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§15–102.4.

(a) (1) Each managed care organization shall be actuarially sound.

(2) (i) Except as otherwise provided in this section, the surplus that a managed care organization is required to have shall be paid in full.

(ii) A managed care organization shall have an initial surplus that exceeds the liabilities of the managed care organization by at least \$1,500,000.

(b) (1) In consultation with the Secretary, the Insurance Commissioner may adjust the initial surplus requirement for a managed care organization that is not licensed as a health maintenance organization. In determining whether to make an adjustment under this paragraph, the Commissioner shall consider:

(i) The proposed capitation level that would be received by the managed care organization under a contract with the Department under this subtitle;

(ii) The proposed range of benefits to be provided under a contract with the Department under this subtitle;

(iii) The existence of any commitment by the Secretary to designate funds over and above the proposed capitation where the designated funds:

1. Are equivalent to the difference between the requirements of § 19–710 of this article and any lower requirements determined by the Commissioner under this subparagraph; and

2. Would be available in case of the impairment or insolvency of the managed care organization; and

(iv) The availability of the money held in trust by the Secretary to pay claims in case of impairment or insolvency of the managed care organization.

(2) Notwithstanding subsection (a)(2)(ii) of this section, a managed care organization shall have an initial surplus that exceeds liabilities by at least \$1,250,000. If a managed care organization has an initial surplus that is at least \$1,250,000 but less than \$1,500,000, prior to approval, the Department shall designate funds under paragraph (1)(iii) of this subsection sufficient to provide an initial surplus of at least \$1,500,000.

(c) (1) (i) Each managed care organization shall maintain a surplus that exceeds the liabilities of the managed care organization in the amount that is at least equal to the greater of \$750,000 or 5 percent of the subscription charges earned during the prior calendar year as recorded in the annual report filed by the managed care

organization with the Commissioner.

(ii) No managed care organization shall be required to maintain a surplus in excess of a value of \$3,000,000.

(2) (i) For the protection of the managed care organization's enrollees and creditors, the applicant shall deposit and maintain in trust with the State Treasurer \$100,000 in cash or government securities of the type described in § 5-701(b) of the Insurance Article.

(ii) 1. The deposits shall be accepted and held in trust by the State Treasurer in accordance with the provisions of Title 5, Subtitle 7 of the Insurance Article.

2. For the purpose of applying this subparagraph, a managed care organization shall be treated as an insurer.

(d) Each managed care organization shall comply with risk based capital standards in accordance with regulations adopted by the Insurance Commissioner under § 4-311 of the Insurance Article.

(e) If there is money held in trust under this section, on or before June 1 of each year, the Secretary shall submit to the General Assembly, in accordance with § 2-1246 of the State Government Article, a report on:

(1) The number of managed care organizations for which the Secretary has designated money to be held in trust under this section; and

(2) The amount of money held in trust by the Secretary that has been paid out in cases of insolvency or impairment of managed care organizations.

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