

**40-3231. Uncovered expenditure deposit; amount; withdrawal, when; commissioner's duties; rules and regulations.** (a) If uncovered expenditures exceed 10% of total health care expenditures for two consecutive months, a health maintenance organization shall place an uncovered expenditure insolvency deposit with the commissioner, with an organization or trustee acceptable to the commissioner through which a custodial or controlled account is maintained, cash or securities that are acceptable to the commissioner. The deposit at all times shall have a fair market value in an amount 120% of the health maintenance organization's outstanding liability for uncovered expenditures for enrollees in this state, including incurred but not reported claims, and shall be calculated as of the first day of the month and maintained for the remainder of the month. If a health maintenance organization is not otherwise required to file a quarterly report, such health maintenance organization shall file a report within 45 days of the end of the calendar quarter with information sufficient to demonstrate compliance with this section.

(b) The deposit required under this section shall be in addition to the deposit required under K.S.A. 40-3227, and amendments thereto, and shall be deemed to be an admitted asset of the health maintenance organization in the determination of such health maintenance organization's net worth. All income from deposits or trust accounts shall be deemed to be assets of the health maintenance organization and may be withdrawn from the deposit or account quarterly with the approval of the commissioner.

(c) A health maintenance organization that has made a deposit may withdraw that deposit or any part of the deposit if: (1) A substitute deposit of cash or securities of equal amount and value is made; (2) the fair market value of such substitute deposit exceeds the amount of the required deposit; or (3) the deposit required under subsection (a) is reduced or eliminated. Deposits, substitutions or withdrawals may be made only with the prior written approval of the commissioner.

(d) The deposit required under this section shall be held in trust and may be used only as provided under this section. The commissioner may use all or any portion of the deposit of an insolvent health maintenance organization for administrative costs associated with administering such deposit and the payment of any claim of an enrollee of this state for uncovered expenditures in this state. Each claim for uncovered expenditures shall be paid on a pro rata basis based on assets available to pay the ultimate liability for incurred expenditures. A partial distribution may be made pending final distribution. Any amount of such deposit remaining shall be paid into the liquidation or receivership of the health maintenance organization.

(e) The commissioner by regulation may prescribe the time, manner and form for filing claims under subsection (d).

(f) The commissioner by regulation or order may require health maintenance organizations to file annual, quarterly or more frequent reports deemed necessary to demonstrate compliance with this section. The commissioner may require that the reports include liability for uncovered expenditures as well as an audit opinion.

(g) The deposit required under this section may be satisfied through other arrangement acceptable to the commissioner including parental guarantees and letters of credit.

(h) The commissioner may adopt rules and regulations to implement this section.

**History:** L. 2000, ch. 147, § 32; July 1.