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MIA BULLETIN 05-18

TO: Property and Casualty Insurance Companies Holding Certificates of Authority to Write Medical Professional Liability Insurance Business in Maryland

SUBJECT: Maryland Health Care Provider Rate Stabilization Fund - Rate Stabilization Account - 2006 Subsidy Factor and Procedures for Calculating 2006 State Subsidies and Obtaining Reimbursements from the Rate Stabilization Account

DATE: November 29, 2005

MIA Bulletin 05-7, *Procedures for Obtaining Reimbursements from the Maryland Health Care Provider Rate Stabilization Fund - Rate Stabilization Account*, described in detail how Chapter 1, Laws of Maryland 2005 (Senate Bill 836) created the Maryland Health Care Provider Rate Stabilization Fund (the "Fund"), which consists primarily of premium tax revenue collected from health maintenance organizations and managed care organizations. The Fund is divided into three sub-funds: the Rate Stabilization Account (the "RS Account"); the Medical Assistance Program Account (the "Medicaid Account"); and a third component consisting of funds that are not allocated to either the RS Account or the Medicaid Account.

Monies allocated to the RS Account are to be used to pay authorized medical professional liability insurance premium subsidies ("State Subsidies") to medical professional liability insurers who wish to participate in the Fund ("Participating Insurers") on behalf of policyholders who are eligible health care providers.

For Subsidy Year 2005¹, according to the statutory formula, the State Subsidy available for eligible policyholders is the amount of premium increase that is greater than 5% of the

¹ The term "Subsidy Year" is used to specify which policies issued by a Participating Insurer are eligible for specified State Subsidies. As an example, Subsidy Year 2005 refers to policies that, pursuant to §19-805(b)(1) of the Insurance Article, are subject to rates that were approved for an initial effective date on or after January 1, 2005, but prior to January 1, 2006. For a Participating Insurer that sought and obtained a rate increase on new and renewal business that became effective on January 1, 2005, Subsidy Year 2005 would run from January 1, 2005 through December 31, 2005 and Subsidy Year 2006 would run from January 1, 2006 through December 31, 2006. For a Participating Insurer that sought and obtained a rate increase on new and renewal business that became effective on April 1, 2005, Subsidy Year 2005 would run from April 1, 2005 through March 31, 2006 and Subsidy Year 2006 would run from April 1, 2006 through March 31, 2007.

approved rates in effect one year prior to the date the policy was issued. However, the statutory formula is different for policies effective in Subsidy Year 2006. The purpose of this Bulletin is to advise participating insurers of the Subsidy available for Subsidy Year 2006. In addition, this Bulletin provides Participating Insurers with information and instructions for Subsidy Year 2006 as to: a) how State Subsidies are to be calculated; b) the procedures and forms to be used by Participating Insurers when applying to the RS Account for reimbursement; and c) what Participating Insurers must do to prepare for the statutorily mandated annual audit of their reimbursement requests.

2006 Subsidy Factor

For state fiscal year 2007, §19-803(b)(3) of the Insurance Article allocates \$45,000,000 to pay subsidies for calendar (subsidy) year 2006. Pursuant to §19-803(d)(1) of the Insurance Article, the Commissioner may provide up to 5% of any year's allocation to pay subsidies for the policyholders of a medical professional liability insurer that did not earn premiums for coverage to health care providers in the previous calendar year in Maryland.

For policies with an effective date during Subsidy Year 2006, the subsidy provided is a percentage of the policyholder's premium for the prior year that equals the quotient, measured as a percentage of the balance of the rate stabilization account for the current calendar year divided by the aggregate amount of premiums for medical professional liability insurance that would have been paid by health care providers at the approved rate during the prior calendar year (the "2006 Subsidy Factor").

Based upon the statutory allocation of funds for 2006 subsidies, divided by the aggregate amount of premiums for medical professional liability insurance that would have been paid by policyholders eligible for a subsidy at the approved rates during the prior year, the Administration has determined the *2006 Subsidy Factor* to be 25%.

For insurers writing medical professional liability insurance in Maryland in 2005, the 25% 2006 Subsidy Factor is to be applied as described below to determine the subsidy amount for each eligible health care provider. For any new medical professional liability insurance carriers that enter the Maryland market in 2006, the subsidy factor may be different, but in no instances will it exceed 25%. If additional carriers do enter the Maryland market, §19-803(d)(1) provides that funds allocated to current participating insurers may need to be reduced on a pro-rata basis.

Procedures for Calculating 2006 State Subsidies and Obtaining Reimbursements from the Rate Stabilization Account

Calculating 2006 State Subsidies

For policies with an effective date during Subsidy Year 2006, the State Subsidy is to be calculated as the policyholder's premium for the prior year (as clarified below) times the *2006*

Subsidy Factor. Premium increases resulting from the imposition of a surcharge and/or the loss of a discount due to the policyholder's loss experience are not subsidized and are subtracted from the calculation of the premium before the State Subsidy is calculated.

Under §19-805(e) of the Insurance Article, Participating Insurers are required to calculate the amount of the State Subsidy they expect their eligible policyholders to receive and to notify those policyholders of that amount on an annual basis. Each notice must give eligible policyholder the opportunity to decline the State Subsidy.

In calculating the State Subsidy for Subsidy Year 2006 applicable to each eligible policyholder who does not decline the State Subsidy, the Administration recommends that Participating Insurers utilize the following methodology in order to conform to the requirements that the Administration has developed for evaluating and auditing requests for reimbursement from the Rate Stabilization Account:

1. Determine the rating factors applicable to the policyholder at the time that the 2006 Subsidy Year policy was issued (e.g., medical specialty, applicability of discounts, etc., exclusive of those factors related to loss experience). These are the *2006 Subsidy Year Rating Factors*.
2. Calculate the amount of premium that would have been charged to the policyholder in the current year (Subsidy Year 2006) by applying the policyholder's *2006 Subsidy Year Rating Factors* to the approved rates in effect in 2005. This is the *2005 Rate Premium*.

Please note that the *2005 Rate Premium* may be different than the actual premium charged to the policyholder in 2005. This is because the *2005 Rate Premium* should be computed using the policyholder's *2006 Subsidy Year Rating Factors*, which may have changed since the time the previous policy was issued. For example, a policyholder may have changed from working part time to full time, or may have changed specialties.

3. Multiply the *2005 Rate Premium* by the *2006 Subsidy Factor*. This is the *2006 State Subsidy*.
4. Subtract the *2006 State Subsidy* from the 2006 premium that would have been billed to the policyholder, calculated in accordance with the 2006 rates and 2006 rating factors. This is the *2006 Subsidized Premium*.

Applying for Reimbursement

I. Rate Stabilization Account Reimbursement Form

§19-805(e) of the Insurance Article provides that a Participating Insurer seeking reimbursement from the RS Account on behalf of eligible policyholders must apply for reimbursement, on at least an annual basis, on a form and in the manner approved by the Commissioner. Attached to this Bulletin is the 2006 "Rate Stabilization Account Reimbursement Form" which has been adopted by the Commissioner. Each Participating Insurer is required to

complete this form and to deliver it to the Administration in order to obtain reimbursement from the RS Account.

The Form and the supporting Schedules (the “quarterly report”) are to be completed and filed with the Administration on a quarterly basis. Each Participating Insurer should file their quarterly reports as soon as practicable after they have determined with reasonable certainty the amount of the State Subsidy reimbursement the Participating Insurer is eligible for in that quarter (See further comments on determining the reimbursement amount under the heading “*Timing of Reimbursement Requests*”). Any changes to the reimbursement amount for a quarter as a result of transactions processed after the report is filed (e.g., for new policies, endorsements and cancellations) should be adjusted for in the next quarterly report. Once filed, the Commissioner has a 60-day period in which to review the reimbursement requests.

The quarterly report will show: a) the amount of the State Subsidy in aggregate for all policies written or renewed from the beginning of Subsidy Year 2006 to the end of the period covered by the report, calculated in the manner described above under “Calculating 2006 State Subsidies”; b) the reimbursement amount previously requested on prior quarterly reports for the subsidy year; and c) the reimbursement amount requested with the current report. In this regard, the reports for the year will be cumulative.

The Rate Stabilization Account Reimbursement Form consists of 4 parts. The Summary Information Page seeks aggregate information regarding the amount of the reimbursement requested. Specifically, Participating Insurers are required to provide:

- The number of eligible policyholders on whose behalf reimbursements are being requested at the time that the Form is submitted;
- The aggregate premium charged by the insurer at the 2006 Subsidy Year approved rates, for those policyholders covered by the request, exclusive of 2006 Subsidy Year premium surcharges or loss of discounts due to policyholders’ loss experience;
- The aggregate premium determined by the insurer by applying the 2006 Subsidy Year rating factors to rates in effect during the 2005 subsidy year for those policyholders covered by the request, exclusive of premium surcharges or loss of discounts due to policyholders’ loss experience;
- The gross 2006 State Subsidy;
- The amount of the net 2006 State Subsidy to be requested in future quarterly reports (i.e., for policies that pay on an installment basis, the portion of the State Subsidies related to installment payments that are due in future periods);
- The amount of any dividend to be declared by a Participating Insurer which is a mutual company;

- The amount of 2006 State Subsidy to be applied to 2007 Subsidy Year policies as directed by the insured;
- The net amount of the 2006 State Subsidy reimbursement requested;
- The amount of the net 2006 State Subsidy reimbursement previously requested on prior quarterly reports; and,
- The amount of net 2006 State Subsidy reimbursement requested with the current quarter report.

Schedule A seeks similar information, broken down by geographic territory and provider classification.

Schedule B requires Participating Insurers to provide the Administration with several examples of how the insurer computed the State Subsidy for individual policyholders. While circumstances will vary from insurer to insurer, the Administration expects each insurer to provide a sufficient number of examples (e.g., 5 to 10 examples) to demonstrate that the insurer properly computed the State Subsidy under the various scenarios encountered. The examples should demonstrate that the State Subsidy for the policy in question represents the premium for the 2006 Subsidy Year rating factors at the rates in effect one year before the date that the policy was issued times the *2006 Subsidy Factor*. In addition, the examples should demonstrate that the State Subsidy does not include the amount by which any rate increase results from premium surcharges and/or the loss of discounts due to the providers' loss experience. The Schedule B format included in this Bulletin is an example only. Individual carriers may submit an alternative format that reflects their rating scheme, provided that similar information is provided.

Finally, Schedule C requires Participating Insurers to report the names, classifications and geographical territories of all eligible policyholders who have elected not to receive a State Subsidy.

An electronic version of the Rate Stabilization Account Reimbursement Form will be posted with this Bulletin on the Administration's web site (www.mdinsurance.state.md.us) under 'Insurer Services' – 'Bulletins' – 'Examination & Auditing' – '2005 Bulletins'.

II. Timing of Reimbursement Requests

The Administration's objective is to provide State Subsidy reimbursements to Participating Insurers as close as possible to the date the Participating Insurers would have received the related premium from their policyholders.

For carriers whose policyholders renew on a single, common date, four quarterly reports will need to be filed for Subsidy Year 2006. For carriers whose policyholder renewals are staggered throughout Subsidy Year 2006, up to eight quarterly reports will be required to address

all policies for Subsidy Year 2006 (i.e., reports will be required until the last policy written or renewed in a Subsidy Year has expired, which could be up to two years, or eight quarters, from the date the first policy for a Subsidy Year was written or renewed).

Each quarterly report should request reimbursement for an amount of the 2006 State Subsidies proportionate to the amount of premiums due to the Participating Insurer during that quarter (up to the date of the end of the period covered by the report). For policies that were due to be paid in full during that quarter, the Participating Insurer should request reimbursement for 100% of the related State Subsidies. For policies that are paid on an installment basis, the Participating Insurer should request reimbursement for the portion of State Subsidies equal to the portion of the annual premiums due to the Participating Insurer during that quarter. For example, if a policyholder pays premiums in equal installments due each quarter, the Participating Insurer should request reimbursement for 25% of the related State Subsidy each quarter. Appropriate adjustments should be reported for policy endorsements and cancellations.

In the event that a policyholder elects to have the 2006 State Subsidy applied against the policyholder's 2007 premium, the Participating Insurer should request reimbursement for that amount in the 2006 quarterly report filed immediately prior to the start of Subsidy Year 2007.

Finally, the Administration is aware of circumstances where policy endorsements affecting 2006 policies may be recorded up to two years after the end of the 2006 Subsidy Year. To the extent that such a policy endorsement is processed and the endorsement would change the 2006 State Subsidy amount due to the policyholder, the Participating Insurer should submit another quarterly report and either request an additional State Subsidy payment or provide a refund to the Administration.

Preparing for the Audit

Senate Bill 836 requires the Commissioner or the Commissioner's designee to conduct an annual audit to verify the information submitted by each Participating Insurer applying for reimbursement from the Rate Stabilization Account. For each policyholder for whom the insurer requests reimbursement from the Rate Stabilization Account, the insurer will need to maintain and make available for audit purposes sufficient documentation to support the accuracy of the State Subsidies disbursed. This documentation shall include:

- (1) The 2006 Subsidy Year policy and rate computation, including details of all premium discounts and surcharges, including premium surcharges and discounts lost due to a health care provider's loss experience;
- (2) The policy and rate computation for the policy issued one year before the date that the 2006 Subsidy Year policy was issued, including details of all premium discounts and surcharges, including premium surcharges and discounts lost due to a health care provider's loss experience; and
- (3) A computation of the amount of the State Subsidy for each eligible policyholder.

For audit purposes, Participating Insurers will need to maintain documentation of how the State Subsidy applicable to each individual policyholder was determined and totaled to support the aggregate Rate Stabilization Account reimbursement amount requested. The Administration may request additional information it deems necessary to verify the accuracy of the reimbursement amount requested by a particular insurer.

Administration Contact

Questions concerning this bulletin may be directed to Lester C. Schott, Associate Commissioner, at 410-468-2119.

Signature on file with original document

James V. McMahan, III

Acting Insurance Commissioner

**MARYLAND INSURANCE ADMINISTRATION
RATE STABILIZATION ACCOUNT REIMBURSEMENT FORM
FOR SUBSIDY YEAR 2006**

SUMMARY INFORMATION

Page 1 of 3

- (1) Period covered by this report _____, 200_
to
_____, 200_
- (2) Number of policyholders for whom subsidies are being requested _____
- (3) Aggregate premium charged by the insurer at the 2006 approved rates, for those policyholders covered by this request, exclusive of 2006 surcharges or loss of discounts due to loss experience \$ _____
- (4) Aggregate premium determined by the insurer by applying to the 2005 rates the 2006 rating factors for those policyholders covered by this request exclusive of 2006 surcharges or loss of discounts due to loss experience \$ _____
- (5) Gross 2006 State Subsidy amount \$ _____
- (6) 2006 State Subsidy reimbursement amount to be requested in future quarterly reports (i.e., for new or renewal policies written that pay on an installment basis, the portion of the State Subsidies related to installment payments that are due in future periods) \$ _____
- (7) Gross 2006 State Subsidy reimbursement amount [(5) – (6)] \$ _____
- (8) Amount of any dividend declared by a Participating Insurer that is a mutual insurer \$ _____
- (9) Amount of 2006 State Subsidies to be applied to 2007 Subsidy Year policies as directed by the insured \$ _____
- (10) Net 2006 State Subsidy reimbursement amount [(7) – (8) – (9)] \$ _____
- (11) Net 2006 State Subsidy reimbursement amount requested in prior quarterly reports \$ _____
- (12) Net 2006 State Subsidy reimbursement amount requested with the current quarterly report [(10) – (11)] \$ _____

**MARYLAND INSURANCE ADMINISTRATION
RATE STABILIZATION ACCOUNT REIMBURSEMENT FORM
FOR SUBSIDY YEAR 2006**

SUMMARY INFORMATION

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For the amount on line 5 of Page 1 of 3:

- (1) Gross State Subsidy amount for which payment of 100% of premium was due as of the report date \$ _____
- (2) For policies written or renewed in the first quarter of Subsidy Year 2006 that pay on an installment basis, the portion of the Gross State Subsidy amount for which payment of premium was due as of the report date \$ _____
- (3) For policies written or renewed in the first quarter of Subsidy Year 2006 that pay on an installment basis, the portion of the Gross State Subsidy amount for which payment of premium is due in future periods \$ _____
- (4) For policies written or renewed in the second quarter of Subsidy Year 2006 that pay on an installment basis, the portion of the Gross State Subsidy amount for which payment of premium was due as of the report date \$ _____
- (5) For policies written or renewed in the second quarter of Subsidy Year 2006 that pay on an installment basis, the portion of the Gross State Subsidy amount for which payment of premium is due in future periods \$ _____
- (6) For policies written or renewed in the third quarter of Subsidy Year 2006 that pay on an installment basis, the portion of the Gross State Subsidy amount for which payment of premium was due as of the report date \$ _____
- (7) For policies written or renewed in the third quarter of Subsidy Year 2006 that pay on an installment basis, the portion of the Gross State Subsidy amount for which payment of premium is due in future periods \$ _____
- (8) For policies written or renewed in the fourth quarter of Subsidy Year 2006 that pay on an installment basis, the portion of the Gross State Subsidy amount for which payment of premium was due as of the report date \$ _____
- (9) For policies written or renewed in the fourth quarter of Subsidy Year 2006 that pay on an installment basis, the portion of the Gross State Subsidy amount for which payment of premium is due in future periods \$ _____

NOTE – See the attached “Summary Information Worksheet” for additional guidance on the preparation of this schedule.

**MARYLAND INSURANCE ADMINISTRATION
RATE STABILIZATION ACCOUNT REIMBURSEMENT FORM
FOR SUBSIDY YEAR 2006**

SUMMARY INFORMATION

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ATTACHED SCHEDULES

Schedule A: Summary by Classification and Geographical Territory.

Schedule B: Providers Electing to Not Receive State Subsidies.

Schedule C: State Subsidy Computation Examples.

CERTIFICATION

Under penalty of perjury, the undersigned designated officer of _____ certifies that to the best of my knowledge and belief the information included in this Rate Stabilization Account Reimbursement Form is a true and correct statement for the period specified.

(SEAL) Signed: _____

Name: _____

Title: _____

Date: _____