

Rule No. 560-X-64.XX Solvency and Financial Requirements for Integrated Care Networks – NEW RULE

(1) Each integrated care network (ICN), as a condition of final certification or continued final certification, and as a condition to the risk contract between the Medicaid Agency and the ICN, shall maintain minimum financial reserves and capital or surplus at the following levels:

(a) Restricted reserves in an amount equal to 25 percent of the ICN's average monthly total capitation payment (as defined in section 4 of this rule); and

(b) Capital or surplus, or any combination thereof, of five million dollars (\$5,000,000), which shall not be satisfied by an irrevocable letter of credit provided pursuant to section 2 of this rule.

(2) The Medicaid Agency may, in its sole discretion, add to, reduce, or otherwise alter, amend, adjust, or modify the minimum financial reserves and capital or surplus described in section (1) of this rule to account for the level of financial and/or other risk the ICN bears with regard to the populations to be served or the services to be provided by the ICN, or any other factor the Agency considers relevant to the financial solvency of the ICN.

(3) Instead of maintaining the restricted reserves required by subsection 1(a) of this rule, an ICN may submit to the Medicaid Agency an irrevocable letter of credit in an amount equal to the aggregate restricted reserves that would otherwise be required of the ICN under subsection 1(a), to guarantee the performance of the provisions of the risk contract, satisfying the following requirements:

(a) The irrevocable letter of credit shall be issued by a federally or State of Alabama chartered banking institution with assets in excess of four billion dollars (\$4,000,000,000) authorized to do business in the State of Alabama and approved by the Medicaid Agency.

(b) No assets of the ICN shall be pledged or otherwise encumbered in connection with the irrevocable letter of credit.

(c) The irrevocable letter of credit by its terms shall be effective through the date that is 30 days after the latest date that the ICN's risk contract could expire, in accordance with its terms, including any extension periods.

(d) The irrevocable letter of credit shall be approved by the Medicaid Agency as to form and content and shall be payable to the Medicaid Agency within five (5) calendar days of the Medicaid Agency's presentation of a notice to the issuing bank stating that the Medicaid Agency has determined in its sole discretion that the ICN is in breach or default under the risk contract. No proof of breach or default shall be required.

(e) In addition to the foregoing and such other terms and conditions as shall be required by the Medicaid Agency, the irrevocable letter of credit shall require that the bank notify the Medicaid Agency in writing within ten business days after the occurrence of any delinquency in payment of any fee by the ICN or giving of notice of default to the ICN by the bank. The irrevocable letter of credit shall also require that the bank give the Medicaid Agency 30 calendar days'

advance written notice prior to termination or nonrenewal of the irrevocable letter of credit or any other material adverse action to be taken by the bank with respect to the irrevocable letter of credit.

(4) Each ICN other than ICNs satisfying their restricted reserve requirements with an irrevocable letter of credit shall, using a model depository agreement provided by the Medicaid Agency, establish a restricted reserve account with a third party financial institution that is authorized to do business in the State of Alabama and is satisfactory to the Medicaid Agency for the purpose of holding the ICN's restricted reserve funds required pursuant to subsection 1(a) of this rule.

(a) Restricted reserves shall be held for the exclusive purpose of making payments to providers in the event of a determination by the Medicaid Agency pursuant to Rule No. 560-X-64-.08 that the ICN is insolvent, is in a hazardous financial condition, or is otherwise in breach or default under the risk contract.

(b) Each ICN shall provide a copy of its executed model depository agreement to the Medicaid Agency as a condition of final certification or continued final certification, and as a condition to the risk contract between the Medicaid Agency and the ICN and such model depository agreement shall remain in effect throughout the term of the risk contract, including any renewals thereof, unless and until the ICN provides an irrevocable letter of credit in compliance with section 2 of this rule.

(c) The following are considered eligible deposits for the purposes of the restricted reserve requirements:

(i) Cash;

(ii) Certificates of deposit satisfying standards approved by the Medicaid Agency; and

(iii) Bonds, notes, warrants, debentures, and other evidences of indebtedness which are direct obligations of the United States of America for which the full faith and credit of the United States of America is pledged for the payment of principal and interest.

(5) For purposes of calculating an ICN's required restricted reserves pursuant to subsection 1(a) of this rule, "average monthly total capitation payment" means the mathematical average of the total capitation payment pursuant to the risk contract for each of the three months during the preceding calendar quarter. Within 30 calendar days after the end of each calendar quarter, each ICN's required restricted reserves shall be adjusted based on the average monthly total capitation payment for such preceding quarter. Until an ICN has completed a full calendar quarter of its risk contract, the ICN's projected average monthly total capitation payment shall be determined by the Medicaid Agency, based on a projection of the capitation payment to be paid to the ICN if the Medicaid Agency enters into a risk contract with the ICN. Such projected average monthly expenditures may be adjusted by the Medicaid Agency from time-to-time through the completion of the first full calendar quarter of the ICN's risk contract, based upon changes in the projected or the actual capitation payment under the risk contract.

(6) For purposes of subsection 1(b) of this rule and Section 22-6-223 of the Alabama Code, an ICN's capital and surplus is the difference between the admitted assets of the ICN and the liabilities of the ICN, determined as follows:

(a) The classification and value of the ICN's assets and liabilities shall be determined in accordance with Generally Accepted Accounting Principles (GAAP) and Generally Accepted Auditing Standards (GAAS), as modified by the provisions of this section 5.

(b) For purposes of this rule, "admitted assets" means only assets owned exclusively by the ICN consisting of:

- (i) Cash, including the true balance of deposits in solvent banks and trust companies;
- (ii) Bonds, notes, warrants, debentures, and other evidences of indebtedness which are direct obligations of the United States of America for which the full faith and credit of the United States of America is pledged for the payment of principal and interest ("U.S. Treasury Securities");
- (iii) Investment grade bonds or other evidences of indebtedness other than U.S. Treasury Securities, satisfying standards approved by the Medicaid Agency;
- (iv) Marketable equity securities, satisfying standards approved by the Medicaid Agency;
- (v) Due or deferred capitation payments pursuant to the risk contract between the ICN and the Medicaid Agency;
- (vi) The acquisition cost of land and depreciated cost of improvements thereon owned by the ICN and used in connection with the performance of the risk contract, in excess of any liabilities secured by encumbrances on such assets, in an aggregate amount not greater than 50 percent of the required minimum capital and surplus of the ICN; and
- (vii) Such other assets as may be approved by the Medicaid Agency.

(c) In addition to assets not described in subsection 5(b) of this rule, an ICN's admitted assets shall not include:

- (i) Any single investment or asset, or any combination of investments in or secured by the securities, obligations, and/or property of one person, entity, or governmental unit, to the extent any such investment or combination of investments would exceed 20 percent of the ICN's admitted assets, provided that the foregoing restriction shall not apply to U.S. Treasury Securities or cash; or
- (ii) Goodwill and other intangible assets.

(d) In any determination of the capital and surplus of an ICN, liabilities to be charged against the ICN's admitted assets shall include, in addition to other liabilities chargeable in accordance with GAAP and GAAS:

(i) The amount necessary to pay all of the ICN's unpaid losses and claims incurred on or prior to the date of the statement, together with the expenses of adjustment or settlement thereof;

(ii) Federal, state, and local taxes, expenses and other obligations due or accrued at the date of the statement;

(iii) The restricted reserves required by subsection 1(a) of this rule, if applicable; and

(iv) Any additional reserves for asset valuation contingencies or loss contingencies required by the Medicaid Agency pursuant to Alabama Medicaid Administrative Code Rule 560-X-64-.08 or otherwise required by applicable law.

(7) No ICN shall reduce its combined capital and surplus, by distribution of its assets to the members, owners, or risk-bearing participants of the ICN or otherwise, below the ICN's required capital and surplus under the rules of the Medicaid Agency.

(8) Each ICN shall at its expense procure and maintain, throughout the term of the risk contract between the Medicaid Agency and the ICN, professional and general liability insurance, directors' and officers' liability insurance, errors and omissions liability insurance, and, if the ICN provides Medicaid services to enrollees directly, medical malpractice insurance, in such amounts and including such coverage as set forth in the risk contract.

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Statutory Authority: Code of Alabama, 1975 Section 22-6-220 *et seq.*

History: New Rule: Filed [DATE].