

3. Payments under the contract shall be made no less frequently than monthly and no payment to the organized delivery system shall be made by the carrier prior to the first day of the month to which the payment relates;

4. The terms under which the carrier may withhold payments shall be specified;

5. The information to be reported to, and the frequency of such reporting, by the ODS to the carrier for the carrier to determine any applicable credit to the carrier's reserves from the transfer of risk to the ODS shall be specified;

6. Contain a provision that the written agreement, including any written amendments thereto, constitutes the entire agreement between the parties; and

7. Any changes shall be null and void unless made by written amendment signed by the parties, and filed with and approved by the Commissioner.

#### 11:22-4.7 Examinations

(a) The Commissioner may conduct an examination of a licensed organized delivery system as often as he or she deems necessary in order to protect the interests of providers, contract holders, enrollees, and the residents of this State, but not less frequently than once every five years, except that an examination shall be conducted three years after the organized delivery system is initially licensed in this State. A licensed organized delivery system shall make its relevant books and records available for examination by the Commissioner, and retain its records related to the next examination, for not less than seven years. The reasonable expenses of the examination shall be borne by the licensed organized delivery system being examined.

(b) Where the system is domiciled in another state, and subject to regulation in a manner substantially similar to that provided under N.J.S.A. 17:48H-1 et seq. and this subchapter, the Commissioner may accept the report of an examination made by the Commissioner of that state in lieu of conducting examination pursuant to this section.

#### 11:22-4.8 Net worth, deposits, and bond

(a) Except as provided in (i) below, a licensed organized delivery system shall, at all times, have and maintain a minimum net worth, determined on a statutory accounting basis, in an amount equal to the greater of:

1. Two percent of the annual compensation received by the organized delivery system for all of its contracts, but in no event less than \$100,000; or

2. An amount equal to the sum of eight percent of the annual health care expenditures (not including those expenditures paid on a capitated basis and those made on a managed hospital payment basis), as reported for the most recent four calendar quarters, plus four percent of the

annual hospital expenditures paid on a managed hospital payment basis for the most recent four calendar quarters.

i. The amounts set forth in (a) above may be adjusted by the Commissioner to the extent the applicant demonstrates there is a limitation on its exposure to financial loss that results from a contract with a carrier that provides that any liabilities of the system may be satisfied by means of reductions or offsets against monies due to the system from the carrier, and which reductions or offsets the Commissioner finds will not adversely affect the system's ability to meet its contractual obligations.

ii. The minimum net worth requirements shall be phased-in over 48 months, so that an ODS shall maintain 25 percent of the minimum net worth required in (a) above at the end of the 12th month after it was issued a license; 50 percent of the minimum net worth required at the end of the 24th month following the month it was issued a license; 75 percent of the minimum net worth required at the end of the 36th month following the month it was issued a license; and 100 percent of the minimum net worth required at the end of the 48th month following the month it was issued a license.

(b) A licensed organized delivery system shall establish and maintain a segregated account with respect to the financial risk assuming operations of its business. Such segregated account shall include the income, disbursements, assets and liabilities associated with the financial risk assuming operations of the system. The segregated account shall, at all times, contain assets in an amount at least equal to the sum of its liabilities, including its reserve liabilities, plus the minimum net worth requirement set forth in (a) above. Such assets shall be segregated as separate and distinct funds, independent of all other funds of the organized delivery system. Assets in the segregated account shall be first utilized to provide treatment or services, including attendant administrative expenses, according to the terms of contracts with carriers under which the ODS assumes financial risk.

(c) Assets in the segregated account equal to its liabilities, including its reserve liabilities, and minimum net worth as set forth above, at any point in time, shall be held in cash or publicly traded securities with one year or less to maturity.

(d) Except for payment of benefits under the contract including attendant administrative expenses, a licensed organized delivery system shall obtain the prior non-disapproval of the Commissioner to withdraw funds from the segregated account in all cases where the fair market value of the funds to be withdrawn, together with that of other amounts withdrawn from the segregated account within the immediately preceding 12 months, exceeds 10 percent of the total net worth of the segregated account as of December 31 immediately preceding. Prior written notice of the intent to withdraw shall be filed with the Commissioner at least 45 days before the withdrawal, and if the withdrawal has not been disapproved prior to the expiration of the 45-day period,

then the organized delivery system may proceed to make the withdrawal. In no event may the net worth of the segregated account fall below the minimum net worth requirement set forth in (a) above.

(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).

Public Notice: Increase in Medical Component of the Consumer Price Index.

See: 36 N.J.R. 1837(a).

Public Notice: Increase in medical component of the Consumer Price Index.

See: 37 N.J.R. 1090(a).

Public Notice: Department of Banking and Insurance; Division of Insurance; Office of the Commissioner: minimum net worth requirements for Organized Delivery Systems: increase in medical component of the Consumer Price Index.

See: 38 N.J.R. 1607(b).

Public Notice: Increase in medical component of the Consumer Price Index.

See: 39 N.J.R. 1322(a).

Public Notice: Increase in medical component of the Consumer Price Index.

See: 40 N.J.R. 1937(a).

Public Notice: Increase in medical component of the Consumer Price Index.

See: 41 N.J.R. 1529(a).

Public Notice: Increase in medical component of the Consumer Price Index.

See: 42 N.J.R. 674(b).

Public Notice: Increase in medical component of the Consumer Price Index.

See: 43 N.J.R. 752(a).

Public Notice: Increase in medical component of the Consumer Price Index.

See: 44 N.J.R. 599(b).

Public Notice: Increase in medical component of the Consumer Price Index.

See: 45 N.J.R. 701(c).

Public Notice: Increase in medical component of the Consumer Price Index.

See: 46 N.J.R. 2046(c).

Amended by R.2015 d.141, effective September 8, 2015.

See: 46 N.J.R. 1731(b), 47 N.J.R. 2296(b).

Section was "Net worth, deposits and bond". Rewrote (d).

Public Notice: Increase in medical component of the Consumer Price Index.

See: 48 N.J.R. 602(a), 720(c).

#### 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.