

BULLETIN

To: **Health Maintenance Organizations
Managed Care Organizations
Persons Who Enter Into Administrative Service Provider Contracts
Under §19-713.2 of the Health-General Article**

Re: **Regulation of Downstream Risk**

Date: **June 7, 2000**

Bulletin: **Life and Health 00-13**

Chapter 323 (House Bill 5) of the Acts of the General Assembly of 2000, which became effective June 1, 2000, amends the law governing administrative service provider contracts and requires a person to register with the Insurance Administration before entering into an administrative service provider contract.

This bulletin summarizes some important provisions of Chapter 323, which are codified in §§19-712, 19-713.2, and 19-713.3 of the Health-General Article. A copy of the registration form is attached. Persons subject to regulation under Chapter 323 must read the legislation in its entirety.

A complete copy of the *enrolled bill* is available on the website of the Maryland General Assembly: www.mlis.state.md.us.

Responsibility For Payment Of Health Care Services

Under §19-712 of the Health-General Article, a health maintenance organization that enters into an administrative service provider contract is responsible for payment of claims for covered health care services rendered by a provider who is not the contracting provider or an employee, shareholder, or partner of a contracting provider. Chapter 323 clarifies that the responsibility for payment: 1) is not limited to the amount in a segregated fund established under §19-713.2; 2) exists irrespective of the insolvency or other failure to pay by the contracting provider; 3) is not affected by any delegation by the contracting provider; 4) may not be altered by contract; and applies to all health care services, including those provided under state or federal programs, unless preempted by federal law.

Chapter 323 states that the responsibility for payment applies even if the contracting provider is affiliated with the health maintenance organization.

Segregated Fund and Responsibility for Monitoring Activities of the Contracting Provider

Under §19-713.2 of the Health-General Article, a health maintenance organization may not enter into an administrative service provider contract without first filing with the Commissioner a plan that meets the requirements established in subsection (d), as amended by Chapter 323. One of the amendments to subsection (d) clarifies that it is the responsibility of the health maintenance organization to establish and maintain a segregated fund in a form and amount approved by the Commissioner.

Other amendments require monthly reporting by the contracting provider to the HMO to demonstrate the timing of payments for services and sufficiency of resources for payment. At least quarterly, the HMO must review the books, records, and operations of a contracting provider, and file the results of the review with the Commissioner.

The Commissioner may impose a fine or revoke the registration of a contracting provider that fails to comply with the terms of an administrative service provider contract. The fine may not exceed \$125,000 per violation.

Chapter 323 states that §19-713.2 does not apply if the contracting provider is affiliated with the health maintenance organization and the health maintenance organization files a consolidated financial statement that includes the contracting provider and records reserves for the liabilities of the contracting provider.

Contracting Providers: Registration Required

While most of the legislation is a clarification of current law, Chapter 323 imposes a new responsibility on the Insurance Commissioner: registration of contracting providers in accordance with new §19-713.3 of the Health-General Article. A person who intends to enter into an administrative service provider contract with a health maintenance organization must first register with the Commissioner. Conversely, a health maintenance organization may not enter into an administrative service provider contract unless the contracting provider has registered with the Commissioner.

The registration form is attached to this Bulletin.

To register, a contracting provider must submit a completed copy of the form, accompanied by a registration fee of \$250.

The Commissioner requires registration of a contracting provider even if it is affiliated with the health maintenance organization and enters in to administrative service provider contracts only with that health maintenance organization.

Application to Managed Care Organizations

Chapter 323 is applicable to managed care organizations, but the Commissioner is required to consult with the Secretary of Health and Mental Hygiene before taking any action against a managed care organization.

Implementation Dates

Administrative Service Provider Contracts

- New contracts: June 1, 2000

A health maintenance organization may not enter into a new administrative service provider contract on or after June 1, 2000, unless the contracting provider has registered with the Commissioner. Provisions of the Act apply to all administrative service provider contracts entered into on or after June 1, 2000.

- Existing contracts: January 1, 2001

Section 3 of Chapter 323 states that compliance with the provisions of the Act is required no later than January 1, 2001 for an administrative service provider contract that is in effect before June 1, 2000.

Registration of Contracting Providers

The Insurance Administration will begin to accept applications for registration effective immediately.

Contracting providers may submit a copy of the application form attached to this Bulletin as described on the application form.

Additional Information

Direct questions about this Bulletin or the registration form to Thomas L. Marshall, Coordinator for Managed Care Compliance, at 1-800-492-6116, extension 2170, or 410-468-2170.

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