WEST VIRGINIA CODE: §33-25A-3a

§33-25A-3a. Conditions precedent to issuance or maintenance of a certificate of authority; renewal of certificate of authority; effect of bankruptcy proceedings.

(a) As a condition precedent to the issuance or maintenance of a certificate of authority, a health maintenance organization shall file or have on file with the Commissioner:

(1) An acknowledgment that a delinquency proceeding pursuant to article ten of this chapter, or supervision by the Commissioner pursuant to article thirty-four of this chapter, constitute the exclusive methods for the liquidation, rehabilitation, reorganization or conservation of a health maintenance organization;

(2) A waiver of any right to file or be subject to a bankruptcy proceeding;

(3) Within thirty days of any change in the membership of the governing body of the organization or in the officers or persons holding five percent or more of the common stock of the organization, or as otherwise required by the Commissioner:

(A) An amended list of the names, addresses and official positions of each member of the governing body and a full disclosure of any financial interest by a 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; and

(B) A complete biographical statement on forms prescribed by the Commissioner and an independent investigation report on each person for whom a biographical statement and independent investigation report have not previously been submitted; and

(4) For health maintenance organizations that have been operating in this state for at least three years, a copy of the current quality assurance report submitted to the health maintenance organization by a nationally recognized accreditation and review organization approved by the Commissioner, or in the case of the issuance of an initial certificate of authority to a health maintenance organization, a determination by the Commissioner as to the feasibility of the health maintenance organization's proposed quality assurance program: Provided, That if a health maintenance organization files proof found in the Commissioner's discretion to be sufficient to demonstrate that the health maintenance organization has timely applied for and reasonably pursued a review of its quality assurance program, but a quality report has not been issued by the accreditation and review organization, the health maintenance organization shall be considered to have complied with this subdivision.

(b) All certificates of authority issued to health maintenance organizations expire at midnight on the thirty-first day of May of each year. The Commissioner shall renew annually the certificates of authority of all health maintenance organizations that continue to meet all

WV Legislature

requirements of this section and subsection (2), section four of this article: Provided, That a health maintenance organization shall not qualify for renewal of its certificate of authority if the organization has no subscribers in this state within twelve months after issuance of the certificate of authority: Provided, however, That an organization not qualifying for renewal may apply for a new certificate of authority under section three of this article.

(c) The commencement of a bankruptcy proceeding either by or against a health maintenance organization shall, by operation of law;

Terminate the health maintenance organization's certificate of authority; and

Vest in the Commissioner for the use and benefit of the subscribers of the health maintenance organization the title to any deposits of the health maintenance organization held by the Commissioner: Provided, That if the bankruptcy proceeding is initiated by a party other than the health maintenance organization, the operation of this subsection shall be stayed for a period of sixty days following the date of commencement of the proceeding.

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