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Arkansas  
Insurance Code

TITLE 23 -- PUBLIC UTILITIES AND REGULATED INDUSTRIES...Subtitle 3. Insurance...Chapter 76 -- HEALTH MAINTENANCE ORGANIZATIONS

### **23-76-118**

#### **Trust deposits; hold harmless agreements; continuation of benefits**

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(a) Deposit requirements.

(1)(A) All health maintenance organizations authorized to transact business in this state shall deposit through the Insurance Commissioner securities eligible for deposit under § 23-63-903 which at all times shall have a par or market value of not less than three hundred thousand dollars (\$300,000), with the exception of limited benefit health maintenance organizations whose security deposit shall not be less than one hundred thousand dollars (\$100,000).

(B) The commissioner shall also be authorized to require a special surplus deposit for the benefit of enrollees from each health maintenance organization.

(2) All deposits made through the commissioner and held in this state shall be subject to the applicable provisions of §§ 23-63-903 — 23-63-907, 23-63-910, and 23-63-911 which refer to administration of deposits.

(3)(A)(i) A health maintenance organization, excluding limited benefit health maintenance organizations, that is in operation on August 1, 1997, shall make a deposit equal to one hundred fifty thousand dollars (\$150,000).

(ii) In the second year, the amount of the additional deposit for a health maintenance organization that is in operation August 1, 1997, shall be equal to one hundred fifty thousand dollars (\$150,000), for a total of three hundred thousand dollars (\$300,000).

(B)(i) A limited benefit health maintenance organization that is in operation on August 1, 1997, shall make a deposit equal to seventy-five thousand dollars (\$75,000).

(ii) In the second year, the amount of the additional deposit for a limited benefit health maintenance organization that is in operation on August 1, 1997, shall be equal to twenty-five thousand dollars (\$25,000) for a total of one hundred thousand dollars (\$100,000).

(4) The deposit shall be an admitted asset of the health maintenance organization in the determination of net worth.

(5)(A) The deposit shall be used to protect the interests of the health maintenance organization's enrollees and to assure continuation of health care services to enrollees of a health maintenance organization that is in rehabilitation or conservation.

(B) The commissioner may use the deposit for administrative costs directly attributable to a receivership or liquidation.

(C) If the health maintenance organization is placed in receivership or liquidation, the deposit shall be an asset subject to the provisions of the Uniform Insurers Liquidation Act, § 23-68-101 et seq.

(b)(1)(A) No participating provider or the provider's agent, trustee, or assignee may maintain an action at law against a subscriber or enrollee to collect sums owed by the health maintenance organization nor make any statement, either written or oral, to any subscriber or enrollee that makes demand for, or would lead a reasonable person to believe that a demand is being made for, payment of any amounts owed by the health maintenance organization.

(B)(i) If a participating provider has a pattern or practice of violating this subsection and continues to violate this subsection after the Insurance Commissioner has issued a written warning to the participating provider, the commissioner may levy a penalty in an amount not less than one hundred fifty dollars (\$150) nor more than one thousand five hundred dollars (\$1,500).

(ii) Before imposing the penalty, the commissioner shall send a written notice to the participating provider informing the provider of the right to a hearing pursuant to §§ 23-61-303 — 23-61-307.

(2) " Participating provider " means a "provider" as defined in § 23-76-102(10) who, under an express or implied contract with the health maintenance organization or with its contractor or subcontractor, has agreed to provide health care services to enrollees with an expectation of receiving payment, other than copayment or deductible, directly or indirectly, from the health maintenance organization.

(c) Continuation of benefits. The commissioner shall require that each health maintenance organization 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 their discharge or expiration of benefits. In considering such a plan, the commissioner may require:

(1) Insurance to cover the expenses to be paid where date of services precedes the premium paid for it;

(2) Provisions in provider contracts that obligate the provider to provide services for the duration of the period after the health maintenance organization's insolvency for which premium payment has been made and until the enrollees' discharge from inpatient facilities;

(3) Insolvency reserves;

(4) Acceptable letters of credit; and

(5) Any other arrangements to assure that benefits are continued as specified above.

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