

**§4204-A. Surplus requirements**

**1. Initial minimum surplus.** To qualify for authority as a health maintenance organization, an organization shall have an initial minimum surplus of \$1,500,000.

[PL 1989, c. 842, §14 (NEW).]

**2. Surplus maintained.** Except as provided in this section, every health maintenance organization must maintain a minimum surplus equal to the greater of:

A. One million dollars; [PL 1989, c. 842, §14 (NEW).]

B. Two percent of the first \$150,000,000 of annual premium revenues as reported in the most recent annual financial statement filed with the superintendent by the health maintenance organization, plus 1% of annual premium in excess of \$150,000,000; [PL 2017, c. 169, Pt. A, §10 (AMD).]

C. An amount equal to the sum of 3 months' uncovered health care expenditures as reported in the most recent annual financial statement filed with the superintendent by the health maintenance organization; [PL 2017, c. 169, Pt. A, §10 (AMD).]

D. An amount equal to 8% of the health maintenance organization's annual health care expenditures, except those paid on a capitated basis, as reported in the most recent annual financial statement filed with the superintendent by the health maintenance organization; or [PL 2017, c. 169, Pt. A, §10 (AMD).]

E. An amount equal to the company action level risk-based capital as defined in chapter 79. [PL 2001, c. 88, §5 (NEW).]

[PL 2017, c. 169, Pt. A, §10 (AMD).]

**2-A. Additional surplus.** A health maintenance organization that otherwise possesses surplus funds as required under this section shall also maintain surplus in a reasonable amount as determined by the superintendent in relation to indemnity risks assumed through the issuance of a point-of-service product, net of any applicable reinsurance.

[PL 1991, c. 709, §4 (NEW).]

**3. Exceptions.** A health maintenance organization licensed before the effective date of this section must maintain a minimum surplus of:

A. Forty percent of the amount required by subsection 2 until December 31, 1991; [PL 1989, c. 842, §14 (NEW).]

B. Sixty percent of the amount required by subsection 2 until December 31, 1992; [PL 1989, c. 842, §14 (NEW).]

C. Eighty percent of the amount required by subsection 2 until December 31, 1993; and [PL 1989, c. 842, §14 (NEW).]

D. One hundred percent of the amount required by subsection 2 until December 31, 1994. [PL 1989, c. 842, §14 (NEW).]

[PL 1989, c. 842, §14 (NEW).]

**4. Subordinated debt.** Any health maintenance organization that issues a subordinated debt instrument shall structure the debt as follows.

A. In determining surplus, debt may not be considered fully subordinated unless the subordination clause is in a form approved by the superintendent. Any interest obligation relating to the repayment of any subordinated debt must be similarly subordinated. [PL 1989, c. 842, §14 (NEW).]

B. Any debt incurred by a note that meets the requirements of this section, and is otherwise acceptable to the superintendent, may not be considered a liability and must be recorded as equity.

[PL 1989, c. 842, §14 (NEW).]

[PL 1989, c. 842, §14 (NEW).]

#### SECTION HISTORY

PL 1989, c. 842, §14 (NEW). PL 1991, c. 709, §4 (AMD). PL 2001, c. 88, §§3-5 (AMD). PL 2017, c. 169, Pt. A, §10 (AMD).

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