

DATE: June 22, 1992

INSURANCE DEPARTMENT NOTICE NO. 1992 - 5

SUBJECT: AMENDMENTS TO REGULATION REGARDING  
HEALTH MAINTENANCE ORGANIZATIONS  
(31 Pa. Code Chapter 301)

TO: Presidents/Chief Executive Officers  
of all Health Maintenance Organizations  
Licensed to do Business in Pennsylvania  
All Applicants for Certificate of Authority  
to Operate a Health Maintenance Organization

FROM: Ronald E. Chronister  
Deputy Insurance Commissioner  
Office of Regulation of Companies

The final-form amendments to Chapter 301 cited above were published in the Pennsylvania Bulletin, Vol. 22, No. 11, on March 14, 1992. Corrections to the final rule-making were published on April 25, 1992, Vol. 22, No. 17. The amendments were promulgated as the result of a joint task force effort of the Insurance Department and the HMO industry in Pennsylvania. The purpose of the amendments is to implement several consumer protection measures to mitigate HMO insolvencies and to provide for other protection in the event of an HMO insolvency.

The purpose of this notice is to provide guidance to HMO's licensed to do business in Pennsylvania with respect to the following specific new requirements imposed by the amendments which fall within the purview of this office.

Administrative Deposit

A minimum depository requirement has been imposed to cover administrative costs incurred by the liquidator in the event of the insolvency of an HMO. The deposit will be considered an admitted of the HMO in the determination of net worth.

Every HMO licensed to do business in Pennsylvania must deposit at least \$100,000 with the Commissioner in the form of cash, securities, bonds or any acceptable combination. Instructions for making such deposits are enclosed with this notice. All HMOs which have not made deposits to date are hereby directed to comply with the deposit requirement no later than October 1, 1992. HMOs domiciled in a state other than Pennsylvania may comply by submitting to this office an acceptable Certificate of Deposit showing that the required deposit has been made in the HMO's state of domicile.

### Increased Capitalization Requirements

New HMOs filing for a certificate of authority are now required to have a minimum initial net worth of \$1,500,000. Operations HMOs are required to have minimum net worth equal to the greater of \$1,000,000 or three months uncovered health care expenditures for Pennsylvania enrollees as reported in the most recent financial statement filed with the Department. If approved by the Department, a dedicated funding commitment, such as an irrevocable letter of credit or other instrument from a parent company, may be considered in assessing net worth. However, such a commitment would not be considered a substitute for a capital infusion needed to obtain positive net worth.

Existing HMOs licensed to do business in Pennsylvania have until January 1, 1996, to meet the new net worth requirement, in increments of \$250,000 as of January each year. The first \$250,000 increment is required by January 1, 1993. If applicable, HMOs are required to include the uncovered expenses amount as of January 1, 1997. Interest expenses relating to the repayment of any fully subordinated debt are considered a covered expense. Fully subordinated debt is not considered a liability. HMO investments are now subject to the investment laws applicable to stock life insurance companies.

### Insolvency Plan

Each HMO is now required to have a plan for handling insolvency which allows for continuation of benefits for the duration of the contract period for which premiums have been paid and continuation of benefits to members who are confined on the date of insolvency in an inpatient facility until either their discharge or expiration of benefits (limited to services directly related to the condition which occasioned the admission) whichever comes later. The plan may limit the continuation of benefits to the expiration of the member's benefits if the member or the contractholder (e.g., employer) has an opportunity to obtain replacement coverage pursuant to Section 301.125 of the regulation and fails to do so.

Section 301.123(b) of the regulation provides guidance with respect to the type of arrangements which the Commissioner may require in an insolvency plan to assure continuation of benefits. Each HMO is required to include an insolvency plan with its September 30, 1992, Quarterly Financial Statement due November 15, 1992. The plan must clearly set forth the arrangements which have been made to assure that benefits are continued in accordance with the regulation. Each HMO will receive written notice of the Department's approval or disapproval of the plan as filed.

In addition to the requirements specifically mentioned in this notice, the amended regulation includes requirements pertaining to contracts between health care providers and HMOs which are subject to the review and approval of the Pennsylvania Department of Health. The amendments were effective upon the date of publications in final form.

Questions concerning administrative deposits may be directed to Beverly Love at (717) 783-2142. Questions pertaining to the new capitalization requirements or the Insolvency Plan may be directed to Jean Hunter at (717) 787-5890.