WEST VIRGINIA CODE: §33-25D-5

§33-25D-5. Issuance of certificate of authority.

(a) Upon receipt of an application for a certificate of authority, the commissioner shall determine whether the application for a certificate of authority, with respect to limited health services to be furnished has demonstrated:

(1) The willingness and potential ability of the organization to assure that limited health services will be provided in such a manner as to enhance and assure both the availability and accessibility of adequate personnel and facilities;

(2) Arrangements for an ongoing evaluation of the quality of health care provided by the organization and utilization review which meet the minimum standards set forth in section nineteen of this article;

(3) That the organization has a procedure to develop, compile, evaluate and report statistics relating to the cost of its operations, the pattern of utilization of its services, the quality, availability and accessibility of its services and other matters as may be reasonably required by rule.

(b) The commissioner shall issue or deny a certificate of authority to any person filing an application within one hundred twenty days after receipt of the application. Issuance of a certificate of authority shall be granted upon payment of the application fee prescribed, if the commissioner is satisfied that the following conditions are met:

(1) The prepaid limited health service organization's proposed plan of operation meets the requirements of subsection (a) of this section;

(2) The prepaid limited health service organization will effectively provide or arrange for the provision of no more than four limited health services on a prepaid basis except for copayments: Provided, That nothing in this section relieves a prepaid limited health service organization from the obligations to provide a limited health service because of the nonpayment of copayments unless the enrollee fails to make payment in at least three instances over any twelve-month period: Provided, however, That nothing in this section permits a prepaid limited health service organization to charge copayments to Medicare beneficiaries or Medicaid recipients in excess of the copayments permitted under those programs, nor is a prepaid limited health service organization required to provide a limited health service to Medicare beneficiaries or Medicaid recipients in excess of the benefits compensated under those programs;

(3) The prepaid limited health service organization is financially responsible and may reasonably be expected to meet its obligations to enrollees and prospective enrollees. In making this determination, the commissioner may consider:

(A) The financial soundness of the prepaid limited health service organization's arrangements for no more than four limited health services and the proposed schedule of charges used in connection with each limited health service offered;

(B) Arrangements for maintenance of the minimum capital and surplus required under section six of this article;

(C) Any arrangements which will guarantee the continuation of benefits and payments to providers for services rendered both prior to and after insolvency for the duration of the contract period for which payment has been made, except that benefits to members who are confined on the date of insolvency in an inpatient facility shall be continued until their discharge; and

(D) Any agreement with providers for the provision of limited health care services;

(4) The enrollees will be afforded an opportunity to participate in matters of policy and operation pursuant to section eight of this article;

(5) The prepaid limited health service organization has demonstrated that it will assume full financial risk on a prospective basis for the provision of no more than four limited health services: Provided, That notwithstanding the requirement of this subdivision, a prepaid limited health service organization may obtain reinsurance acceptable to the commissioner from an accredited reinsurer or make other arrangements:

(A) For the cost of providing to any enrollee limited health services, the aggregate value of which exceeds $4,000 in any year;

(B) For the cost of providing no more than four limited health services to its enrollees on a nonelective emergency basis; or

(C) For not more than ninety-five percent of the amount by which the prepaid limited health service organization's costs for any of its fiscal years exceed one hundred five percent of its income for those fiscal years;

(6) The ownership, control and management of the prepaid limited health service organization is competent and trustworthy and possesses managerial experience that would make the proposed organization operation beneficial to the subscribers. The commissioner may, at his or her discretion, refuse to grant or continue authority to transact the business of a prepaid limited health service organization in this state at any time during which the commissioner has probable cause to believe that the ownership, control or management of the organization includes any person whose business operations are or have been marked by business practices or conduct that is to the detriment of the public, stockholders, investors or creditors; and

(7) The prepaid limited health service organization has deposited and maintained in trust with the State Treasurer, for the protection of its subscribers or its subscribers and

creditors, cash or government securities eligible for the investment of capital funds of domestic insurers as described in paragraph (A) or (B), subdivision (1), subsection (a), section eleven, article eight of this chapter or paragraph (A), (B) or (C), subdivision (3) of said subsection, in the amount of $50,000.

(c) A certificate of authority may be denied only after compliance with the requirements of section twenty-three of this article.

(d) No person who has not been issued a certificate of authority may use the words "prepaid limited health service organization" or the initials "PLHSO" in its name, contracts, logo or literature: Provided, That persons who are operating under a contract with, operating in association with, enrolling enrollees for, or otherwise authorized by a prepaid limited health service organization licensed under this article to act on its behalf may use the terms "prepaid limited health service organization" or "PLHSO" for the limited purpose of denoting or explaining their association or relationship with the authorized prepaid limited health service organization. No prepaid limited health service organization which has a minority of board members who are consumers may use the words "consumer controlled" in its name or in any way represent to the public that it is controlled by consumers.