

### **304.17A-310 Financial solvency requirements for network.**

To qualify as a provider-sponsored integrated health delivery network, the network shall meet the following financial solvency requirements:

- (1) Maintenance of a fidelity bond or fidelity insurance in an amount not less than two hundred fifty thousand dollars (\$250,000) on employees and officers, directors, and partners who receive, collect, disburse, or invest funds of the provider-sponsored network;
- (2)
  - (a) The provider-sponsored network shall have an initial net worth requirement of one million five hundred thousand dollars (\$1,500,000) and shall thereafter maintain the minimum net worth required under paragraph (b) of this subsection.
  - (b) Every provider-sponsored network shall maintain a minimum net worth equal to the greater of:
    1. One million dollars (\$1,000,000);
    2. Two percent (2%) of annual premium revenues as reported on the most recent annual financial statement filed with the commissioner on the first one hundred fifty million dollars (\$150,000,000) of premiums and one percent (1%) of annual premiums on the premiums in excess of one hundred fifty million dollars (\$150,000,000);
    3. An amount equal to the sum of three (3) months' uncovered health care expenditures as reported on the most recent financial statement filed with the commissioner of insurance; or
    4. An amount equal to the sum of eight percent (8%) of annual health care expenditures except those paid on a capitated basis or managed hospital payment basis and four percent (4%) of annual hospital expenditures paid on a managed hospital payment basis as reported on the most recent financial statement filed with the commissioner.
  - (c) In determining net worth, no debt shall be considered fully subordinated unless the subordination clause is in a form acceptable to the commissioner. Any interest obligation relating to the repayment of any subordinated debt shall be similarly subordinated.
    1. The interest expenses relating to the repayment of any fully subordinated debt shall be considered covered expenses.
    2. Any debt incurred by a note meeting the requirements of this section, and otherwise acceptable to the commissioner, shall not be considered a liability and shall be recorded as equity.
- (3)
  - (a) Unless otherwise provided below, each provider-sponsored network shall deposit with the commissioner or, at the discretion of the commissioner, with any organization or trustee acceptable to the commissioner through which a custodial or controlled account is utilized, cash, securities, or any combination of these or other measures that are acceptable to the commissioner which at all times shall have a value of not less than three hundred thousand dollars (\$300,000).

- (b) The deposit shall be an admitted asset of the provider-sponsored network in the determination of net worth.
  - (c) All income from deposits shall be an asset of the provider-sponsored network. A provider-sponsored network that has made a securities deposit may withdraw that deposit or any part thereof after making a substitute deposit of cash, securities, or any combination of these or other measures of equal amount and value. Any securities shall be approved by the commissioner before being deposited or substituted.
  - (d) The deposit shall be used to protect the interests of the provider-sponsored network's enrollees and to assure continuation of health care services to enrollees of a provider-sponsored network which is in rehabilitation or conservation. The commissioner may use the deposit for administrative costs directly attributable to a receivership or liquidation. If the provider-sponsored network is placed in receivership or liquidation, the deposit shall be an asset subject to the provisions of Subtitle 33 of this chapter.
- (4) Every provider-sponsored network shall, when determining liabilities, include an amount estimated in the aggregate to provide for any unearned premium and for the payment of all claims for health care expenditures which have been incurred, whether reported or unreported, which are unpaid and for which the provider-sponsored network is or may be liable, and to provide for the expense of adjustment or settlement of such claims.
- (5) (a) Every contract between a provider-sponsored network and a participating provider of health care services shall be in writing and shall set forth that in the event the provider-sponsored network fails to pay for health care services as set forth in the contract, the enrollee shall not be liable to the provider for any sums owed by the provider-sponsored network.
- (b) If the participating provider contract has not been reduced to writing as required by this subsection or if the contract fails to contain the required prohibition, the participating provider shall not collect or attempt to collect from the enrollee sums owed by the provider-sponsored network.
- (6) Each provider-sponsored network shall have a plan for handling insolvency which guarantees the continuation of benefits for the duration of the contract period for which premiums have been paid and continuation of benefits to members who are confined on the date of insolvency in an inpatient facility until their discharge or expiration of benefits.
- (7) If at any time uncovered expenditures exceed ten percent (10%) of total health care expenditures, a provider-sponsored network shall place an uncovered expenditures insolvency deposit with the commissioner or with any organization or trustee acceptable to the commissioner through which a custodial or controlled account is maintained, in cash or securities that are acceptable to the commissioner. This deposit shall at all times have a fair market value in an amount of one hundred twenty percent (120%) of the provider-sponsored network's outstanding liability for uncovered expenditures for enrollees, including incurred but not reported claims, and shall be calculated as of the first day of the month and maintained for the

remainder of the month. The provider-sponsored network shall file a report within forty-five (45) days of the end of the calendar quarter with information sufficient to demonstrate compliance with this subsection. The provisions of subsection (6) of this section shall apply to the deposit required in this subsection.

**Effective:** July 15, 2010

**History:** Amended 2010 Ky. Acts ch. 24, sec. 1223, effective July 15, 2010. -- Amended 1998 Ky. Acts ch. 405, sec. 2, effective July 15, 1998. -- Created 1996 Ky. Acts ch. 371, sec. 19, effective July 15, 1996.