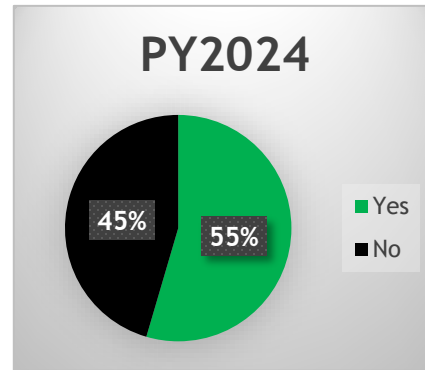
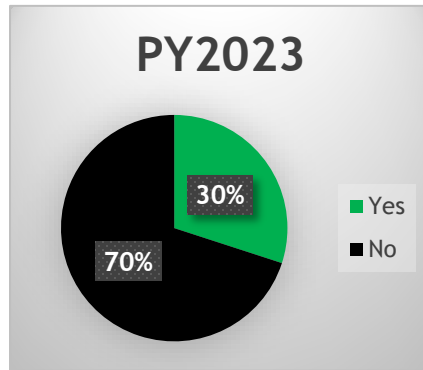
## Under 31 Pa. Code § 89.12, the insurer must meet several guardrails:

- The **application must clearly state:**
  - that the disclosure is **voluntary** and
  - use answer options that are provided in the regulation.
- The **insurer must provide the applicant a statement** stating that:
  - the data will be maintained as private,
  - it may not be used for eligibility, underwriting, or rating purposes,
  - the insurer may not deny an application for failure to answer the demographic questions, and
  - explains why the data is being requested and how the data will be used to support the provision of equitable coverage.
- The insurer **attests to the Department** that its practices are consistent with the above statements.

# Benefits of Allowing Insurers to Collect Race and Ethnicity Data

- The Centers for Medicare & Medicaid Services' *HHS Notice of Benefit and Payment Parameters for 2023* required insurers to collect and report certain information including race and ethnicity data through the EDGE data submission server but allowed for a transitional period for the 2023 and 2024 benefit years, which permitted insurers to use only data already collected or accessible. ***“Beginning with the 2025 benefit year, issuers will be required to populate the field using available sources and, in the absence of an existing source to populate these data elements for particular enrollees, they will be required to make a good faith effort to ensure collection of race and ethnicity data.”***
- We have heard that this will **help insurers collect the data they lack and need in terms of participation in the NCQA’s Multicultural Health Care (MHC) Distinction...** to get to a disparity reduction, insurers need the data to analyze their operations, policies, benefits, claims, etc.
- The data could **help insurers with their AI governance and help them to address unintentional biases of their AI systems**, etc.

# Collected QHP Data (PY2023 - PY2025)



- In **PY2023, three of ten companies (30%)** in the individual and small group major medical health insurance markets included race and ethnicity data questions in the insurance applications.
- In **PY2024, six of eleven companies (55%)** in the individual and small group major medical health insurance markets included race and ethnicity data questions in the insurance applications.
- Based on **PY2025 preliminary data, eight of nine companies (89%)** in the individual and small group major medical health insurance markets plan to include race and ethnicity data questions in the insurance applications.

**NOTE:** Pennie® separately collects demographic information from applicants, including race and ethnicity data, which it then shares directly with each insurer.

# Example Disclosures in QHP PY2025 (Proposed) Applications



Some insurers provide very limited information (i.e., could do a better job explaining how they use the data), while other insurers' disclosures are more robust and better explain their intentions for collecting the data

## Good

*“The following questions will be used by [company name removed] **to gain a better understanding of the demographics and health needs of our members. By collecting this data, [company name removed] can assess whether, and the extent to which, our health solutions, policies and practices address systematic disparities in health and healthcare for our members and communities. These assessments will better equip [company name removed] to deepen our knowledge around the health challenges of our members in order to develop and provide unique services to meet the specific needs of our members and communities.** Race and Ethnicity data will be shared with the U.S. Department of Health and Human Services to support a broader understanding of health needs across the U.S. population. Your answers to the following questions are completely voluntary. In collecting the below data, [company name removed] will: 1) maintain all the below data as private; 2) not use the below data for eligibility determination, underwriting, or rating purposes; and 3) not deny your application based on whether you choose to answer these questions.”*

# Example Disclosures in QHP PY2025 (Proposed) Applications



## Acceptable

*“The collection of Race, Ethnicity, and Language data is confidential and voluntary. We are collecting this information as part of our **efforts to support equitable, whole-person coverage. This data may be analyzed by our data analysts to support equitable, whole-person health initiatives.** For information about the Plan’s policies and procedures for managing access to and use of Race, Ethnicity, and Language data, including controls for physical and electronic access to the data, permissible use of the data, and impermissible use of the data, please refer to the Notice of Privacy Practices at [URL removed to not identify company]. ...*

*\*The information regarding demographic factors: (1) will be maintained as private; (2) may not be used by the insurer for eligibility determinations, underwriting, or rating purposes; and (3) the insurer will not deny an application based on the applicant’s refusal to answer the questions related to demographic data.”*



**QUESTIONS?**