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BULLETIN 02-6

To: President, All Licensed Health Maintenance Organizations and Managed Care Organizations

Re: Implementation of Chapter 323, Acts of the General Assembly of 2000, Downstream Risk Regulation, Quarterly Reviews and Inspections of Downstream Risk Providers

Date: April 1, 2002

On June 7, 2000, the Administration issued Bulletin No. 00-13 relating to the registration of contracting providers (also known as downstream risk providers) that enter into administrative services provider contracts. In addition, on December 22, 2000 the Administration issued Bulletin No. 00-26 addressing issues relating to the establishment and maintenance of segregated funds for administrative services provider contracts. This Bulletin addresses the provisions in Section 19-713.2 of the Health-General Article requiring health maintenance organizations and managed care organizations to perform quarterly reviews and inspections of downstream risk provider operations, and report the results of those reviews to the Insurance Commissioner.

Location of Quarterly Reviews and Inspections:

In general, it is preferable for the HMO/MCO to perform the quarterly reviews and inspections of their downstream risk providers on-site at the downstream risk providers' offices. However, Section 19-713.2(d)(5) does not necessarily require that the quarterly reviews and inspections be performed on-site. It is important for the HMO/MCO to establish through on-site reviews and inspections that a downstream risk provider is operating in compliance with the plan. Once compliance has been established, including the full implementation of corrective actions for deficiencies noted during on-site reviews and inspections, the HMO/MCO may perform quarterly reviews and inspections off-site using appropriate reports and other documentation. However, the Administration does not believe

that it is practicable for an HMO/MCO to review and inspect the contracting providers' books, records and operations as required by Section 19-713.2(d)(5) without periodically visiting the downstream risk providers' offices. Therefore, the HMO/MCO should consider performing at least part of one review and inspection of each downstream risk provider on-site each year.

Scope of Quarterly Reviews and Inspections:

Due to the variations between downstream risk contracts, such as the reliability of claim payment records and the magnitude of payments made to external providers, it is not possible to specify the exact scope of every quarterly review and inspection. Rather, the HMO/MCO is expected to tailor the scope of each quarterly review and inspection to the situation encountered. For example, an HMO/MCO may determine, by selecting a sample of claim payments and agreeing information (e.g., claim date, date and amount paid) to supporting documentation, that a downstream risk provider's reports of payments made or owed to external providers are reliable. Once this determination has been made, it may not be necessary to again test the accuracy of the reports during each quarterly review and inspection. However, the following is a summary of the plan requirements in Section 19-713.2(d) and the minimum standards that should be followed in performing the quarterly reviews and inspections.

1. *Section 19.713.2(d)(1) requires the downstream risk providers to provide the HMO/MCO with monthly reports, within 30 days of the end of the month reported, that identify payments made or owed to external providers in sufficient detail to determine if the payments are being made in compliance with law.*

   At a minimum, the HMO/MCO should perform the following during the quarterly reviews and inspections:

   Obtain the downstream risk provider's monthly reports that identify payments made or owed to external providers. Review the reports and obtain explanations for any unusual activity noted (slow-down in payments, etc.).

   Select a sample of claim payments from the monthly reports and agree information (e.g., claim date, date and amount paid) to supporting documentation to ensure that the data on the monthly reports is accurate and that payments are being made in accordance with law and contracts. Note that once the reliability of the monthly reports has been established, this step may only need to be performed annually. In order to minimize the expense incurred in performing this testing, consideration should be given to relying on testing performed by the downstream risk provider's independent auditors or internal auditors, if available. In this regard, see item 4 below regarding work possibly needed to determine compliance with prompt-payment requirements to ensure the adequacy of the segregated fund.

2. *Section 19.713.2(d)(2) requires the downstream risk providers to provide to the HMO/MCO a current annual financial statement, within 90 days of end of the year reported.*

   As part of the quarterly review and inspection process, the HMO/MCO should review the downstream risk provider's last annual financial statement, and any interim financial statements available, to determine the downstream risk provider's financial ability to perform under the contract. The reviewer should consider the auditor's opinion and review the notes to financial statements for disclosures related to the contract and potential solvency/operational issues.

3. *Section 19.713.2(d)(3) requires the HMO/MCO to establish and maintain segregated funds in a form and amount approved by the Commissioner, which may include withheld funds, escrow accounts, letters of credit or similar arrangements, or require the availability of other resources sufficient to satisfy the downstream risk providers' obligations to external providers for services rendered to the HMO/MCO's members.*

   As part of the quarterly review and inspection process, the HMO/MCO should review the form of the segregated fund and verify that it is currently in place (e.g., ensure that surety bonds with policy expiration dates were renewed or replaced if needed).

4. *Section 19.713.2(d)(4) requires the downstream risk providers to submit to the HMO/MCO information demonstrating that the segregated fund established is sufficient to satisfy the downstream risk providers' obligations to external providers for services rendered to the HMO/MCO's members.*

   Sections II A through II E of Bulletin No. 00-26 specify the minimum amounts for segregated funds established and maintained for downstream risk contracts. These sections provide for varying segregated fund amounts based upon the percentage of payments by the HMO/MCO to the downstream risk providers that they in turn pay to external providers, and the downstream risk providers' compliance with prompt-pay requirements. In the presence of satisfactory documentation of prompt-pay practices, an amount equal to 1½ months of capitation and other payments is generally required (or less depending on the amounts paid to external providers). In the absence of satisfactory documentation of prompt-pay practices, an amount equal to 2 months of capitation and other payments is generally required (or less depending on the amounts paid to external providers).

   In cases where the segregated fund established for a downstream risk contract is less than 2 months of capitation and other payments to the downstream risk providers (the maximum amount required by Bulletin No. 00-26), it is necessary for the HMO/MCO to ensure the adequacy of the segregated fund. In determining the adequacy of the segregated fund, the HMO/MCO should first use the downstream risk provider's monthly

reports that identify payments made or owed to external providers to determine the percentage of payments made to the downstream risk provider (averaged over the immediately preceding six-month period) that it in turn paid to external providers. The HMO/MCO should then determine if the downstream risk provider was in compliance with prompt-pay requirements, keeping in mind the following excerpt from Bulletin 00-26:

> For the purpose of this bulletin, prompt-pay compliance shall be considered the payment of 95% of claims in accordance with the prompt-pay law. Internally generated spreadsheets may not necessarily be satisfactory evidence of prompt-pay compliance. The Maryland Insurance Administration's experience has been that such documentation is not always reliable or accurate. Independent audits, or internal audits which include reliable statistical sampling techniques and which are made available to the Maryland Insurance Administration, will be acceptable.

To minimize costs, any testing needed to determine compliance with prompt-pay requirements should be coordinated with the testing of claim payments discussed in item 1 above.

Attached to this Bulletin is a form for filing with the Insurance Commissioner the results of each quarterly review required under Section 19-713.2(d)(5). The completed quarterly review and inspection reports should be signed by the person completing the review and inspection and a corporate officer of the HMO/MCO to certify that the information included in the quarterly review and inspection reports accurately reflect the results of the reviews and inspections. Supporting documentation should not be submitted with the reports; however, the supporting documentation should be retained for review during the Administration's examinations of the HMO/MCO.

Any questions concerning this Bulletin should be directed to Lester C. Schott, Associate Commissioner – Examination and Auditing, at 410-468-2119 or Neil A. Miller, Chief Financial Analyst, at 410-468-2122. The quarterly review and inspection reports should be submitted within 90 days of the end of each quarter to:

Maryland Insurance Administration
Attn: Neil A. Miller
525 St. Paul Place
Baltimore, Maryland 21202-2272

_____
Steven B. Larsen
Insurance Commissioner

Quarterly Review and Inspection Report

Downstream Risk Provider: _____

Report for the quarter ended: _____

Reviewer: _____ Title: _____

Review and inspection was performed on-site _____ off-site _____.

The following monthly reports that identified payments made or owed to external providers were obtained from the downstream risk provider:

_____

_____

Describe any unusual activity noted on the monthly reports (slow-down in payments, etc.).

_____

_____

Summary of testing of claims payments recorded on the monthly reports:

Testing was deemed not necessary since the reliability of the monthly reports was established through testing previously performed on _____, 20____.

Or:

Testing performed by:_____

Sample size: _____

The sample was selected using:

Reliable statistical sampling techniques _____, or

A sample selected by _____

Conclusion on the accuracy of the claims payments reported on the monthly reports and if payments are being made in accordance with law and contracts: _____

_____

_____

Is the segregated fund currently in place (e.g., were surety bonds with policy expiration dates were renewed or replaced if needed)? Yes_____ No _____

Amount of the segregated fund: $_____

Payments made to the downstream risk provider over the immediately preceding six-month period: $_____

Amount of payments made to external providers over the immediately preceding six-month period: $_____ #

Percentage of payments by the HMO/MCO to the downstream risk providers that they in turn paid to external providers (averaged over the immediately preceding six-month period): _____% #

Percentage of claims paid in accordance with prompt-pay requirements: _____ % #

Minimum segregated fund amount per Bulletin No. 00-26: $_____

Is the amount of the segregated fund equal to or in excess of the amount required by Bulletin No. 00-26? Yes_____ No _____

Summary of corrective actions recommended:

_____

_____

_____

_____

_____

_____

_____

_____

- Only needed when the segregated fund amount is less than 2 months of capitation and other payments to the downstream risk providers (the maximum amount required by Bulletin No. 00-26).

The undersigned preparer of this quarterly review and inspection reports and corporate officer of _____ certify that the information included in this quarterly review and inspection report accurately reflect the results of our review and inspection.

(SEAL) By: _____
(NAME) (TITLE)
(Preparer)

(SEAL) By: _____
(NAME) (TITLE)
(Corporate Officer)

NOTARY: