

WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION

FILED

JUL 31 4 38 PM '85

Form #3

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

**NOTICE OF AGENCY APPROVAL OF A PROPOSED RULE
AND
FILING WITH THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE**

AGENCY: Insurance Commissioner TITLE NUMBER: 114

CITE AUTHORITY W. Va. Code §§ 33-25A-3(4), 3(5), 9, 12(4)¹⁵ and 22

AMENDMENT TO AN EXISTING RULE: YES ___ NO X

IF YES, SERIES NUMBER OF RULE BEING AMENDED: _____

TITLE OF RULE BEING AMENDED: _____

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED: Series 46

TITLE OF RULE BEING PROPOSED: Filing Procedures for Health
Maintenance Organizations

THE ABOVE PROPOSED LEGISLATIVE RULE HAVING GONE TO A PUBLIC HEARING OR A PUBLIC COMMENT PERIOD IS HEREBY APPROVED BY THE PROMULGATING AGENCY FOR FILING WITH THE SECRETARY OF STATE AND THE LEGISLATIVE RULE MAKING REVIEW COMMITTEE FOR THEIR REVIEW.

B. Keith Huffman
General Counsel
Authorized Signature

14.50



STATE OF WEST VIRGINIA
Offices of the Insurance Commissioner

Legal Division

GASTON CAPERTON
Governor

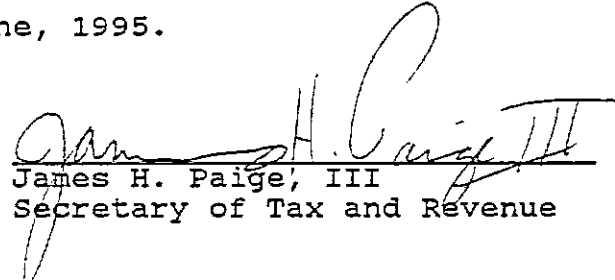
HANLEY C. CLARK
Insurance Commissioner

CONSENT TO FILING OF RULE

To Whom It May Concern:

Pursuant to West Virginia Code § 5F-2-2(a)(12), the undersigned hereby grants consent to the filing of the following rule proposed by the Insurance Commissioner of the State of West Virginia: Title 114, Series 46, relating to "Filing Procedures for Health Maintenance Organizations".

Signed this 26th day of June, 1995.


James H. Paige, III
Secretary of Tax and Revenue

Insurance Commissioner
Legislative Rule
Title 114, Series 46

FILING PROCEDURES FOR HEALTH MAINTENANCE ORGANIZATIONS

Title 114, Series 46

STATEMENT OF CIRCUMSTANCES

This is a new rule covering application and annual report filing procedures for health maintenance organizations. The rule incorporates filing requirements as amended by House Bill 2619, passed March 11, 1995.

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Title 114, Series 46
 Filing Procedures for Health Maintenance
 Organizations

Type of Rule: Legislative Interpretive Procedural

Agency: INSURANCE COMMISSIONER

Address: Post Office Box 50540
 2019 Washington Street, East
 Charleston, West Virginia 25305-0540

 1. Effect of Proposed Rule

	ANNUAL FISCAL YEAR				
	Increase	Decrease	Current	Next	Thereafter
ESTIMATED TOTAL COST	None				
PERSONAL SERVICES	None				
CURRENT EXPENSE	None				
REPAIRS AND ALTERNATIONS	None				
EQUIPMENT	None				
OTHER	None				

2. Explanation of above estimates:

There will be no additional fiscal impact on state, local or federal government.

3. Objectives of these rules:

The objective is to state filing requirements and procedures for health maintenance organizations' applications for certificates of authority and amendments to certificates of authority and for annual reports.

Rule Title: Filing Procedures for Health Maintenance Organizations

4. Explanation of Overall Economic Impact of Proposed Rule.

A. Economic Impact on State Government.

None.

B. Economic Impact on Political Subdivisions; Specific Industries; Specific groups of Citizens.

The rule will have no economic impact on political subdivisions, admitted HMO's or any specific citizen group. HMO's are subject to statutory examination and filing fees.

C. Economic Impact on Citizens/Public at Large.

This rule will have no direct economic impact on citizens. The rule will protect the public in that HMO's must submit to the state's jurisdiction and file reports to satisfy the Insurance Commissioner that they are financially solvent.

Date: 6/28/95

Signature of Agency Head or Authorized Representative

B. Keith Hoffman, General Counsel

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: OFFICE OF THE INSURANCE COMMISSIONER

DATE: July 31, 1995

LEGISLATIVE RULE TITLE: Filing Procedures for Health Maintenance Organizations - (Title 114, Series 46)

1. Authorizing statute(s) citation W Va. Code § 33-25A-3(4),
3(5), 9, 12(4) and 22.

2. a. Date filed in State Register with Notice of Hearing:
June 28, 1995

b. What other notice, including advertising, did you give of the hearing?

None

c. Date of hearing(s): Comment period ended on
July 28, 1995

d. Attach list of persons who appeared at hearing, comments received, amendments, reasons for amendments.

Attached XX No comments received

e. Date you filed in State Register the agency approved proposed Legislative Rule following public hearing: (be exact)

July 31 1995

f. Name and phone number of agency person to contact for additional information:

Ellen Archibald

Associate Counsel

(304) 558-0401

3. If the statute under which you promulgated the submitted rules requires certain findings and determinations to be made as a condition precedent to their promulgation:

a. Give the date upon which you filed in the State Register a notice of the time and place of a hearing for the taking of evidence and a general description of the issues to be decided.

Not applicable

b. Date of hearing: Not applicable

c. On what date did you file in the State Register the findings and determinations required together with the reasons therefor?

Not applicable

d. Attach findings and determinations and reasons:

Attached Not applicable

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FILING PROCEDURES FOR HEALTH MAINTENANCE ORGANIZATIONS

Title 114, Series 46

BRIEF SUMMARY OF RULE

This rule states the requirements for every health maintenance organization's application for a certificate of authority and amendment to certificate of authority and for the filing of an annual financial report and an annual report of grievance procedure and actual grievances.

FILED

114CSR46

WEST VIRGINIA LEGISLATIVE RULES
INSURANCE COMMISSIONER

JUL 31 4 39 PM '95

SERIES 46
FILING PROCEDURES FOR HEALTH MAINTENANCE ORGANIZATIONS

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

§ 114-46-1. **General.**

1.1. Scope. -- This rule applies to all persons or entities which are licensed or which may be required to be licensed pursuant to the provisions of West Virginia Code § 33-25A-1 et seq.

1.2. Authority. -- W. Va. Code § 33-25A-3(4), 3(5), 9, 12(4), 15 and 22.

1.3. Filing Date. --

1.4. Effective Date. --

§ 114-46-2. **Application for Certificate of Authority.**

2.1. Each application for a certificate of authority submitted by a health maintenance organization shall be in the format described in Appendix 1 attached hereto.

2.2. Each application shall be verified by an officer or authorized representative of the applicant.

2.3. Each application shall set forth or be accompanied by:

a. The applicant's name; trade name, if any; address and telephone number; name, address and telephone number of attorney or principal filing the application;

b. A copy of the applicant's basic organizational document, and any amendments, stamped with the date of filing, together with:

A. An original certificate issued by the Secretary of State of the state under whose laws the applicant is organized, certifying that the attached organizational document(s) is(are) a true and correct copy of the original filed in the Secretary of State's office;

B. Copy of the stock certificate(s) issued by the applicant, together with a listing of capital (par value per share) and surplus (per share contribution in excess of par value); and

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C. A description of the applicant's legal history in chronological order, including predecessor corporations or organizations, mergers, reorganizations and changes of ownership, the dates thereof and the parties involved;

c. The applicant's bylaws, rules, regulations or similar form of document regulating the conduct of the applicant's affairs;

d. A list of the names, addresses and official positions of all persons responsible for the conduct of the applicant's affairs, including all officers, members of the applicant's board of directors or other governing body and persons owning five percent (5%) or more of the applicant. The list shall contain:

A. A full disclosure of any financial interest in the health maintenance organization held by

(a) any officer or member of the governing body;

(b) any provider, as defined in W. Va. Code § 33-25A-2(18);

(c) any organization or corporation owned or controlled by an officer or member of the governing body or by a provider;

B. A full disclosure, by any person owning five percent (5%) or more of the applicant, of the extent of such person's ownership interest in all parent organizations, subsidiaries and affiliated organizations of the applicant, together with an organizational chart depicting all levels of ownership of the applicant and its parent organizations, subsidiaries and affiliated organizations;

C. The extent and nature of any contract or financial arrangements between an officer or member of the governing body or a provider and the health maintenance organization;

D. A completed "Biographical Statement and Affidavit" (form attached hereto as Appendix 2) for each officer, director, manager and administrator of the applicant, including,

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but not limited to, the applicant's executive director, medical director, finance director and marketing director, and for each person owning five percent (5%) or more of the applicant;

E. An independent investigation report on each individual reported under subparagraph D of this section above must be submitted by an independent investigator, which has been approved in writing by the Insurance Commissioner, directly to:

Financial Conditions Division
West Virginia Insurance Commissioner
P.O. Box 50540
Charleston WV 25305-0540

e. A description of the applicant, including:

A. Whether it is or will be organized for profit or not for profit;

B. Whether it is or will be a "staff model", "IPA model" or "combination model" health maintenance organization;

C. The method of compensation (fee for service, capitated basis, etc.) for providers; and

D. A statement describing the service area or areas and the type or types of enrollees to be served by the applicant.

f. A copy of contract forms used by the applicant, including:

A. Each health maintenance contract form, including but not limited to contracts with affiliates, administrative contracts and external service contracts;

B. Each evidence of coverage form;

C. Member handbook(s) to be offered to enrollees, showing benefits to which enrollees will be entitled together with any riders and endorsements;

D. Each type of provider contract, which must hold harmless all enrollees and otherwise comply with W. Va. Code § 33-25A-7a;

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E. Each enrollee contract form.

F. Alphabetical list of all providers with whom the applicant has contracted for services, sorted by county and by specialty, and corresponding signature page(s) from each executed provider contract, sorted alphabetically, by county and by specialty.

g. A description of the applicant's enrollee grievance procedure, including all formal and informal steps for resolving grievances;

h. The applicant's financial statements, including:

A. Assets, liabilities and sources of financial support of the applicant and any corporation or organization owned or controlled by the applicant, evidencing adequate funding to meet continuously the minimum capital and surplus requirements required by W. Va. Code § 33-25A-4(2)(c)(ii);

B. Monthly pro forma financial statements including balance sheet, income statement and cash flow analysis, with annual totals, for the greater of three (3) years or until the applicant is projected to be profitable for twelve (12) consecutive months, on a statutory accounting principal basis with documentation of all assumptions used and income, expense and capital items projected;

C. Proposed initial cash and cash reserves summary, including loan receipts, loan repayments, stock sales, etc., and describing all sources and terms of funding; an independently certified, audited financial statement must be submitted for each guarantor;

D. Declaration that all investments have been valued for asset purposes on a basis currently approved by the National Association of Insurance Commissioners (NAIC), or, if any investments have not been so valued, a description of each such item and its basis of value shown on the "Asset Page" of the balance sheet;

E. The applicant's proposed methods for limiting its financial risk, including:

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(a) If the applicant has secured reinsurance coverage, an executed copy of each applicable policy must be submitted, together with each reinsurance agreement and any modification(s);

(b) Any risk sharing with providers or other parties, referencing the applicable sections of any provider contracts that demonstrate such risk sharing.

F. A completed "Fidelity Bond Worksheet" (Form HMO-FID-1 attached hereto as Appendix 3) and copy of the applicant's fidelity bond in the amount prescribed by the worksheet;

G. Description and documentation of the applicant's arrangements to guarantee the continuation of benefits to enrollees and payments to providers for services rendered either prior to or after insolvency, for the duration of the enrollee's contract period for which payment has been made or until the discharge of an enrollee from an inpatient facility in which the enrollee is confined on the date of the applicant's insolvency;

i. The applicant's proposed marketing plan, including:

A. Marketing strategy for each major enrollment category (group, individual, PEIA, Medicare, Medicaid), including:

(a) Criteria for selection of primary and secondary targets;

(b) Use of underwriting guidelines; and

(c) Plans for community education and public relations.

B. Proposed charges for each enrollment category; and

C. Detailed marketing budget covering projected income, expenses and other sources of future capital for the greater of three (3) years or until the applicant is projected to be profitable for twelve (12) consecutive months:

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(a) The marketing budget shall reflect each program objective stated in subparagraph A. above and shall include, but not be limited to, compensation, local and out-of-town travel, equipment, printing and postage, advertising and public relations, expense accounts and meeting costs and publications, if applicable.

j. If the applicant is not domiciled in West Virginia, a power of attorney duly executed by the applicant, appointing the commissioner and his or successors in office and duly authorized deputies as the true and lawful attorney of the applicant in and for this State upon whom all lawful process in any legal action or proceeding against the applicant on a cause of action arising in this State may be served;

k. Description of the mechanism by which enrollees will be afforded an opportunity to participate in matters of the applicant's policies and operation;

l. Comprehensive feasibility study performed by a qualified independent actuary in conjunction with a certified public accountant:

A. The study shall include a certification by the actuary and an opinion by the certified public accountant as to the proposed organization's feasibility;

B. The study shall be for the greater of three years or until the applicant is projected to be profitable for twelve (12) consecutive months;

C. The study must show that the applicant would not, at the end of any month of the projection period, have less than the minimum capital and surplus required by W. Va. Code § 33-25A-4(2)(c)(ii);

D. The actuary shall certify that:

(a) The rates are neither inadequate nor excessive nor unfairly discriminatory;

(b) The rates are appropriate for the classes of risks for which they have been computed;

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(c) The rating methodology is appropriate, provided that the certification shall include an adequate description of the rating methodology showing that the methodology follows consistent and equitable actuarial principles;

(d) The applicant is actuarially sound, provided that the certification shall consider the rates, benefits and expenses of, and any other funds available for the payment of obligations of, the applicant;

(e) The rates being charged or to be charged are actuarially adequate to the end of the period for which rates have been guaranteed; and

(f) Incurred but not reported claims and claims reported but not fully paid have been adequately provided for;

E. A copy of the study, for information only, must be sent to:

Rates and Forms Division
West Virginia Insurance Commissioner
P.O. Box 50540
Charleston WV 25305-0540

The submission of a copy of the study does not constitute an official filing of the applicant's rates and forms.

m. Description of assumptions underlying enrollment projections, including:

A. Projection of enrollment for the same number of years for which financials are submitted under part 2.3.h.B. above;

B. Number of eligible persons residing within the proposed service area;

C. Contract size assumptions (contract distribution and content);

D. Penetration assumptions and rationale, including initial and re-enrollments;

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E. Allowance for involuntary/voluntary disenrollment and group contract additions during each year;

F. Month and year of break-even and enrollment at such date; and

G. Plan for emergency and out-of-area health care.

n. Description of competition, including:

A. Identification of the applicant's competitors operating in applicant's proposed geographic service area; and

B. Major differences between the applicant and competitors listed in subparagraph A. above.

o. Notarized acknowledgments, which may be submitted on "Acknowledgment and Waiver of Chief Executive Officer on Behalf of HMO Applicant" (form attached hereto as Appendix 4),

A. That a delinquency proceeding pursuant to W. Va. Code Chapter 33, Article 10, or supervision by the Insurance Commissioner pursuant to W. Va. Code Chapter 33, Article 34, constitutes the sole and exclusive method for the liquidation, rehabilitation, reorganization or conservation, respectively, of a health maintenance organization;

B. That the applicant waives any right to file or be subject to, as a debtor, any federal bankruptcy proceeding; and

C. That the applicant's chief executive officer has read and understands his or her obligations under W. Va. Code Chapter 33, Article 35, which imposes criminal sanction for the failure to report to the Insurance Commissioner an impairment of the health maintenance organization.

p. Acknowledgment ("Resident Agent" Form IC-FC30 attached hereto as Appendix 5) that once licensed, applicant will observe the resident agent's law of West Virginia, including the countersignature and other requirements of West Virginia Code Chapter 33, Article 12;

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q. Description of the applicant's arrangements for ongoing evaluation of its quality of health care;

r. The applicant's procedure for development, compilation, evaluation and reporting of statistics relating to the cost of its operations, availability and accessibility of its services, pattern of utilization of its services and the quality of health care provided; and

s. Such other information as the commissioner may request during review of the application.

2.4. The applicant must file an original application and two copies with:

West Virginia Insurance Commissioner
P.O. Box 50540
Charleston WV 25305-0540

2.5. The application must be accompanied by a completed "Health Maintenance Organization Application for a Certificate of Authority Filing Fee Remittance Form" (attached hereto as Appendix 6) and a check in the amount of two hundred dollars (\$200.00) payable to the "West Virginia Insurance Commissioner".

2.6. One copy of the application, together with copies of all related correspondence with the West Virginia Insurance Commission, must be mailed to:

Marianne K. Stonestreet, General Counsel
Health Care Cost Review Authority
100 Dee Dr., Suite 201
Charleston WV 25311-1692

2.7. Prior to the issuance of a certificate of authority, the Financial Conditions Division will contact the applicant to initiate the depositing of cash or government securities with the state treasurer pursuant to West Virginia Code § 33-25A-4(2)(h).

§ 114-46-3. Application for Amendment to Certificate of Authority

3.1. Each application for an amendment to a health maintenance organization's certificate of authority must be accompanied by a completed "Application for Amendment to

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Certificate of Authority Filing Fee Remittance Form" (Form HMO-COAAMEND-1 attached hereto as Appendix 7) and a check in the amount of two hundred dollars (\$200.00) payable to the "West Virginia Insurance Commissioner."

§ 114-46-4. Annual Financial Statement.

4.1. Each annual financial statement submitted by a health maintenance organization to the commissioner shall include, but not be limited to:

a. A financial statement on a West Virginia statutory accounting basis of the organization, including its balance sheet and receipts and disbursements for the preceding year certified by an independent certified public accountant, reflecting at least (i) all prepayment and other payments received for health care services rendered; (ii) expenditures to all providers, by classes or groups of providers, and insurance companies or nonprofit health service plan corporations engaged to fulfill obligations arising out of the health maintenance contract; and (iii) expenditures for capital improvements, or additions thereto, including, but not limited to, construction, renovation or purchase of facilities and capital equipment;

b. The number of new enrollees enrolled during the year, the number of enrollees as of the end of the year and the number of enrollees terminated during the year, using the "Health Maintenance Organization County Enrollment Worksheet" (form attached hereto as Appendix 8);

c. A summary of information compiled in such form as may be required by the West Virginia department of health and human resources or other accredited entity, relating to the cost of the health maintenance organization's operations, the pattern of utilization of its services and the quality, availability and accessibility of its services;

d. A report of the names and residence addresses of all persons responsible for the conduct of the health maintenance organization's affairs, including all officers of the health maintenance organization, members of its board of directors or other governing body, providers and persons owning five percent (5%) or more of the health maintenance organization, who were associated with the health maintenance organization during the

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preceding year, and the amount of wages, expense reimbursements, or other payments to such individuals for services to the health maintenance organization, including a full disclosure of any contract or financial arrangement between any such person and the health maintenance organization during the preceding year; and

e. Such other information relating to the health maintenance organization as the commissioner may request during review of the financial statement.

§ 114-46-5. Grievance Procedure Annual Report.

5.1. Each health maintenance organization shall file an annual report on its grievance procedure, using "HMO Grievance Report for the Year ____" (form attached hereto as Appendix 9) to describe its grievance procedure and to report actual grievances filed against the health maintenance organization, their disposition and their underlying causes.

§ 114-46-6. Regulation of Marketing.

6.1. After a subscriber signs an enrollment application and before the health maintenance organization may process the application changing or initiating the subscriber coverage, the health maintenance organization must verify the intent and desire of the individual to join the health maintenance organization.

a. The verification must be in writing and must be conducted by someone outside the health maintenance organization's marketing department.

b. Each verification, using the Subscriber Verification Form attached hereto as Appendix 10, shall confirm that:

A. The subscriber intends and desires to join the health maintenance organization;

B. If the subscriber is a Medicare or Medicaid recipient, the subscriber understands that, by joining the health maintenance organization, he or she will be limited to the benefits provided by the health maintenance organization, and

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Medicare or Medicaid will pay the health maintenance organization for the subscriber coverage;

C. The subscriber understands the applicable restrictions of health maintenance organizations, especially that he or she must use the health maintenance organization providers and secure approval from the health maintenance organization to use health care providers outside the plan; and

D. If the subscriber is enrolled as a member of a health maintenance organization, the subscriber understands that he or she is transferring to another health maintenance organization.

6.2 The health maintenance organization shall not pay a commission, fee, money or any other form of scheduled compensation to any health insurance agent until verification from the subscriber of his or her intent and desire to enroll in the health maintenance organization has been secured and the enrollment process has been completed:

a. The health maintenance organization shall verify the subscriber's intent to enroll by a written notice, using the Subscriber Confirmation Form attached hereto as Appendix 11:

A. The Subscriber Confirmation Form shall state that the subscriber has transferred from his or her existing coverage to the new health maintenance organization;

B. The Subscriber Confirmation Form shall be accompanied by printed materials explaining the nature of the health maintenance organization and any applicable restrictions and exclusions; and

C. The Subscriber Confirmation Form shall state the subscriber's enrollment date and when benefits will begin.

b. The enrollment process shall be considered complete seven (7) days after the health maintenance organization mails the Subscriber Confirmation Form and all attachments.

STATE OF WEST VIRGINIA
INSURANCE COMMISSIONER

HEALTH MAINTENANCE ORGANIZATION
APPLICATION GUIDELINES FOR CERTIFICATE OF AUTHORITY
CHAPTER 33, ARTICLE 25A OF THE WEST VIRGINIA CODE

Mail Completed Application to:

West Virginia Insurance Commission
Financial Conditions Division
2019 Washington Street E.
P.O. Box 50540
Charleston, West Virginia 25305-0540

Pursuant to Chapter 33, Article 25A, of the West Virginia Code, the application is hereby submitted to form and operate a Health Maintenance Organization ("HMO").

Name, trade name and address of the Health Maintenance Organization Applicant:

NAME: _____

TRADE NAME: _____

ADDRESS: _____

CITY: _____

STATE: _____ ZIP CODE: _____

PHONE: () _____

ATTORNEY OR PRINCIPAL FILING THIS APPLICATION, ON BEHALF OF THE HMO APPLICANT:

NAME: _____

ADDRESS: _____

CITY: _____

STATE: _____ ZIP CODE: _____

PHONE: () _____

Pursuant to the West Virginia Code, a Health Maintenance Organization means a public or private organization which provides or otherwise makes available to enrollees, health care services, including at a minimum basic health care services which:

- (a) Receives premiums for the provision of basic health care services to enrollees on a prepaid per capita or prepaid aggregate fixed sum basis excluding copayments;
- (b) Provide physicians' services primarily (i) directly through physicians who are either employees or partners of the organization, or (ii) through arrangements with individual physicians or one or more groups of physicians organized on a group practice or individual practice arrangement, or (iii) through some combination of paragraphs (i) and (ii) of this subdivision;
- (c) Assures the availability, accessibility and quality, including effective utilization, of the health care services which it provides or makes available through clearly identifiable focal points of legal and administrative responsibility; and
- (d) Offer services through an organized delivery system, in which a primary care physician is designated for each subscriber upon enrollment.

I. CERTIFICATE OF AUTHORITY

1. Each application must set forth or be accompanied by the information and documentation required by these Application Guidelines. Failure to provide complete information or documentation or to fully comply with any of the provisions or requirements of these guidelines or applicable law, shall result in the rejection or denial of the application by the Insurance Commissioner.
2. Each application for a certificate of authority must be verified by an officer or authorized representative of the HMO Applicant. A verification form entitled "CERTIFICATION" is included with this application packet and must be completed and filed with each application.
3. Please complete the enclosed "HEALTH MAINTENANCE ORGANIZATION APPLICATION FOR A CERTIFICATE OF AUTHORITY FILING FEE REMITTANCE FORM" and attach thereto a check in the amount of \$200 made payable to the "Insurance Commissioner of West Virginia."

4. The HMO applicant must file an original and two copies of its application with the West Virginia Insurance Commission. The Insurance Commissioner may request additional copies. Please forward a third copy of this application and copies of all related correspondence with the West Virginia Insurance Commission to:

Marianne K. Stonestreet, General Counsel
Health Care Cost Review Authority
100 Dee Drive, Suite 201
Charleston, WV 25311-1692

II. ORGANIZATIONAL/MANAGERIAL

5. Submit a certified copy of the Articles of Incorporation of the HMO Applicant and certified copies of all amendments thereto.

Note: The Articles of Incorporation must be current and executed, with an original certificate from the Secretary of State certifying that attached to the certificate is a true and correct copy of the Articles of Incorporation with the Articles of Incorporation date stamped (proof of filing).

6. Submit copies of the stock certificate(s) issued by the HMO Applicant. Provide a breakdown between capital (par value) and surplus (contributed above par).
7. Describe the legal history of the HMO Applicant.

Note: In chronological order, describe the legal history of the HMO Applicant including predecessor corporations or organizations, mergers, reorganizations, and change of ownership. Be specific as to dates and parties involved.

8. Submit a copy of the bylaws, rules, and regulations, or similar form of document regulating the conduct of the affairs of the HMO Applicant.
9. Submit a list of the names, addresses, and official capacities with the HMO Applicant, of all persons responsible for the conduct of the affairs of the HMO. Include all officers, directors and persons holding five percent or more of the common stock of the organization.

- (A) These individuals must fully disclose to the Insurance Commissioner and the Board of Directors of the HMO Applicant the extent and nature of all contracts or arrangements with the HMO Applicant. This disclosure shall include any and all possible conflicts of interest.
- (B) Persons holding five percent or more of the common stock of the organization must disclose the extent of ownership interest in all parent organizations, subsidiaries and affiliated companies. The disclosure must include an organizational chart depicting all levels of ownership including all subsidiaries and parent organizations along with all affiliated companies and corresponding percentages of ownership.
- (C) Submit complete biographical information, on the form prescribed by the Insurance Commissioner, on all officers, directors, managers and administrators of the HMO Applicant and all persons holding five percent or more of the common stock of the organization. Include key management positions such as the executive director, medical director, finance director and marketing director.

Note: A blank BIOGRAPHICAL STATEMENT AND AFFIDAVIT form is included in this application kit for you to copy and use in order to comply with subsection (c) above.

10. Submit an independent investigation report on all of the individuals identified in Question #9 above, including all officers, directors and persons holding five percent or more of the common stock of the organization. The reports must be forwarded directly to the Financial Conditions Division of the West Virginia Insurance Commissioner from the independent investigators.

Note: Person(s) required to furnish an investigation report may use:

Equifax Services, Inc.
P.O. Box 2729
Jacksonville, Fla. 32203
(904) 733-7550

or, other such investigative organizations approved in writing by the Insurance Commissioner prior to the filing of the Application.

11. Submit a statement generally describing the HMO Applicant and its proposed operations. State whether the HMO Applicant will be organized for profit or not for profit and whether it will be a Staff, Model, IPA Model or Combination Model HMO. Also describe the method of compensation for providers. (i.e. fee-for-service basis, capitated basis, etc.)
12. Submit a statement describing with reasonable certainty the service area or areas to be served by the HMO Applicant upon the issuance of the certificate of authority. "Service area" means the county or counties approved by the Commissioner within which the HMO organization may provide or arrange for health care services to be available for its subscribers.
13. Submit a detailed description of the HMO Applicant's subscriber grievance procedure. The HMO Applicant must demonstrate that its grievance procedure will provide adequate and reasonable procedures for the expeditious resolution of written grievances initiated by enrollees concerning any matter relating to any provisions of the organization's health maintenance contracts, including, but not limited to, claims regarding the scope of coverage for health care services, denials, cancellations or nonrenewals of enrollee coverage; observance of an enrollee's rights as a patient; and the quality of health care services rendered. The grievance procedure must include both formal and informal steps for resolving grievances and must meet all the requirements set forth in Chapter 33, Article 25A, Section 12 of the West Virginia Code.

III. MARKETING AND ADVERTISING

14. Describe the marketing strategy for each major category of enrollment (i.e., group, individual, PELA, Medicare, Medicaid) including the following:
 - (a) Criteria for selection of primary and secondary targets;
 - (b) Use of underwriting guidelines;
 - (c) Plans for community education and public relations.
15. Submit a detailed marketing budget which reflects the program objective stated in the strategy discussion. The marketing budget must be provided for a minimum of three years and/or the statutory accounting breakeven point, whichever is later. Include such items as compensation, local and out-of-town travel, equipment, printing and postage, advertising and public relations, expense accounts, meeting costs, and publications if applicable.

IV. INSURANCE

16. State how the HMO Applicant limits or proposes to limit its financial risk. If the HMO Applicant secures reinsurance coverage, submit executed copies of the applicable policy or policies. Also submit each reinsurance agreement and all modification(s).
17. Describe any risk sharing with provider(s) or other parties. Reference the applicable sections of each relevant provider contract which demonstrates the sharing of risk between the HMO Applicant and provider(s) or other parties.
18. Complete the enclosed "FIDELITY BOND WORKSHEET" (Form HMO-FID-1) obtain a fidelity bond in the amount prescribed by the worksheet. Enclose copies of each such fidelity bond. All officers and employees must be appropriately bonded whose duties and responsibilities require the carrying of such coverage. See West Virginia Code §33-25A-7.
19. Describe those arrangements which will guarantee the continuation of benefits and payments to providers of services rendered both prior to and after insolvency for the duration of the contract period for which payments have been made.

V. FEASIBILITY STUDY

20. The HMO Applicant must submit a comprehensive feasibility study, performed by a qualified independent actuary in conjunction with a certified public accountant which shall contain a certification by the qualified actuary and an opinion by the certified public accountant as to the feasibility of the proposed organization. The study must comply with the requirements prescribed by West Virginia Code §33-25A-3(4)(m).

Note: A separate copy of the comprehensive feasibility study must be forwarded to the Rates and Forms Division at the following address:

West Virginia Insurance Commission
Rates and Forms Division
2019 Washington Street East
P.O. Box 50540
Charleston, WV 25305-0540

Note: This feasibility study will be used only for informational purposes by the Rates and Forms Division. It will not be considered your official filing of your rates and forms.

VI FINANCIAL

21. The HMO Applicant must demonstrate that it will have adequate funding to continually meet the minimum capital and surplus requirements as required by West Virginia Code §33-25A-4(2)(c)(ii). Provide clear documentation as to the source of funding.

22. Provide monthly pro-forma financial statements, which shall include balance sheet, income statement and cash flow analysis, with an annual total, through breakeven. (minimum of 3 years/Statutory Accounting Principle Basis).

Note: You must document your assumptions and how you arrive at your projections, on a line by line basis. Provide clear documentation as to the source and nature of all income, expense and capital items.

23. A statement of the proposed initial cash and cash reserves summary. This should be all inclusive (loan receipts, loan repayments, stock sales, etc.). Also describe the sources and terms of the funding.

Note: Provide in the documentation independently certified audited financial statements of: guarantors (including medical group(s), individual practice association(s), and parent/sister organization guarantors).

24. Describe the method(s) in which the HMO Applicant will comply with the insolvency protection requirements of West Virginia Code §33-25A-4(2)(c)(iii), including all relevant documentation necessary to comply with the requirements.

25. A statement declaring all investments have been valued for asset purposes on a basis currently approved by the National Association of Insurance Commissioners (NAIC). If any investments have been valued for asset purposes on any basis other than a basis currently approved by the NAIC, please describe each item so valued and the basis of value indicated on the "Asset Page" of the balance sheet.

VII. ENROLLMENT

26. Describe the following assumptions underlying enrollment projections:
- (a) A projection of enrollment. Use as many years as required in the financial section of this application;
 - (b) Number of eligible persons residing within the service area;
 - (c) Contract size assumptions (contract distribution and content);
 - (d) Penetration assumptions and rationale, including initial and re-enrollments;
 - (e) Allowance for Voluntary/Involuntary disenrollment and group contract additions during the year
 - (f) Date of breakeven (month, year) and enrollment; and
 - (g) A plan outlining the provisions made for emergency and out-of-area health care.

VII. COMPETITION

27. Identify competitor HMO(s) operating in the same geographic service area.
28. Identify the major differences between the HMO Applicant and the competitors identified in question number 27.

VIII. CONTRACTUAL

29. Submit copies of all health maintenance contracts, member handbooks the HMO Applicant proposes to offer its subscribers, showing the benefits to which they are entitled and any riders and endorsements.
30. Submit a copy of each type of provider contract utilized by the HMO Applicant. The proper hold harmless language must be in each contract.

Note: All provider contracts must comply with all the requirements of Chapter 33, Article 25A, Section 7a of the West Virginia Code.

31. Submit a list of all physicians, hospitals and other providers with whom the HMO Applicant has contracted for services. The list must be sorted by county, by specialty, and be in alphabetical order.
32. The corresponding signature pages from each executed provider contract must also be sorted by county, by specialty and be in alphabetical order.

IX. MISCELLANEOUS

33. Submit a description of the mechanism by which enrollees will be afforded an opportunity to participate in matters of policy and operation of the HMO Applicant as required under Chapter 33, Article 25A, Section 6, Subsection 2 of the West Virginia Code.
34. Submit a notarized acknowledgment that a delinquency proceeding pursuant to Chapter 33, Article 10 of the West Virginia Code or supervision by the Insurance Commissioner pursuant to Chapter 33, Article 34 of the West Virginia Code, constitute the sole and exclusive method for the liquidation, rehabilitation, reorganization, or conservation of the HMO.
35. Submit a notarized acknowledgement by the HMO Applicant waiving any right to file or be subject to as a debtor in any federal bankruptcy proceeding.
36. Submit a notarized statement by the chief executive officer of the HMO Applicant acknowledging that he/she has read and understands his/her obligations under Article 35, Chapter 33 of the West Virginia Code. This article imposes criminal sanctions for the failure to report an impairment to the Insurance Commissioner of the health maintenance organization.

Note: The chief executive officer of the HMO Applicant may complete and submit the attached "ACKNOWLEDGMENT AND WAIVER CHIEF EXECUTIVE OFFICER ON BEHALF OF HMO APPLICANT" form to comply with the requirements of Paragraphs 34, 35, and 36.
37. Complete the enclosed "RESIDENT AGENT" Form (IC-FCS0). This form is an acknowledgement by the HMO Applicant that once licensed it will observe the Resident Agent's Law of West Virginia, including countersignature requirements, pursuant to Chapter 33, Article 12 of the West Virginia Code.

38. Submit a detailed description of the arrangements made by the HMO Applicant for the ongoing evaluation of the quality of health care once it is licensed.
39. Submit a detailed description of the HMO Applicant's procedure to develop, compile, evaluate and report statistics relating to the cost of its operations, the availability and accessibility of its services, the pattern of utilization of its services and the quality of health care.
40. Prior to receiving a Certificate of Authority, the HMO Applicant will be contacted by this Division to initiate the depositing of cash or government securities with West Virginia State Treasurers Office in compliance with West Virginia Code §33-25A-4(2)(h).

CERTIFICATION

I HEREBY CERTIFY, under penalty of perjury, that the foregoing answers, statements, and information are true and correct.

I, the undersigned applicant, under penalty of perjury, do declare that I have carefully examined each of the questions asked in this HEALTH MAINTENANCE ORGANIZATION APPLICATION and each of my responses thereto, and do solemnly swear or affirm that all of my responses, information, exhibits, and documentary evidence submitted in support thereof are true and correct.

(Typed Name)

(Signature)

(Date)

State of _____

County of _____

BEFORE ME this day personally appeared _____
(Typed name of Applicant)

who, being duly sworn, deposes and says that he/she executed the above HEALTH MAINTENANCE ORGANIZATION APPLICATION and that the answers, statements, and information contained in this statement are true and correct.

Sworn to and subscribed before me this _____ day of _____ 19____.

My commission expires: _____

(Notary Seal) _____
Notary Public

STATE OF WEST VIRGINIA
INSURANCE COMMISSIONER

HEALTH MAINTENANCE ORGANIZATION
BIOGRAPHICAL STATEMENT AND AFFIDAVIT
WEST VIRGINIA CODE §33-25A-3(4)(I)

DEFINITIONS AND INSTRUCTIONS

For the purposes of this statement and affidavit only, the term "entity regulated by this Agency" includes all "insurers/companies". Also, Health Maintenance Organization may be referred to as HMO.

All questions on this form should be answered fully by each officer, each director and each person holding five percent or more of the common stock of the organization pursuant to West Virginia Code §33-25A-3(4)(I). If a question is not applicable please put "Not Applicable" or "N/A". If more space is needed, please attach additional sheets. Please print or type all answers.

QUESTIONS

1. (a) Full Name _____ (b) Maiden Name _____
(c) Date of Birth _____ (d) Place of Birth _____
(e) Social Security Number _____
(f) Occupation or Profession _____

2. Full name and address of the present or proposed entity under which this biographical statement is being required.

3. Type of HMO entity (i.e. Staff, Individual Practice Association, Combined, etc.):

4. Your current or proposed position with the present or proposed entity.

West Virginia HMO
Biographical Affidavit
Page Number 2

5. List your residence for the last ten (10) years starting with your current address and going backward, giving:

Dates	Address	City, County, State	Telephone
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

6. Education. Please list the most recent education first.

College/University	Dates Attended	Degree Obtained
_____	_____	_____
_____	_____	_____

Other Training _____

7. Business and employment record for past (ten) 10 years. Please list the most recent first, Include all director and officer positions held.

Dates	Employer's Name	Address & Telephone	Offices/Positions Held
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

May present employer be contacted? Yes No

8. List other current business activities: _____

West Virginia HMO
Biographical Affidavit
Page Number 3

9. (a) Have you or your spouse ever been affiliated or associated with or in any way connected with an insurance entity regulated by the Insurance Commissioner of West Virginia

Yes No

(b) If "Yes", please list all such entities _____

10. (a) Do you or members of your immediate family have or will have an ownership interest of any kind in the present or proposed entity?

Yes No

(b) If "Yes", list all such ownership interests and give full details. If the ownership interest is pledged or hypothecated in any way, give full details.

11. (a) Have you ever used an alias or a different name? Yes No

(b) If "yes", list all other names used and give full explanation and supporting documentation.

12. (a) Have you ever been bonded? Yes No

(b) If "Yes": _____

1. Were any claims ever made or attempted to be made against your bond?

Yes No

2. Has your bond ever been cancelled or revoked?

Yes No

3. Has your application for bond been declined?

Yes No

4. If the response to 1, 2, or 3 is "Yes", please provide reasons.

13. (a) Have you ever been licensed as an insurance agent, broker, solicitor, adjuster, or claims investigator in West Virginia or any other state?

Yes No

(b) If "Yes":

1. State(s) _____

2. Dates license(s) held _____

3. License number(s) _____

4. Name of issuer of license(s) _____

14. (a) Have you ever been licensed to sell securities? Yes No

(b) If "Yes":

1. By whom (state[s] and/or federal) _____

2. Dates license(s) held _____

3. License number(s) _____

4. Name of issuer of license(s) _____

15. (a) Have you ever been licensed to practice medicine or dentistry?

Yes No

(b) If "Yes":

1. State(s) _____
2. Dates license(s) held _____
3. License number(s) _____
4. Name of issuer of license(s) _____

16. List any other occupational, professional, or vocational licenses you have ever held and identify the state(s), the dates license(s) held, and the license number(s):

17. List any entities regulated by the Insurance Commissioner of West Virginia in which you control directly or indirectly or own legally or beneficially five (5) percent or more of the outstanding stock (in voting power).

If any of the stock is pledged or hypothecated in any way, give details.

18. List memberships in professional societies and associations.

19. Are you a citizen of any country other than the United States?

Yes No

If Yes, what country? _____

20. Have you ever:

a. Been refused an occupational, professional, or vocational license or permit by any regulatory authority, or any public, administrative, or governmental licensing agency?

Yes No

b. Had any occupational, professional, or vocational license or permit you hold, or have held, been subject to any judicial, administrative, regulatory, or disciplinary action?

Yes No

c. Been placed on probation or had a fine levied against you or your occupational, professional, or vocational license or permit in any judicial, administrative, regulatory, or disciplinary action?

Yes No

d. Been charged with, or indicated for, any criminal offense(s) other than minor traffic offenses?

Yes No

e. Pled guilty, or nolo contendere, or been convicted of, any criminal offense(s) other than minor traffic offenses?

Yes No

f. Had adjudication of guilt withheld, had a sentence imposed or suspended, had pronouncement of a sentence suspended, or been pardoned, fined, or placed on probation, for any criminal offense(s) other than minor traffic offenses?

Yes No

g. Been subject to any federal bankruptcy proceeding, state insolvency, supervision, receivership, rehabilitation, liquidation, or conservatorship proceeding, or any other similar proceeding?

Yes No

h. Been subject to a cease and desist letter or order, or enjoined, either temporarily or permanently, in any judicial, administrative, regulatory, or disciplinary action, from violating any federal or state law regulating the business of insurance, securities or banking, or from carrying out any particular practice or practices in the course of the business of insurance, securities or banking?

Yes No

i. Been, within the last ten (10) years, a party to any civil action other than for minor traffic offenses?

Yes No

j. Had a finding made by the Comptroller of any state or the Federal Government that you have violated any provisions of small loan laws, banking or trust company laws, or credit union laws, or that you have violated any rule or regulation lawfully made by the Comptroller of any state or the Federal Government?

Yes No

If the response to any question above is answered "Yes", please provide full details.

21. (a) For the purpose of this question, if you hold or have held any of the following positions with an entity, please indicate below

- | | | | | |
|--|-----|--------------------------|----|--------------------------|
| 1. Incorporator | Yes | <input type="checkbox"/> | No | <input type="checkbox"/> |
| 2. Administrator | Yes | <input type="checkbox"/> | No | <input type="checkbox"/> |
| 3. Organizer | Yes | <input type="checkbox"/> | No | <input type="checkbox"/> |
| 4. Subscriber of a corporation | Yes | <input type="checkbox"/> | No | <input type="checkbox"/> |
| 5. Subscriber to a reciprocal agreement of indemnity | Yes | <input type="checkbox"/> | No | <input type="checkbox"/> |
| 6. Subscriber of a limited reciprocal | Yes | <input type="checkbox"/> | No | <input type="checkbox"/> |
| 7. Director | Yes | <input type="checkbox"/> | No | <input type="checkbox"/> |
| 8. Officer | Yes | <input type="checkbox"/> | No | <input type="checkbox"/> |
| 9. Manager or operator | Yes | <input type="checkbox"/> | No | <input type="checkbox"/> |
| 10. Trustee | Yes | <input type="checkbox"/> | No | <input type="checkbox"/> |

West Virginia FMO
Biographical Affidavit
Page Number 8

11. Owner, if not a corporation Yes No
12. Sole proprietor Yes No
13. Joint venturer Yes No
14. Partner, including all general and limited partners
of a limited partnership Yes No
15. Stockholder owning or holding five (5) percent or more of the
outstanding stock of a stock corporation Yes No
16. Member of a non-stock corporation Yes No
17. Person associated or to be associated with the formation or financing of
an underwriting member on an Insurance
Exchange in any state or country Yes No
18. Attorney in fact for a reciprocal insurer/company or a limited reciprocal
insurer/company, if the attorney in fact is an
individual Yes No
19. Any position listed in this subparagraph (a) held in an incorporated
or unincorporated association Yes No
20. Any position listed in this subparagraph (a) held in an incorporated or
unincorporated association Yes No
21. Any other position where the person filling the position performs any
duties similar to those duties performed by persons in the above
mentioned positions Yes No

(b) Has any entity while you were associated with that entity or within twelve (12) months after you left:

1. Been refused a permit, license, or certificate of authority by any regulatory authority, or governmental licensing agency?

Yes No

2. Had its permit, license, or certificate of authority suspended, revoked, cancelled, non-renewed, or subjected to any judicial, administrative, regulatory, or disciplinary action?

Yes No

3. Been placed on probation or had a fine levied against it or against its permit, license, or certificate of authority in any judicial, administrative, regulatory, or disciplinary action?

Yes No

4. Been charged with, or indicted for, any criminal offense?

Yes No

5. Pled guilty to, or nolo contendere to, or been convicted of any criminal offense?

Yes No

6. Had an adjudication of guilt withheld, had a sentence imposed or suspended, had pronouncement of a sentence suspended, or been pardoned, fined, or placed on probation for any criminal offense?

Yes No

7. Been insolvent or impaired?

Yes No

8. Been subject to any federal bankruptcy proceeding, state insolvency, supervision, receivership rehabilitation, liquidation, or conservatorship proceeding, or any other similar proceeding?

Yes No

9. Been enjoined, either temporarily or permanently, in any judicial, administrative, regulatory, or disciplinary action from violating any federal or state law regulating the business of insurance, securities, or banking, or from carrying out any particular practice or practices in the course of business insurance, securities, or banking?

Yes No

10. Been within the last ten (10) years a party to any civil action?

Yes No

(c) If the response to any question above is answered "Yes", please provide full details below:

CERTIFICATION

I HEREBY CERTIFY, under penalty of perjury, that the foregoing answers, statements, and information are true and correct.

I, the undersigned affiant, under penalty of perjury, do declare that I have carefully examined each of the questions asked in this BIOGRAPHICAL STATEMENT AND AFFIDAVIT and each of my responses thereto, and do solemnly swear or affirm that all of my responses, information, exhibits, and documentary evidence submitted in support thereof are true and correct.

(Typed Name)

(Signature)

(Date)

State of _____

County of _____

BEFORE ME this day personally appeared _____
(Typed name of Affiant)

who, being duly sworn, deposes and says that he/she executed the above BIOGRAPHICAL STATEMENT AND AFFIDAVIT and that the answers, statements, and information contained in this statement are true and correct.

Sworn to and subscribed before me this ____ day of _____ 19__.

My commission expires: _____

(Notary Seal)

Notary Public

STATE OF WEST VIRGINIA
INSURANCE COMMISSIONER

MINIMUM AMOUNTS OF FIDELITY INSURANCE

§33-25A

<u>Exposure Index</u>		<u>Bracket No.*</u>	<u>Amount of Bond</u>	
\$ 1,000	-	\$ 25,000	1	\$ 15,000 - \$ 25,000
25,000	-	125,000	2	25,000 - 50,000
125,000	-	250,000	3	50,000 - 75,000
250,000	-	500,000	4	75,000 - 100,000
500,000	-	750,000	5	100,000 - 125,000
750,000	-	1,000,000	6	125,000 - 150,000
1,000,000	-	1,375,000	7	150,000 - 175,000
1,375,000	-	1,750,000	8	175,000 - 200,000
1,750,000	-	2,125,000	9	200,000 - 225,000
2,125,000	-	2,500,000	10	225,000 - 250,000
2,500,000	-	3,325,000	11	250,000 - 300,000
3,325,000	-	4,175,000	12	300,000 - 350,000
4,175,000	-	5,000,000	13	350,000 - 400,000
5,000,000	-	5,075,000	14	400,000 - 450,000
6,075,000	-	7,150,000	15	450,000 - 500,000
7,150,000	-	9,275,000	16	500,000 - 600,000
9,275,000	-	11,425,000	17	600,000 - 700,000
11,425,000	-	15,000,000	18	700,000 - 800,000
15,000,000	-	20,000,000	19	800,000 - 900,000
20,000,000	-	25,000,000	20	900,000 - 1,000,000
25,000,000	-	50,000,000	21	1,000,000 - 1,250,000
50,000,000	-	37,500,000	22	1,250,000 - 1,500,000
37,500,000	-	125,000,000	23	1,500,000 - 1,750,000
125,000,000	-	137,500,000	24	1,750,000 - 2,000,000
137,500,000	-	250,000,000	25	2,000,000 - 2,250,000
250,000,000	-	333,325,000	26	2,250,000 - 2,500,000
333,325,000	-	500,000,000	27	2,500,000 - 3,000,000
500,000,000	-	750,000,000	28	3,000,000 - 3,500,000
750,000,000	-	1,000,000,000	29	3,500,000 - 4,000,000
1,000,000,000	-	1,250,000,000	30	4,000,000 - 4,500,000
1,250,000,000	-	1,500,000,000	31	4,500,000 - 5,000,000

Calculation of Bond Amount

1. Total Admitted Assets
\$ _____ X 5% = \$ _____
2. Gross Income*
\$ _____ X 10% = \$ _____

Exposure Index = \$ _____
3. Minimum Amount of Bond
Bracket No. _____ \$ _____

* Include gross premium written and assumed plus interest and dividend income.
FORM: HMO-FID-1

ACKNOWLEDGEMENT AND WAIVER BY CHIEF EXECUTIVE OFFICER ON BEHALF OF HEALTH MAINTENANCE ORGANIZATION APPLICANT

I, _____, the _____ [Chief Executive Officer] of _____ [HMO Applicant], hereinafter referred to as the "Organization", having the authority to bind said Organization, do hereby:

(1) ACKNOWLEDGE, on behalf of the Organization, that a delinquency proceeding brought pursuant to the provisions of Article 10, Chapter 33 of the West Virginia Code of 1931, as amended [W. Va. Code §§ 33-10-1 et seq.], or the administrative supervision provisions of article thirty-four of said chapter [W. Va. Code §§ 33-34-1 et seq.] constitutes the sole and exclusive method for the liquidation, rehabilitation, reorganization or conservation of a health maintenance organization licensed under the laws of this State; and

(2) WAIVE, on behalf of the Organization, any right to file or to be subject as a debtor to any bankruptcy proceedings;

(3) AFFIRM that I have read and do hereby understand the obligation imposed upon me as the chief executive officer of the Organization by the provisions of Article thirty-five of Chapter 33 of said Code [W. Va. Code §§ 33-35-1 et seq.] dealing with the criminal sanctions for the failure to timely report to the Insurance Commissioner an impairment of the Organization.

Dated this _____ day of _____, 199__.

(HMO Applicant)

BY: _____
(Signature)

ITS: _____
(Title)

State of _____,
County of _____, to wit;

I, _____, a Notary Public in and for the county and state aforesaid, hereby certify that _____ whose name is signed to the foregoing document, bearing date the _____ day of _____, 199__, for _____ (HMO Applicant), has this day in said county, personally appeared before me in said county and acknowledged the said writing to be the act and deed of said corporation.

Given under my hand this _____ day of _____, 199__.

My commission expires on _____.

(SEAL)

Notary Public



GASTON CAPERTON
Governor

HANLEY C. CLARK
Insurance Commissioner

RESIDENT AGENT

I, _____, a duly elected, qualified officer
(Name of Person, Please Print)
of the _____ do hereby certify that if the captioned
(Name of Company, Please Print)
company is successful in acquiring an insurance license in the State of West Virginia,
it agrees to observe the requirements for a licensed resident agent, including those
related to countersignature requirements, as provided for in Article 12, Chapter 33
of the West Virginia Insurance Code.

Subsequent to Company licensing, the Insurance Department will issue
instructions as to the procedure for the licensing of agents.

Dated this _____ day of _____, 19____
(Month)

(Signature)

(Title of Officer or Director, Please Print)

IC-FC30

STATE OF WEST VIRGINIA
INSURANCE COMMISSIONER

Appendix 6

HEALTH MAINTENANCE ORGANIZATION
APPLICATION FOR A CERTIFICATE OF AUTHORITY
FILING FEE REMITTANCE FORM
West Virginia Code §33-25A-22

NAME OF HEALTH MAINTENANCE ORGANIZATION: _____

FEIN# _____

ADDRESS: _____

CITY, STATE & ZIP CODE: _____

PHONE NUMBER: _____

In reference to the submission of the above-referenced application to do business as a health maintenance organization in the State of West Virginia, it is necessary for this form to be returned to the address below with proper payment.

PLEASE NOTE:

1. Send a check in the amount of Two Hundred Dollars (\$200.00), made payable to the West Virginia Insurance Commissioner. Mail check and invoice to:

West Virginia Insurance Commissioner
Financial Conditions Division
2019 Washington Street, East
P. O. Box 50540
Charleston, West Virginia 25305-0540

2. Include a copy of the check with the courtesy copy of your application to be forwarded to the West Virginia Health Care Cost Review Authority.

OFFICE USE ONLY

FF _____

(INITIALED)

STATE OF WEST VIRGINIA
INSURANCE COMMISSIONER

Appendix 7

HEALTH MAINTENANCE ORGANIZATION
APPLICATION FOR AMENDMENT TO CERTIFICATE OF AUTHORITY
FILING FEE REMITTANCE FORM
West Virginia Code §33-25A-22

NAME OF HEALTH MAINTENANCE ORGANIZATION: _____

WEST VIRGINIA FILE NUMBER: _____

FEIN# _____

ADDRESS: _____

CITY, STATE & ZIP CODE: _____

CONTACT PERSON: _____

PHONE NUMBER: _____

In reference to the submission of the above-referenced application for amendment to your existing Health Maintenance Organization Certificate of Authority in the State of West Virginia, it is necessary for this form to be returned to the address below with proper payment.

PLEASE NOTE:

1. Send a check in the amount of Two Hundred Dollars (\$200.00), made payable to the West Virginia Insurance Commissioner. Mail application for amendment to the Health Maintenance Organization Certificate of Authority, check and remittance form to:

West Virginia Insurance Commissioner
Financial Conditions Division
2019 Washington Street, East
P. O. Box 50540
Charleston, West Virginia 25305-0540

2. Include a copy of the check with the courtesy copy of your application for amendment to be forwarded to the West Virginia Health Care Cost Review Authority.

HMC-COAMEND-1 Rev. 5/95

OFFICE USE ONLY
FF _____
(INITIALED)

STATE OF WEST VIRGINIA
INSURANCE COMMISSION

HEALTH MAINTENANCE ORGANIZATION
COUNTY ENROLLMENT WORKSHEET
Chapter 33, Article 25A of the West Virginia Code

Company Name: _____ For Year Ending: _____

County of:	Number of Primary Care Providers In County:	Percentage of Market Penetration: (Number of Enrollees/Population of County)	Number of Enrollees enrolled during the period:	Number of enrollees terminated by the end of the period:	Number of enrollees at the end of the period:
Barbour					
Berkeley					
Boone					
Braxton					
Brooke					
Cabell					
Calhoun					
Clay					
Doddridge					
Fayette					
Gilmer					
Grant					
Greenbrier					
Hampshire					
Hancock					
Hardy					
Harrison					
Jackson					
Jefferson					
Kanawha					
Lewis					
Lincoln					
Logan					
Marion					

County of:	Number of Primary Care Providers In County:	Percentage of Market Penetration: (Number of Enrollees/Population of County)	Number of Enrollees enrolled during the period:	Number of enrollees terminated by the end of the period:	Number of enrollees at the end of the period:
Marshall					
Mason					
McDowell					
Mercer					
Mineral					
Mingo					
Monongalia					
Monroe					
Morgan					
Nicholas					
Ohio					
Pendleton					
Pleasant					
Pocahontas					
Preston					
Putnam					
Raleigh					
Randolph					
Ritchie					
Roane					
Summers					
Taylor					
Tucker					
Tyler					
Upshur					
Wayne					
Webster					
Wetzel					
Wirt					
Wood					
Wyoming					
Other* (enrollees not included above, §19c d(4)(B))					
Total					

HMO GRIEVANCE REPORT FOR THE YEAR _____

HMO NAME: _____

ADDRESS: _____

CITY, STATE, ZIP CODE: _____

TELEPHONE: _____

RESPONSIBLE OFFICER: _____

SIGNATURE: _____

DATE: _____

DESCRIBE THE HMO'S GRIEVANCE PROCEDURE: _____

(Use additional sheets as necessary)

INFORMAL COMPLAINTS/GRIEVANCES RECEIVED

(A) Total number of informal grievances received _____

(B) Disposition of each informal grievance received:

Total Number

___ A1-Resolved in favor of enrollee

___ A2-Resolved against enrollee

___ A3-Compromised

___ A4-Withdrawn

___ A5-Other (Specify) _____

___ A5-Other (Specify) _____

___ A5-Other (Specify) _____

___ A5-Other (Specify) _____

___ A5-Other (Specify) _____

___ A5-Other (Specify) _____

___ A5-Other (Specify) _____

___ A5-Other (Specify) _____

(Use additional sheets as necessary)

(C) Number of informal grievances referred to formal grievance status _____

HMO GRIEVANCE REPORT FOR THE YEAR _____

PAGE 2

HMO NAME: _____

FORMAL GRIEVANCE RECEIVED

(A) Total Number of formal grievances received _____

(B) Underlying cause of grievance:

Total Number

- ___ B1-Coverage
- ___ B2-Medical Necessity
- ___ B3-Timeliness of Payment
- ___ B4-Out of Service Area Care
- ___ B5-Other (Specify) _____
- ___ B5-Other (Specify) _____
- ___ B5-Other (Specify) _____
- ___ B5-Other (Specify) _____
- ___ B5-Other (Specify) _____
- ___ B5-Other (Specify) _____

(Use additional sheets as necessary)

(C) Final Disposition:

Total Number

- ___ C1-Resolved in favor of enrollee
- ___ C2-Resolved against enrollee
- ___ C3-Compromised
- ___ C4-Withdrawn
- ___ C5-Other (Specify) _____
- ___ C5-Other (Specify) _____
- ___ C5-Other (Specify) _____
- ___ C5-Other (Specify) _____
- ___ C5-Other (Specify) _____
- ___ C5-Other (Specify) _____

(Use additional sheets as necessary)

(D) Number of grievances to reach each level in the procedure _____

NOTICE: In accordance with W. Va. Code § 33-25A-12(2)(k), an HMO must maintain a complete and detailed record of all grievances filed with the HMO for a period of three years.

SUBSCRIBER VERIFICATION FORM

HMO NAME: _____

ADDRESS: _____

CITY, STATE, ZIP CODE: _____

TELEPHONE NUMBER: _____

SUBSCRIBER NAME: _____

ADDRESS: _____

CITY, STATE, ZIP CODE: _____

TELEPHONE NUMBER: _____

1. Do you, as a subscriber, intend and desire to join/enroll in the above referenced HMO? Yes No

2. Are you presently a Medicare or Medicaid recipient? Yes No

If so and if you subscribe for HMO coverage through Medicare or Medicaid, do you:

(a) understand that by joining this HMO plan your Medicare or Medicaid benefits will be limited to the benefits provided by the HMO? Yes NO and,

(b) understand that Medicare or Medicaid will pay the HMO for the subscriber coverage? Yes No

4. Do you understand that you are restricted to what providers you may use? Yes No

5. Do you understand that you must secure approval from the HMO before you use a health care provider outside the plan? Yes No

6. If you are currently a member of an HMO plan, do you understand that you are being transferred to another HMO plan? Yes No

SUBSCRIBER SIGNATURE

DATE

VERIFIER SIGNATURE
(HMO Non-marketing employee)

POSITION

SUBSCRIBER'S CONFIRMATION FORM

HMO NAME: _____

ADDRESS: _____

CITY, STATE, ZIP CODE: _____

TELEPHONE NUMBER: _____

SUBSCRIBER'S NAME: _____

ADDRESS: _____

CITY, STATE, ZIP CODE: _____

TELEPHONE NUMBER: _____

DATE: _____

This is to confirm that:

- ▶ You have received all application materials.
- ▶ The HMO plan has been explained to you and that you understand the plan.
- ▶ You desire and intend to enroll in the HMO plan.
- ▶ You are transferring your existing medical coverage to the HMO plan.
- ▶ You have received printed material explaining the nature of the HMO.
- ▶ You understand any and all applicable restrictions and exclusions.
- ▶ That the enrollment process is complete seven days after the HMO mails this confirmation notice.
- ▶ Your enrollment date is _____.
- ▶ Your benefits begin on _____.



P.O. Box 1711
Charleston, West Virginia 25326-1711

Phone: (304) 348-2900
Fax: (304) 348-2948

July 21, 1995

RECEIVED

JUL 24 1995

LEGAL DIVISION
W. VA. INS. DEPT.

Ms. Ellen R. Archibald
Associate Counsel
P. O. Box 50540
2019 Washington Street, East
Charleston, WV 25305-0540

Dear Ms. Archibald:

I am writing in response to the rules being proposed for Filing Procedures for Health Maintenance Organizations and offer the comments and/or questions which follow:

§ 114-46-1 (Page 3)

2.3.f.A.

It is unclear from this document what the difference is between a health maintenance contract and the evidence of coverage. I would propose that the language health maintenance contract be deleted inasmuch as the issue here really is the contract and/or evidence of coverage to be issued the HMO member.

§ 114-46-4

4.1.b. (Page 10)

This section requires the completion of the county enrollment worksheet. It is unclear as to what definition might be used for terminations and whether those terminations are voluntary or involuntary. For example, the death of a subscriber would be considered an involuntary termination, as would the situation where a member moves from the HMO service area or changes jobs and is no longer eligible under that group coverage. If these reports are to be public, and I respectfully request that they not be considered public documents, then it is even more important that there is a consistent definition of a member termination.

§ 114-46-6. (Page 11)

This proposed regulation of marketing creates some potentially significant problems for HMOs. It is also potentially misleading in Section 6.1.B (page 11) which implies that Medicare will pay the HMO for subscriber coverage. This would not be true in situations where the individual is enrolled as a retiree of an employer group. Likewise, it will not be true in any situation where the HMO does not have a direct contract with the Health Care Financing Administration. I propose that this be deleted and that if the Department desires information related to Medicare or Medicaid, that then a separate verification form be designed. As proposed, the form simply will confuse potential HMO members and is inaccurate.

C. (page 12)

I propose that it might be more accurate to state in this section that the services from health care providers from outside of the plan will not be covered unless medically necessary and prior approval is obtained from the plan.

I, likewise, have some general questions about this whole section. What happens to premiums owed to the plan by the employer or the subscriber during this enrollment process? What happens if the enrollment is not verified but there are claims for services during that enrollment process? What happens if an employer is unwilling to grant access to the members for this verification? Must the exact form (Appendix 10) be used or can the HMO substitute a form with its letterhead, name, address and other identification on the form? Can the verification form be included with the application and filled out by the potential subscriber?

I would appreciate your consideration of these suggestions and any answers you can provide to the questions posed.

Sincerely,


Alan L. Mytty
President & CEO

ALM/ca



Mountain State
BlueCross BlueShield

700 Market Square
P.O. Box 1948
Parkersburg, West Virginia 26102

Local 304 / 424-7700
Toll Free 800 / 344-5514

Writer's Direct Dial Number

July 28, 1995

Hanley Clark
Insurance Commissioner
2019 Washington Street, East
Charleston, West Virginia 25311

RECEIVED

JUL 2 1995

LEGAL DIVISION
W. VA. INS. DEPT.

Dear Mr. Clark:

Attached are comments to proposed Title 114, Series 46, dealing with filing procedures for health maintenance organizations and proposed Title 114, Series 43, dealing with health maintenance organizations and, in particular, intermediary contract requirements. Your consideration of these comments is appreciated.

Sincerely,

Carl E. Callison
Corporate Planner

COMMENTS ON TITLE 114, SERIES 46, HEALTH MAINTENANCE ORGANIZATIONS:

1. 114 C.S.R. 46-2.3.e.B. Subsection 2.3e.B. asks the applicant to describe whether it is a Staff, Model, IPA Model, or Combination Model/Health Maintenance Organization. These terms are not defined in the regulations or in Chapter 25A of the West Virginia Code.

2. 114 C.S.R. 46-2.3.e.^fD. The proposed language requires each type of provider contract must hold harmless all enrollees and otherwise comply with West Virginia Code § 33-25A-7a. West Virginia Code § 33-25A-7a(5) provides that the provisions of this section shall not be construed to apply to the amount of any deductible or copayment which is not covered by the contract of the HMO. Subsection D might be amended as follows:

Each type of provider contract, which must hold harmless all enrollees, except for any deductible or copayment which is not covered by the contract of the HMO, and otherwise comply with West Virginia Code § 33-25A-7a.

3. 114 C.S.R. § 46-2.3.i. The applicant is required to submit a proposed marketing plan including a detailed marketing budget. Much of this information is proprietary and the request for a marketing budget appears to exceed the Commissioner's authority in Chapter 25A of the West Virginia Code. Further, of what significance is it to the Commissioner to know the level of an applicant's marketing budget?

4. 114 C.S.R. § 46-2.3.l.D(d). An actuary is required to certify that the applicant is "actuarially sound." This term is not defined in Chapter 25A or in these regulations. An actuary may not be able to render this opinion.

5. 114 C.S.R. § 46-23.n. The applicant is required to indicate its major competition in the area and the major differences between the applicant and the competitors. Will an applicant be required to provide details that may involve a disclosure of proprietary analysis? What is the reason behind this request?

HIAA

Health Insurance Association of America

July 28, 1995

Ms. Ellen Archibald
Associate Counsel
West Virginia Insurance Commission
2019 Washington Street, East
Charleston, WV 25305-0540

Re: Rules Series 46 -- Health Maintenance Organizations

Dear Ms. Archibald:

The Health Insurance Association of America ("HIAA") is pleased to submit comments to the above-mentioned rule. We generally support the regulation, but have a few technical comments as outlined below.

Sec. 114-46-2.3.e.B.

Subsection e.B. asks the applicant to describe whether it is a Staff Model, IPA Model, or Combination Model/Health Maintenance Organization. These terms are not defined in the regulations or in Chapter 25A of the West Virginia Code.

Sec. 114-46-2.3.e.D.

The proposed language requires each type of provider contract to hold harmless all enrollees and otherwise comply with West Virginia Code Sec. 35-25A-7a. West Virginia Code Sec. 33-25A-7a(5) provides that the provisions of this section shall not be construed to apply to the amount of any deductible or copayment which is not covered by the contract of the HMO. Subsection D might be amended as follows:

Each type of provider contract, which must hold harmless all enrollees, except for any deductible or copayment which is not covered by the

- 2 -

contract of the HMO, and otherwise comply with West Virginia Code Sec. 33-25A-7a.

Sec. 114-46-2.3.i

This subsection requires the applicant to submit a proposed marketing plan, including a detailed marketing budget. Much of this information is proprietary, and the request for a marketing budget appears to exceed the Commissioner's authority in Chapter 25A of the West Virginia Code. Generally, marketing strategies are required only to show the service areas in which an HMO is geographically conducting business. We question also the significance of or need for the applicant's marketing budget.

Sec. 114-46-2.3.l

This subsection requires that an independent actuary certify the applicant in a number of different ways. HIAA questions the need for the actuary to be independent. The actuary is frequently doing primary work (i.e., not reviewing the work of others) and needs a far better understanding of the specifics of the organization to develop rates and reserves. The requirement of independence, therefore, could be a negative. The National Association of Insurance Commissioners ("NAIC") does not require independence in the actuary but relies on the actuarial profession standards to assure fair presentation.

Sec. 114-46-2.3.n

This subsection requires the applicant to indicate its major competition in the area and the major differences between the applicant and the competitors. HIAA questions the reason behind this request. Not only may the applicant not know of the differences between it and the competitor, this request may require the applicant to provide details that are proprietary in nature.

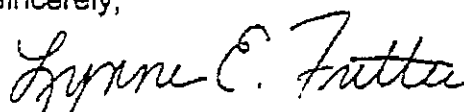
Sec. 114-46-6

This section requires an HMO to verify the intent and desire of the individual to join the health maintenance organization. HIAA believes this procedure to be redundant and unnecessary, considering the subscriber has willingly filled out an enrollment application. Nevertheless, if the HMO were to verify the subscriber's intent, it should be done by an agent of the HMO. If an agent does not request the verification at the time of enrollment, the HMO will not get a proper return of verifications, especially in an employer situation.

- 3 -

HIAA appreciates the opportunity to comment on this regulation. If you have any questions, please feel free to call me at (202) 824-1713.

Sincerely,

A handwritten signature in cursive script that reads "Lynne E. Fritter".

Lynne E. Fritter
Counsel

cc: Randy Cox

Copy

Facsimile Cover Sheet

Anthem Benefit Services, Inc.
Legal Department - 4th Floor
4040 Vincennes Circle
Indianapolis, Indiana 46268

To: Mr. Keith Huffman
Company: West Virginia Insurance Commission
Phone: 304/558-0401
Fax: 304/558-0412

From: Sarah Nemecek
Company: Anthem Health
Phone: 317-228-7433
Fax: 317-228-7482

Date: 07/28/95

**Pages including this
cover page:** 4

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Comments:

PRIMEONE
An Anthem Health Plan

P. O. Box 1109
Charleston, West Virginia 25324

July 28, 1995
1-800-607-7461

Mr. Keith Huffman
General Counsel
West Virginia Insurance Commission
P.O. Box 0540
2019 Washington Street, East
Charleston, West Virginia 25305-0540

Subject: Rule Series 46 and Rule Series 43

Dear Mr. Huffman:

Thank you for this opportunity to provide the Insurance Commission with comments on the above captioned proposed rules. PrimeOne is a health maintenance organization which was licensed by the Insurance Commission in 1994. Unfortunately PrimeOne only received the proposed rules earlier this week. Due to the short time period PrimeOne has had to consider these proposals, I would like to begin my comments with an invitation to meet with representatives of the Insurance Commission to further discuss these proposals and PrimeOne's comments.

Comments on each proposal will be addressed separately beginning with Rule Series 46, HMO filing procedures:

PrimeOne would like to compliment the Insurance Commission for proposing rules that include forms addressing the requirements for licensure and for annual financial and grievance procedure reports. These forms will streamline the application and reporting process for carriers and reduce the Insurance Commission's administrative burden. PrimeOne recommends removing the portions of this proposed rule that duplicate the HMO statute. Restating the statutory requirements in this regulation will only cause confusion and could lead to minor inconsistencies between the statute and regulation. Removing these portions will leave carriers with the tools necessary to comply with statutory requirements.

Comments on Rule Series 43, Health Care Intermediary, will be addressed section by section. In general, PrimeOne would like to complement the West Virginia as one of the few states having the foresight to regulate risk sharing arrangements without requiring providers to become licensed. As the managed care market develops, it is important to recognize the financial implications of these developing relationships without placing burdensome requirements on the contracting entities which may deter further development of the market.

Mr. Keith Huffman
July 28, 1995
Page 2

§ 114-43-2.6, "Health service intermediary" or "intermediary": PrimeOne recommends substituting the name "Risk sharing provider" for "Health service intermediary." Risk sharing provider is the name generally used in the industry to describe this kind of entity. To avoid confusion and promote the uniform use of terms, PrimeOne suggests this substitution.

§ 114-43-3.1: PrimeOne recognizes the Insurance Commission's concern about the financial soundness of risk sharing agreements. However, the requirement of an opinion from a qualified independent actuary is unduly burdensome. Each of these opinions costs an estimated \$5,000. Certificate of authority holders (COAHs) employ qualified actuaries who possess the skills and professional certifications necessary to certify the financial soundness of these agreements. PrimeOne would like to distinguish this situation from the statutory requirement that a qualified independent actuary certify a COAH application and rates. The COAH's staff actuaries will review risk sharing arrangements without bias toward the provider and thus can assess the financial soundness objectively.

§ 144-43-3 a: This provision duplicates provisions noted below and needs additional consideration by the Insurance Commission. See also PrimeOne's comments for § 144-43-3 f.

§ 144-43-3 b: PrimeOne recommends removing this requirement. It is vague and duplicates other provisions of this proposal.

§ 144-43-3 e: PrimeOne recommends inserting "or an appropriate allocation when the entire monthly IBNR is not a credible standard" after "determined."

§ 144-43-3 f: This provision is not consistent with § 144-43-4.2. As you know, each COHA is responsible for the benefits provided to its enrollees under West Virginia law. The assignment of risk and manner in which the COHA and the risk sharing provider account for that risk needs further consideration by the Insurance Commission.

§ 144-43-3 h: PrimeOne recognized that enrollees need access to network providers. However, this provision does not take into account the fact that COHAs contract with many providers that may not actually provide the service in the approved area of operation. For example, COHA's frequently use centers of excellence for transplants and other, tertiary care, and laboratories outside the COHAs counties of operation.

§ 144-43-3 k: PrimeOne recommends substituting "periodically" for "continuously."

Mr. Keith Huffman
July 28, 1995
Page 3

§ 144-43-3 l: PrimeOne recommends removing this provision because it duplicates statutory requirements.

§ 144-43-3 m: PrimeOne suggest inserting "within ten days" after commissioner in the last sentence. § 144-43-4.8 should be removed because it duplicates this requirement.

§ 144-43-4.1: PrimeOne recommends permitting COHAs to submit each contract within ten days of its execution. PrimeOne recommends striking all wording after "a full executed copy of the contract."

§ 144-43-4.1 a: For the reasons stated above concerning § 114-43-3.1, PrimeOne again recommends that the COAH's actuary shall make this opinion.

§ 114-43-4.2: Comments are noted above.

§ 114-43-4.3: This provision should be removed because it duplicates statutory requirements.

§ 114-43-4.4: This provision is overly broad and should be limited to the hold harmless provision in the statute.

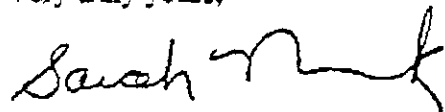
§ 114-43-4.6: This provision should be removed because it duplicates statutory requirements.

§ 114-43-4.7: This provision is overly broad and duplicates an earlier contract requirement. (§ 144-43-3 c). It is not possible for a COAH to "insure" this kind of access.

§ 144-43-4.8: Comments are noted above.

Thank you again for this opportunity to comment on these proposed rules. Please call me if you desire additional information or have any questions.

Very truly yours,



Sarah Nemecek

114CSR46

WEST VIRGINIA LEGISLATIVE RULE
INSURANCE COMMISSIONER

FILED

JUL 31 4 38 PM '95

SERIES 46
FILING PROCEDURES FOR HEALTH MAINTENANCE ORGANIZATIONS

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

Section

- 114-46-1. General
- 114-46-2. Application for Certificate of Authority
- 114-46-3. Application for Amendment to Certificate of Authority
- 114-46-4. Annual Financial Statement
- 114-46-5. Grievance Procedure Annual Report
- 114-46-6. Regulation of Marketing
- Appendix 1. Format for Application for Certificate of Authority
- Appendix 2. Biographical Statement and Affidavit Form
- Appendix 3. Fidelity Bond Worksheet Form HMO-FID-I
- Appendix 4. Acknowledgment and Waiver of Chief Executive Officer on Behalf of HMO Applicant Form
- Appendix 5. Resident Agent Form IC-FC30
- Appendix 6. Health Maintenance Organization Application for a Certificate of Authority Filing Fee Remittance Form
- Appendix 7. Health Maintenance Organization Application for Amendment to Certificate of Authority Filing Fee Remittance Form HMO-COAMEND-1
- Appendix 8. Health Maintenance Organization County Enrollment Worksheet
- Appendix 9. HMO Annual Grievance Report Form
- Appendix 10. HMO Subscriber Verification Form
- Appendix 11. HMO Subscriber Confirmation Form

Attachment to Question 2(d).

Four comments to the proposed rule were received during the comment period, and a copy of each is attached. One commenter asked a general question about the proposed rule, three commenters raised specific questions about requirements of the application for a certificate of authority, and two commenters raised concerns about regulation of marketing.

1. GENERAL

Sarah Nemecek, counsel for PrimeOne, made one comment, recommending that portions of the proposed rule which duplicate the health maintenance organization (HMO) statute be removed. The Insurance Commissioner believes that a comprehensive rule in one document, including both statutory requirements and detailed information on forms, etc., will be most useful for HMOs seeking to meet all requirements, and the proposed rule has not been amended with respect to the mention of statutory requirements.

In response to a question from Alan L. Mytty, President & CEO, Carelink Health Plans ("Carelink"), as to whether use of the Insurance Commissioner's form for a particular purpose is mandatory, we have revised all references in the proposed rule to forms promulgated by the Insurance Commissioner to indicate whether a form is mandatory:

§ 114-46-2. Application for Certificate of Authority.

2.3.d. ...

D. A completed "Biographical Statement and Affidavit", using the Insurance Commissioner's form attached hereto as Appendix 2, for each officer, director, manager and administrator of the applicant, including, but not limited to, the applicant's executive director, medical director, finance director and marketing director, and for each person owning five percent (5%) or more of the applicant;

...

2.3.h. ...

F. A completed "Fidelity Bond Worksheet", using the Insurance Commissioner's Form HMO-FID-1 attached hereto as Appendix 3, and copy of the applicant's fidelity bond in the amount prescribed by the worksheet;

2.3.o. Notarized acknowledgments, which may be submitted on "Acknowledgment and Waiver of Chief Executive Officer on Behalf of HMO Applicant", using the form attached hereto as

Appendix 4 or other form containing such acknowledgments,

...

2.3.p. Acknowledgment, using the Insurance Commissioner's "Resident Agent" Form IC-FC30 attached hereto as Appendix 5, that once licensed, applicant will observe the resident agent's law of West Virginia, including the countersignature and other requirements of West Virginia Code Chapter 33, Article 12;

...

2.5. The application must be accompanied by a completed "Health Maintenance Organization Application for a Certificate of Authority Filing Fee Remittance Form", using the Insurance Commissioner's form attached hereto as Appendix 6, and a check in the amount of two hundred dollars (\$200.00) payable to the "West Virginia Insurance Commissioner".

§ 114-46-3. Application for Amendment to Certificate of Authority.

3.1. Each application for an amendment to a health maintenance organization's certificate of authority must be accompanied by a completed "Application for Amendment to Certificate of Authority Filing Fee Remittance Form", using the Insurance Commissioner's Form HMO-COAMEND-1 attached hereto as Appendix 7, and a check in the amount of two hundred dollars (\$200.00) payable to the "West Virginia Insurance Commissioner."

§ 114-46-4. Annual Financial Statement.

4.1. Each annual financial statement submitted by a health maintenance organization to the commissioner shall include, but not be limited to:

...

b. The number of new enrollees enrolled during the year, the number of enrollees as of the end of the year and the number of enrollees terminated during the year, using the Insurance Commissioner's "Health Maintenance Organization County Enrollment Worksheet" form attached hereto as Appendix 8;

...

§ 114-46-5. Grievance Procedure Annual Report.

5.1. Each health maintenance organization shall file an annual report on its grievance procedure, using the Insurance Commissioner's "HMO Grievance Report for the Year _____" form attached hereto as Appendix 9, to describe its grievance

procedure and to report actual grievances filed against the health maintenance organization, their disposition and their underlying causes.

§ 114-46-6. Regulation of Marketing.

6.1.

b. Each verification, using the Insurance Commissioner's Subscriber Verification Form attached hereto as Appendix 10, shall confirm that:

...

6.2.

a. The health maintenance organization shall verify the subscriber's intent to enroll by a written notice, using the Insurance Commissioner's Subscriber Confirmation Form attached hereto as Appendix 11:

...

2. SECTION 2 OF THE PROPOSED RULE

a. § 114-46-2.3.e.B

Carl E. Callison, Corporate Planner, Mountain State BlueCross BlueShield ("Mountain State"), and Lynne E. Fritter, Counsel, Health Insurance Association of America ("HIAA"), both noted that no term in the phrase "Staff, Model, IPA Model or Combination Model" HMO, used in proposed, is defined. None of the capitalized terms is defined because each is commonly-used in the HMO industry, but we have amended the section to clarify the rule for a reader unfamiliar with industry terminology:

§114-46-2. Application for certificate of authority.

2.3.e. A description of the applicant, including:

...

B. Its form of organization, such as a "staff model", "IPA model" or "combination model" health maintenance organization; ...

b. § 114-46-2.3.f.

Carelink, Mountain State and HIAA all questioned the proposed rule's description of required contract forms.

Carelink proposed that the term "health maintenance contract" in § 114-46-2.3.f.A be deleted from the list of contract forms to be submitted by an applicant for a certificate of authority because the term's meaning is unclear. Contract forms to be submitted are specified by W. Va. Code § 33-25A-3(4)(e), but we have amended § 114-46-2.3.f.A to clarify the meaning of the term. In addition, we have added the term "enrollee contract form" to § 114-46-2.3.f.

Mountain State and HIAA both suggested that § 114-46-2.3.f.D., requiring HMOs to hold enrollees harmless from liability for balances due for health services and otherwise to comply with W. Va. Code § 33-25A-7a, be amended to include the exception, W. Va. Code § 33-25A-7a(5), for deductibles or copayments not covered by an enrollee's contract with the HMO. We agree with this recommendation and have amended the proposed rule to incorporate the exception.

Amended 114-46-2.3.f. of the proposed rule reads as follows:

§114-46-2. Application for certificate of authority.

2.3.f. A copy of contract forms used by the applicant, including:

A. Each health maintenance contract form, including but not limited to contracts with affiliates, administrative contracts and external service contracts;

...

D. Each type of provider contract, which must hold harmless all enrollees, except for any deductible or copayment not covered by the enrollee contract, and otherwise comply with W. Va. Code § 33-25A-7a;

E. Each enrollee contract form.

c. § 114-46-2.3.i.

Both Mountain State and HIAA questioned the requirement that an applicant submit its proposed marketing plan, including detailed marketing budget, on grounds that a marketing plan may contain proprietary information and that the Insurance Commissioner neither has authority to require nor needs to know the level of an HMO's marketing budget. First, the proposed rule addresses the requirement of W. Va. Code § 33-25A-4(g) that an applicant submit "(i) A description of the proposed method of marketing the plan; (ii) A schedule of proposed charges; and (iii) a financial plan which includes a three-year projection of

the expenses and income and other sources of future capital[.]”

The Insurance Commissioner believes that the public interest mandates collection of marketing information for two reasons. First, the Insurance Commissioner must ensure that HMOs comply with marketing requirements. Secondly, the Insurance Commissioner must review significant budget items, including but not limited to marketing expenses, in monitoring HMOs' soundness. With respect to Mountain State's and HIAA's concern for proprietary information, the Insurance Commissioner is entitled by statute to all information required for regulation of HMOs. All applications and other filings by HMOs are to be treated as a public documents, W. Va. Code § 33-25A-25, but "trade secrets" submitted as part of an application or other filing are expressly exempt from disclosure by a State agency. W. Va. Code § 29B-1-4. Therefore, § 114-46-2.3.i of the proposed rule has not been amended.

d. § 114-46-2.3.1.

Mountain State questioned the requirement for an independent actuary's certification of an HMO plan as "actuarially sound", and HIAA questioned the need for an independent actuary to certify a plan. An applicant must submit a "comprehensive feasibility study, performed by a qualified independent actuary in conjunction with a certified public accountant which shall contain a certification by the qualified actuary and an opinion by the certified public accountant as to the feasibility of the proposed organization." W. Va. Code § 33-25A-3(m).

The actuary's certification must cover items, including actuarial soundness, listed in W. Va. Code § 33-25A-3(m). Because such items are commonly reviewed by actuaries and are necessary for the Insurance Commissioner's review of the feasibility, including fairness to consumers of proposed rates, of an applicant's plan, § 114-46-2.3.1.D of the proposed rule has not been amended.

e. § 114-46-2.3.n.

Both Mountain State and HIAA questioned the requirement that an applicant describe its competition in the proposed geographic service area and major differences between the applicant and its competitors. The Insurance Commissioner requires this information pursuant to W. Va. Code § 33-25A-3(n) for the ongoing supervision of HMO market conditions, including but not limited to services offered, in the proposed geographic service area. Therefore, § 114-46-2.3.n. of the proposed rule has not been amended.

2. SECTION 4 OF THE PROPOSED RULE

First, Carelink noted that the description of information for the Health Maintenance Organization County Enrollment Worksheet, § 114-46-4.1.b., did not define the word "termination" or specify whether voluntary or involuntary terminations were to be reported. A report of the total number of terminations of enrollee contracts ended during the reporting year, required by W. Va. Code § 33-25A-9(b), permits the Insurance Commissioner to track market shares of all HMOs operating in each county and thus market conditions in general. Because reasons for terminations are not necessary for calculation of market share, the Insurance Commissioner believes separate data on voluntary or involuntary terminations is unnecessary for purposes of the County Enrollment Worksheet.

Secondly, Carelink asked that the County Enrollment Worksheet not be considered a public document. All reports submitted pursuant to Article 25A are required to be treated as public documents except to the extent that confidential information is excepted by other statutory provisions. W. Va. Code §§ 29B-1-4, 33-25A-25. Therefore, the Insurance Commissioner may not exclude the Health Maintenance Organization County Enrollment Worksheet, as part of each health maintenance organization's annual report, from treatment as a public document. Therefore, § 114-46-4.1. of the proposed rule has not been amended.

3. SECTION 6 OF THE PROPOSED RULE

Both Carelink and HIAA raised concerns about the requirement, § 114-46-6.1 of the proposed rule, for an HMO's verification of an individual subscriber's intent to join the HMO. Before an HMO may process an individual's application for initial or changed coverage, written verification of the individual's intent to join the HMO "must be conducted by someone outside the HMO's marketing department." W. Va. Code § 33-25A-15(2).¹

HIAA questioned the need for independent verification, since an individual's completion of an application for coverage presumes the applicant's wish for the service. It is contemplated that an HMO staff member, other than a salesperson dependent upon commissions, will verify subscribers' intentions and their understandings of differences between HMO coverage and

¹Reference to W. Va. Code § 33-25A-15 was inadvertently omitted from the Insurance Commissioner's Notice of a Comment Period on a Proposed Rule filed June 28, 1995.

traditional indemnity plans.

Carelink raised six questions about the Subscriber Verification form, attached to the proposed rule as Appendix 10. First, Carelink proposed that the confirmation applicable only to Medicare or Medicaid beneficiaries be deleted from the Subscriber Verification form because it is misleading. A new subscriber entitled to Medicare or Medicaid benefits is required to confirm that he or she understands that Medicare or Medicaid benefits receivable through the HMO will be limited. W. Va. Code § 33-25A-15(2)(b). The Insurance Commissioner agrees that § 6.1.b.B. of the proposed rule should be clarified, and we have amended the Subscriber Verification form, attached to this response as Revised Appendix 10, and have amended § 6.1.b.B. of the proposed rule as follows:

§114-46-6. Regulation of marketing.

6.1. ...

b. ...

B. If the subscriber is a Medicare or Medicaid recipient and subscribes for health coverage through Medicare or Medicaid, the subscriber understands that Medicare or Medicaid will pay the health maintenance organization for the subscriber coverage and that the subscriber's coverage through Medicare or Medicaid will be limited to the benefits provided by the health maintenance organization; and

...

Secondly, Carelink asked if use of the Subscriber Verification form is mandatory or if an HMO may substitute a form containing its letterhead and other identification. The Insurance Commissioner requires all HMOs to use the same Subscriber Verification form so that a consumer will see the same questions in the same form each time he or she enrolls in an HMO and so that the Insurance Commissioner's staff can review such forms efficiently. See Section 1, GENERAL, above.

Thirdly, Carelink proposed that Section 6.1.b.C., requiring the subscriber to confirm that he or she understands the limits of coverage, be clarified by stating that "services from health care providers outside of the plan will not be covered unless medically necessary and prior approval is obtained from the plan." The Insurance Commissioner disagrees with Carelink's proposal to the extent that an out-of-plan provider could be used in an emergency if no in-plan provider were available; in that event, the subscriber might be unable to obtain prior approval but would need to obtain the health maintenance organization's approval after services were rendered.

The general phrasing of the proposed rule would cover all limitations and has therefore not been amended.

Carelink next asked what happens to premiums owed to the plan by the employer or the subscriber during the enrollment period and what happens if the enrollment is not verified but there are claims for services during the enrollment process. Actual enrollment may not occur until completion of the enrollment process, which includes completion of the Subscriber Verification form. The enrollment process is considered complete seven (7) days after the HMO mails the Subscriber Confirmation form, Appendix 11 to the proposed rule, to the subscriber. W. Va. Code § 33-25A-15(2)(e). Until that time, no premiums would be due and no subscriber's claims would be covered under the plan.

Carelink asked how to proceed if an employer refuses to grant access to subscribers for the HMO's completion of the Subscriber Verification form pursuant to W. Va. Code § 33-25A-15(2). If an employer refuses access to employees for completion of the Subscriber Verification form, employees will be able to enroll in the plan only if the HMO contacts them other than through the employer.

Lastly, Carelink asked whether the Subscriber Verification form may be included with the application and filled out by the potential subscriber. Since a person outside the HMO's marketing department must conduct the Subscriber Verification after the application is signed but before the application is processed, W. Va. Code § 33-25A-15(2), the form may not be included with a plan's application, and the HMO may not ask the potential subscriber to complete the form and return it with the application.



STATE OF WEST VIRGINIA
Offices of the Insurance Commissioner

Legal Division

GASTON CAPERTON
Governor

HANLEY C. CLARK
Insurance Commissioner

July 31, 1995

HAND DELIVERY

Ms. Marie Nickerson
Legislative Rule-Making
Review Committee
State Capitol
Charleston, West Virginia 25305

Dear Ms. Nickerson:

Enclosed please find fifteen (15) copies of the following:

- (1) Notice of Agency Approval of a Proposed Rule and Filing with the Legislative Rule-Making Review Committee;
- (2) Fiscal Note;
- (3) Consent to Proposed Rule;
- (4) Brief Summary of the Rule;
- (5) Statement of Circumstances;
- (6) Legislative Rule-Making Review Committee Questionnaire; and
- (7) The agency-approved rule entitled "Filing Procedures for Health Maintenance Organizations" (Series 46).

Please contact me if further information is required.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Ellen Archibald".

Ellen Archibald
Associate Counsel

EA/sar
Enclosures