WEST VIRGINIA CODE: §33-25A-3

§33-25A-3. Application for certificate of authority.

(1) Notwithstanding any law of this state to the contrary, any person may apply to the commissioner for and obtain a certificate of authority to establish or operate a health maintenance organization in compliance with this article. No person shall sell health maintenance organization enrollee contracts, nor shall any health maintenance organization commence services, prior to receipt of a certificate of authority as a health maintenance organization. Any person may, however, establish the feasibility of a health maintenance organization prior to receipt of a certificate of authority through funding drives and by receiving loans and grants.

(2) Every health maintenance organization in operation as of the effective date of this article shall submit an application for a certificate of authority under this section within thirty days of the effective date of this article. Each applicant may continue to operate until the commissioner acts upon the application. In the event that an application is denied pursuant to section four of this article, the applicant shall be treated as a health maintenance organization whose certificate of authority has been revoked: Provided, That all health maintenance organizations in operation for at least five years are exempt from filing applications for a new certificate of authority.

(3) The commissioner may require any organization providing or arranging for health care services on a prepaid per capita or prepaid aggregate fixed sum basis to apply for a certificate of authority as a health maintenance organization. The commissioner shall promulgate rules to facilitate the enforcement of this subsection: Provided, That any provider who is assuming risk by virtue of a contract or other arrangement with a health maintenance organization or entity which has a certificate may not be required to file for a certificate: Provided, however, That the commissioner may require the exempted entities to file complete financial data for a determination as to their solvency. Any organization directed to apply for a certificate of authority is subject to the provisions of subsection (2) of this section.

(4) Each application for a certificate of authority shall be verified by an officer or authorized representative of the applicant, shall be in a form prescribed by the commissioner and shall set forth or be accompanied by any and all information required by the commissioner, including:

(a) The basic organizational document;

(b) The bylaws or rules;

(c) A list of names, addresses and official positions of each member of the governing body, which shall contain a full disclosure in the application of any financial interest by the officer

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or member of the governing body or any provider or any organization or corporation owned or controlled by that person and the health maintenance organization and the extent and nature of any contract or financial arrangements between that person and the health maintenance organization;

(d) A description of the health maintenance organization;

(e) A copy of each evidence of coverage form and of each enrollee contract form;

(f) Financial statements which include the assets, liabilities and sources of financial support of the applicant and any corporation or organization owned or controlled by the applicant;

(g)(i) A description of the proposed method of marketing the plan;

(ii) A schedule of proposed charges; and

(iii) A financial plan which includes a three-year projection of the expenses and income and other sources of future capital;

(h) A statement reasonably describing the service area or areas to be served and the type or types of enrollees to be served;

(i) A description of the complaint procedures to be utilized as required under section twelve of this article;

(j) A description of the mechanism by which enrollees will be afforded an opportunity to participate in matters of policy and operation under section six of this article;

(k) A complete biographical statement on forms prescribed by the commissioner and an independent investigation report on all of the individuals referred to in subdivision (c) of this subsection and all officers, directors and persons holding five percent or more of the common stock of the organization;

(l) A comprehensive feasibility study, performed by a qualified independent actuary in conjunction with a certified public accountant which shall contain a certification by the qualified actuary and an opinion by the certified public accountant as to the feasibility of the proposed organization. The study shall be for the greater of three years or until the health maintenance organization has been projected to be profitable for twelve consecutive months. The study must show that the health maintenance organization would not, at the end of any month of the projection period, have less than the minimum capital and surplus as required by paragraph (ii), subdivision (c), subsection (2), section four of this article. The qualified independent actuary shall certify that: The rates are neither inadequate nor excessive nor unfairly discriminatory; the rates are appropriate for the classes of risks for which they have been computed; the rating methodology is appropriate: Provided, That the certification shall include an adequate description of the rating methodology showing that the methodology follows consistent and equitable actuarial principles; the health maintenance organization is

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actuarially sound: Provided, however, That the certification shall consider the rates, benefits and expenses of, and any other funds available for the payment of obligations of, the organization; the rates being charged or to be charged are actuarially adequate to the end of the period for which rates have been guaranteed; and incurred but not reported claims and claims reported but not fully paid have been adequately provided for;

(m) A description of the health maintenance organization's quality assurance program; and

(n) Such other information as the commissioner may require to be provided.

(5) A health maintenance organization shall, unless otherwise provided for by rules promulgated by the commissioner, file notice prior to any modification of the operations or documents filed pursuant to this section or as the commissioner may require by rule. If the commissioner does not disapprove of the filing within ninety days of filing, it shall be considered approved and may be implemented by the health maintenance organization.

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