

(e) A licensed organized delivery system shall deposit with the Commissioner in accordance with the procedures set forth in N.J.A.C. 11:2-32, cash, securities, or any combination of these or other measures that is acceptable to the Commissioner in an amount equal to 50 percent of the highest calendar quarterly compensation of the most recent four quarters, but in no event less than \$25,000, which amount shall be adjusted annually in accordance with changes in the Consumer Price Index. The deposit shall be deemed an admitted asset of the system in the determination of net worth. The deposit amount, above the \$25,000 minimum, shall be payable over a two-year period, with 50 percent of the required amount above the minimum required amount payable at the end of the 12th month after it was issued a license.

(f) All income from deposits shall be an asset of the licensed organized delivery system. A licensed organized delivery system may withdraw a deposit or any part thereof after making a substitute deposit of equal amount and value, except that a security may not be substituted unless it has been approved by the Commissioner.

(g) If a licensed organized delivery system is placed in rehabilitation or liquidation, the deposit shall be treated as an asset subject to the provisions of N.J.S.A. 17B:32-31 et seq.

(h) A licensed organized delivery system shall maintain in force a fidelity bond in its own name on its officers and employees, in an amount not less than \$100,000.

(i) Any organized delivery system that pursuant to the terms of the contract, accepts risk in an amount represented by 50 percent or more of any carrier's consideration received to provide services or benefits, shall satisfy all net worth and financial requirements set forth in N.J.A.C. 8:38-11.

(j) For purposes of determining net worth and deposit requirements set forth in this section, "compensation" shall mean amounts paid to the ODS by a carrier or other ODS for specified health care benefits (for example, hospital/medical, dental, radiology, etc.) provided to the policyholders or members of the carrier pursuant to agreements whereby the ODS assumes financial risk.

(k) For purposes of determining net worth and deposit requirements set forth in this section, "health care expenditures" means amounts paid for provider services provided under a contractual arrangement and includes salaries, including fringe benefits, paid to providers for delivery of health care services; capitation payments paid by the ODS to providers for delivery of health care services; and fees paid to providers on a fee-for-service basis for delivery of health care services, including capitated referrals; and net of reinsurance recoveries. Annual health care expenditures do not include expenses for the time of providers devoted to administrative tasks.

Amended by R.2003 d.186, effective May 5, 2003.

See: 34 N.J.R. 3593(a), 35 N.J.R. 1918(a).

In (a), substituted "Two" for "Six" in 1, added 2ii; in (e), added the third sentence; added (j) and (k).

11:22-4.9 Financial reports

(a) A licensed organized delivery system shall file an annual report for the segregated account established pursuant to N.J.A.C. 11:22-4.8(b) with the Commissioner, on or before March 1 of each year, for the immediately preceding calendar year, completed as prescribed by the National Association of Insurance Commissioners (NAIC) Health Annual Statement Instructions, and completed on a statutory accounting principles basis, in accordance with the NAIC Accounting Practices and Procedures Manual, effective January 1, 2001, incorporated herein by reference, as amended and supplemented (NAIC, 2301 McGee Street, Kansas City, MO 64108). The annual report shall be submitted using the NAIC health blank in effect at the time of the calendar year reported. Annual statements shall be accompanied by a fee in the amount of \$100.00.

(b) A licensed organized delivery system shall submit, no later than June 1, audited annual financial reports for the immediately preceding calendar year for the segregated account established pursuant to N.J.A.C. 11:22-4.8(b), and shall also file a report with respect to all of its operations, completed on a generally accepted accounting principles basis, certified by an independent certified public accountant, in accordance with N.J.A.C. 11:2-26. In addition, a statement by a qualified actuary setting forth the actuary's opinion as to the adequacy of reserves shall be filed with the annual report filed pursuant to (a) above, which shall satisfy the requirements set forth in N.J.A.C. 8:38-11.6(a)2.

(c) A licensed organized delivery system shall file quarterly reports for the segregated account established pursuant to N.J.A.C. 11:22-4.8(b) with the Commissioner, no later than 45 days following the close of each of the first three calendar quarters (that is, May 15, August 15, and November 15, respectively), completed as prescribed by the NAIC Health Annual Statement Instructions, and completed on a statutory accounting principles basis, in accordance with the NAIC Accounting Practices and Procedures Manual, effective January 1, 2001, incorporated herein by reference, as amended and supplemented. The quarterly report shall be submitted using the NAIC health blank in effect at the time of the quarter submitted.

11:22-4.10 Suspension or revocation

(a) The Commissioner may suspend or revoke the license issued to an organized delivery system upon a finding that:

1. The licensed organized delivery system is operating in contravention of its basic organizational documents;
2. The licensed organized delivery system is unable to fulfill its obligations to the carriers with whom it contracts;

3. The net worth of the licensed organized delivery system is less than that required by this subchapter, or the licensed organized delivery system has failed to correct any deficiency in its net worth as required by the Commissioner;

4. The continued operation of the licensed organized delivery system would be hazardous to the health and welfare of the enrollees or contract holders with whom it has contracted to provide health care services or detrimental to a carrier with whom it has contracted to provide the services;

5. The licensed organized delivery system has failed to file any report required by N.J.S.A. 17:48H-1 et seq. or this subchapter;

6. The licensed organized delivery system has failed to provide the health care services for which it has been licensed or has provided health care services which are in contravention of the contract or contracts filed with the Commissioner;

7. The licensed organized delivery system is unable to maintain the standards set forth in this subchapter;

8. The licensed organized delivery system has failed to comply with the provisions of N.J.S.A. 26:2S-1 et seq.;

9. The licensed organized delivery system has otherwise failed to comply with N.J.S.A. 17:48H-1 et seq., or with other applicable law, including this subchapter; or

10. There are other reasonable grounds that warrant suspension or revocation.

(b) If the Commissioner has cause to believe that grounds exist for the suspension or revocation of a license, the Commissioner shall notify the licensed organized delivery system, in writing, specifically stating the grounds for suspension or revocation and fixing a time for a hearing in accordance with the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. and 52:14F-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1. If a license is revoked, the licensed organized delivery system shall submit a plan to the Commissioner within 15 days of the revocation, for the winding up of its affairs, and shall conduct no further business except as may be essential to the orderly conclusion of its business. The Commissioner may, by written order, permit such further operation of the system as the Commissioner finds to be in the best interest of individuals receiving health care services from the system.

(c) The Commissioner shall notify all carriers with contracts with the system that are on file with the Department of the proceedings.

11:22-4.11 Plan for insolvency

In connection with the plan for insolvency required as part of an application for licensure, a licensed organized delivery system shall maintain insurance to cover the expenses to be paid for continued benefits following a determination of insolvency, or make other arrangements acceptable to the Commissioner to ensure that benefits are continued for the period determined in the insolvency plan.

11:22-4.12 Confidentiality

(a) Any data or information relating to the diagnosis, treatment or health of an enrollee, prospective enrollee or contract holder obtained by a licensed organized delivery system from the carrier, contract holder, enrollee, prospective enrollee or any provider shall be confidential and shall not be disclosed to any person except as provided by N.J.S.A. 17:48H-30.

(b) In addition to (a) above, the following documents shall be confidential and shall not be considered public documents pursuant to the "Right-to-Know" law, N.J.S.A. 47:1A-2:

1. Pending applications for a license;
2. In biographical affidavits, the affiant's social security number and residence address;
3. The applicant's business plan;
4. Compensation formulas and fee schedules; and
5. With respect to an examination of a licensed ODS, all information as set forth in N.J.S.A. 17:23-24f and N.J.A.C. 11:1-36.6.

11:22-4.13 Penalties

Failure to comply with the provisions of this subchapter shall result in the imposition of penalties as provided in N.J.S.A. 17:48H-22, 17:48H-29, 17B:30-17, 17:27A-1 et seq., 26:2S-1 et seq., and P.L. 1999, c.154, and P.L. 1999, c.155.

SUBCHAPTER 5. MINIMUM STANDARDS FOR NETWORK-BASED HEALTH BENEFIT PLANS

Authority

N.J.S.A. 17:1-8.1, 17:1-15e, 17B:27A-54, 26:2J-42 and 26:2J-43.

Source and Effective Date

R.2003 d.419, effective November 3, 2003.
See: 34 N.J.R. 3485(a), 35 N.J.R. 5116(a).

11:22-5.1 Purpose and scope

(a) This subchapter establishes minimum standards for health benefit plans that provide coverage only when network providers are used, and for health benefit plans that provide different levels of coverage depending on whether a network provider or an out-of-network provider is used.

(b) This subchapter applies to all insurance companies, health service corporations, medical service corporations, hospital service corporations, and health maintenance organizations that deliver or issue for delivery health benefit plans in this State.