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§19–713.2.

(a) (1) In this section the following words have the meanings indicated.

(2) "Administrative service provider contract" means a contract or capitation agreement between a health maintenance organization and a contracting provider which includes requirements that:

(i) The contracting provider accept payments from a health maintenance organization for health care services to be provided to members of the health maintenance organization that the contracting provider arranges to be provided by external providers; and

(ii) The contracting provider administer payments pursuant to the contract with the health maintenance organization for the health care services to the external providers.

(3) (i) "Contracting provider" means a person who enters into an administrative service provider contract with a health maintenance organization.

(ii) "Contracting provider" does not include a medical laboratory as defined in § 17–201 of this article.

(4) "External provider" means a health care provider, including a physician or hospital, who is not:

(i) A contracting provider; or

(ii) An employee, shareholder, or partner of a contracting provider.

(b) This section does not apply to a contract between a health maintenance organization and a contracting provider that is affiliated with the health maintenance organization through common ownership within an insurance holding company system, if the health maintenance organization:

(1) Files with the Commissioner consolidated financial statements that include the contracting provider; and

(2) Records a reserve for the liabilities of the contracting provider in accordance with § 5-201 of the Insurance Article.

(c) A health maintenance organization may not enter into an administrative service provider contract unless:

(1) The health maintenance organization files with the Insurance Commissioner a plan that satisfies the requirements of subsection (d) of this section; and

(2) The Insurance Commissioner does not disapprove the filing within 30 days after the plan is filed.

(d) The plan required under subsection (c) of this section shall:

(1) Require the contracting provider to provide the health maintenance organization 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;

(2) Require the contracting provider to provide to the health maintenance organization a current annual financial statement of the contracting provider each year, within 90 days of the end of the year reported;

(3) Require the health maintenance organization to establish and maintain a segregated fund, in a form and an 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 that are sufficient to satisfy the contracting provider's obligations to external providers for services rendered to members of the health maintenance organization;

(4) Require the contracting provider to submit to the health maintenance organization information demonstrating that the fund established under item (3) of this subsection is sufficient to satisfy the contracting provider's obligations to external providers for services rendered to members of the health maintenance organization; and

(5) Require the health maintenance organization, at least quarterly, to review and inspect the contracting provider's books, records, and operations relevant to the provider's contract for the purpose of determining the contracting provider's compliance with the plan.

(e) In determining the sufficiency of a segregated fund, the Commissioner may consider whether external providers are owned or controlled by the contracting provider.

(f) The segregated fund or other resources established as a result of an administrative service provider contract:

(1) Shall be held in trust for payment to external providers; and

(2) May not be considered an asset or an account of the contracting provider for the purpose of determining the assets or accounts of a bankrupt contracting provider.

(g) The health maintenance organization and the contracting provider shall comply with the plan.

(h) (1) The health maintenance organization shall monitor the contracting provider to assure compliance with the plan, and the health maintenance organization shall notify the contracting provider whenever a failure to comply with the plan occurs.

(2) Upon the failure of the contracting provider to comply with the plan following notice of noncompliance, or upon termination of the administrative service provider contract for any reason, the health maintenance organization shall notify the Commissioner and shall assume the administration of any payments due from the contracting provider to external providers on behalf of the contracting provider, as required under § 19-712 of this subtitle.

(i) The health maintenance organization shall file with the Commissioner, the results of each quarterly review required under subsection (d)(5) of this section.

(j) The plan and all supporting documentation submitted in connection with the plan shall be treated as confidential and proprietary, and may not be disclosed except as otherwise required by law.

(k) A health maintenance organization and a contracting provider shall comply with the terms of an administrative service provider contract as required under this section and § 19-712 of this subtitle.

(l) If a contracting provider fails to comply with the plan or the administrative service provider contract, as required under subsections (g) and (k) of this section, the Commissioner may impose a fine not exceeding $125,000 or suspend or revoke the registration of the contracting provider under § 19-713.3 of this subtitle, or both.

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