

## 24-A §4335. CONTRACTUAL PROVISIONS

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Full copies of contracts and summary descriptions of contracts must be provided to the superintendent. The following provisions must be included in contracts between a carrier and a downstream entity: [1999, c. 609, §20 (NEW).]

**1. Enrollee not liable.** A provision in all relevant contracts between a carrier and a downstream entity or between a downstream entity and a participating provider of health care services stating that if the carrier fails to pay for health care services as set forth in the contract, the enrollee may not be liable to the provider for any sums owed by the carrier;

[ 1999, c. 609, §20 (NEW) . ]

**2. Maintenance of books, accounts and records.** A provision for the maintenance of books, accounts and records by the downstream entity and the carrier to verify that transactions, including the risk transfer, are clearly, accurately and completely recorded, in accordance with generally accepted accounting principles and disclosed in writing;

[ 1999, c. 609, §20 (NEW) . ]

**3. Prohibition on assignment of rights or obligations.** A provision prohibiting the assignment of any rights or obligations under the contract in the absence of the consent of the carrier;

[ 1999, c. 609, §20 (NEW) . ]

**4. Right to object to subcontractor.** A provision granting the carrier the right to be advised of and the right to object to any subcontractor with whom the downstream entity proposes to contract with respect to services required to be performed by the downstream entity under its contract with the carrier;

[ 1999, c. 609, §20 (NEW) . ]

**5. Termination of contract.** A provision for the termination of the contract, including the right to immediately terminate the contract upon a valid order issued by the superintendent or another lawful authority;

[ 1999, c. 609, §20 (NEW) . ]

**6. Compliance with utilization review laws, rules and licensing requirements.** A provision requiring the downstream entity to comply with utilization review laws, rules and licensing requirements appropriate to the functions the downstream entity has contracted to undertake on behalf of the carrier;

[ 1999, c. 609, §20 (NEW) . ]

**7. Ability to perform.** A provision requiring the downstream entity to advise the carrier in a timely manner of relevant matters that may have a material effect on the downstream entity's ability to perform under the contract, including, but not limited to:

A. Whether the downstream entity or participating provider is subject to an administrative order, a cease and desist order, a fine or a license suspension; and [1999, c. 609, §20 (NEW).]

B. Whether legal action has been taken that may have a material effect on the downstream entity's financial condition or the downstream entity's ability to perform under the contract; and [1999, c. 609, §20 (NEW).]

[ 1999, c. 609, §20 (NEW) . ]

**8. Incorporation by reference.** A provision requiring the contract between a carrier and a downstream entity to be attached to all contracts between the downstream entity and those of the entity's participating providers contractually obligated to provide services to the carrier's enrollees under the contract between the carrier and the downstream entity.

[ 1999, c. 609, §20 (NEW) . ]

SECTION HISTORY

1999, c. 609, §20 (NEW) .

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