**Section 4540.80 Confidentiality**

a) All records in the custody or possession of the Department are presumed to be open to public inspection or copying unless exempt from disclosure by Section 7 or 7.5 of the Freedom of Information Act [5 ILCS 140]. Except as otherwise provided in this Section or under other applicable law, the filings required under the Act and this Part and communications between the Department and an insurer in connection with those filings are open to public inspection or copying.

b) The following information shall not be considered confidential:

1) actual or projected ratios of providers to beneficiaries, and whether a network plan has satisfied the Act’s requirements for these ratios;

2) actual or projected time or distance between preferred providers and beneficiaries;

3) actual or projected appointment waiting times for a beneficiary to see a preferred provider;

4) geographic maps of preferred providers;

5) provider directories and provider lists;

6) exceptions to compliance with Section 10 of the Act, except with respect to any explicit discussion of ongoing or planned contractual negotiations with preferred providers that the insurer expressly asks to be treated as confidential; and

7) insurer or Department statements of determination as to whether a network plan has satisfied the Act’s requirements regarding the information described in subsections (b)(1) through (b)(6).

c) An insurer’s workpapers and reports under Section 4540.60 shall remain confidential unless the insurer expressly waives confidentiality or unless all or some of the workpaper or report is considered public information under federal law or the Freedom of Information Act [5 ILCS 140].

d) Except when contrary to other applicable law, a filing required under Section 10 of this Act and the related communications between the Department and the insurer will be treated as confidential while the filing remains under the Department’s review but will become open to public inspection and copying upon the completion of the Department review.

e) If an insurer wishes to assert that any information filed under the Act or this Part, other than the information specified in subsection (b), should be withheld from public disclosure based on a claim that the information is a trade secret or confidential commercial or financial information, the insurer shall:

1) include a cover letter in its filing that identifies all documents containing confidential information and specifies the types of information that are trade secrets or confidential commercial or financial information that the insurer considers proprietary, privileged, or confidential, as well as a brief factual explanation as to how the disclosure of each type of information would cause competitive harm to the insurer;

2) if a document is confidential in its entirety, include a cover page, a note on the first page, or a note in the margins that the document is confidential; and

3) if the document contains both confidential information and public information, include both an unredacted and a redacted copy of that document in the filing. The redactions shall only extend to the confidential information identified in the cover letter.

f) Documents filed and communications exchanged with the insurer under the Act will not be deemed examination materials unless requested by the Department’s examination staff or a duly appointed examiner and transmitted outside of SERFF. Nothing in this Section shall be construed to override the statutory requirement that workpapers that the Department obtains or creates during a market conduct examination remain confidential.