

CHAPTER 18**INSURANCE ADMINISTRATORS****§1901. Definitions**

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [PL 1989, c. 846, Pt. D, §2 (NEW); PL 1989, c. 846, Pt. E, §4 (AFF).]

1. "Administrator" means any person who, on behalf of a plan sponsor, health care service plan, health maintenance organization or insurer, receives or collects charges, contributions or premiums for, or adjusts or settles claims on residents of this State in connection with any type of life, annuity, health, workers' compensation or employee benefit excess insurance benefit provided in or as an alternative to insurance as defined by sections 702 to 704, former Title 39 or Title 39-A, other than any of the following:

A. An employer on behalf of the employer's employees or the employees of one or more subsidiary or affiliated corporations of the employer; [PL 1989, c. 846, Pt. D, §2 (NEW); PL 1989, c. 846, Pt. E, §4 (AFF).]

B. A union on behalf of its members; [PL 1989, c. 846, Pt. D, §2 (NEW); PL 1989, c. 846, Pt. E, §4 (AFF).]

C. A plan sponsor administering its own plan; [PL 1989, c. 846, Pt. D, §2 (NEW); PL 1989, c. 846, Pt. E, §4 (AFF).]

D. An insurance company that is:

(1) Authorized to transact insurance business in this State; or

(2) Acting as an insurer with respect to a policy lawfully issued and delivered by that company in and pursuant to the laws of a state in which the insurer was authorized to transact an insurance business; [PL 1989, c. 846, Pt. D, §2 (NEW); PL 1989, c. 846, Pt. E, §4 (AFF).]

E. A nonprofit hospital, medical or health care services plan, health maintenance organization, professional service plan corporation or person in the business of providing continuing care, possessing a valid certificate of authority issued by the Bureau of Insurance, and the sole representative of that person, plan, organization or corporation, if the activities of the plan, organization, corporation or person are limited to the activities permitted under the certificate of authority; [PL 1993, c. 702, Pt. A, §10 (AMD).]

F. An insurance agent or broker licensed in this State, whose activities are limited to the scope of that license; [PL 1989, c. 846, Pt. D, §2 (NEW); PL 1989, c. 846, Pt. E, §4 (AFF).]

G. An adjuster licensed in this State, whose activities are limited to the adjustment of claims; [PL 1989, c. 846, Pt. D, §2 (NEW); PL 1989, c. 846, Pt. E, §4 (AFF).]

H. A creditor on behalf of the creditor's debtors with respect to insurance covering a debt between the creditor and its debtors; [PL 1989, c. 846, Pt. D, §2 (NEW); PL 1989, c. 846, Pt. E, §4 (AFF).]

I. A trust and its trustees, agents, and employees acting pursuant to a trust established in conformity with 29 United States Code, Section 186; [PL 1989, c. 846, Pt. D, §2 (NEW); PL 1989, c. 846, Pt. E, §4 (AFF).]

J. A trust exempt from taxation under the federal Internal Revenue Code of 1986, Section 501(a), and the trustees and employees acting pursuant to that trust, or a custodian and its agents and employees, including individuals representing the trustees in overseeing the activities of a service

company or administrator, acting pursuant to a custodial account that meets the requirements of the federal Internal Revenue Code of 1986, Section 401(f); [PL 1989, c. 846, Pt. D, §2 (NEW); PL 1989, c. 846, Pt. E, §4 (AFF).]

K. A financial institution or a mortgage lender that collects and remits premiums to licensed insurance agents or authorized insurers concurrently or in connection with mortgage loan payments; [PL 1997, c. 457, §28 (AMD).]

L. A credit card issuing company that advances for and collects premiums or charges from its credit card holders who have authorized that collection if the company does not adjust or settle claims; [PL 1989, c. 846, Pt. D, §2 (NEW); PL 1989, c. 846, Pt. E, §4 (AFF).]

M. A person who adjusts or settles claims in the normal course of that person's practice or employment as an attorney and who does not collect charges or premiums in connection with life or health insurance coverage; [PL 1995, c. 673, Pt. A, §1 (AMD).]

N. A person acting as a trustee, named fiduciary or plan official of an employee benefit plan within the meaning of the federal Employee Retirement Income Security Act of 1974, as amended, 29 United States Code, Section 1001, et seq.; and [PL 1995, c. 673, Pt. A, §1 (AMD).]

O. A private purchasing alliance licensed in accordance with chapter 18-A. [PL 1995, c. 673, Pt. A, §2 (NEW).]

Notwithstanding any other provision of this subsection, "administrator" includes any administrator of a preferred provider arrangement required to register under this chapter pursuant to section 2674-A. [PL 2003, c. 428, Pt. C, §1 (AMD).]

2. "ATF" means an administrator trust fund that is a special fiduciary account, established and maintained by an administrator under section 1909, in which contributions and premiums are deposited. [PL 1989, c. 846, Pt. D, §2 (NEW); PL 1989, c. 846, Pt. E, §4 (AFF).]

3. "CASA" means a claims administration services account that is a special fiduciary account, established and maintained by an administrator under section 1909, from which claims and claims adjustment expenses are disbursed. [PL 1989, c. 846, Pt. D, §2 (NEW); PL 1989, c. 846, Pt. E, §4 (AFF).]

4. "Charges" means any compensation paid by a plan sponsor, health care service plan, health maintenance organization or insurer for services performed by the administrator. [PL 1989, c. 846, Pt. D, §2 (NEW); PL 1989, c. 846, Pt. E, §4 (AFF).]

5. "Contributions" means the value of funds that have been provided or are to be applied by a plan sponsor or other entity to fund the self-insured portion of any plan, or premiums charged to a plan sponsor or other entity by an insurer for coverage under contracts of insurance or excess insurance. Contributions include administrative fees charged to a covered individual. "Administrative fee" means any compensation paid by a covered individual for services performed by the administrator. [PL 1989, c. 846, Pt. D, §2 (NEW); PL 1989, c. 846, Pt. E, §4 (AFF).]

6. "Covered individual" means any individual eligible for life, annuity, workers' compensation or health benefits under a plan. [PL 1989, c. 846, Pt. D, §2 (NEW); PL 1989, c. 846, Pt. E, §4 (AFF).]

7. "Plan" means any plan, fund or program established or maintained by a plan sponsor, health care service plan, health maintenance organization or insurer to the extent that the plan, fund or program was established or is maintained to provide through insurance or alternatives to insurance any type of life, annuity, health or workers' compensation benefit within the scope of sections 702 to 704, former Title 39 or Title 39-A. [PL 1991, c. 885, Pt. E, §26 (AMD); PL 1991, c. 885, Pt. E, §47 (AFF).]

8. "Plan sponsor" means any person, other than an insurer, who establishes or maintains a plan covering residents of this State, including, but not limited to, plans established or maintained by 2 or more employers or jointly by one or more employers and one or more employee organizations, the association, committee, joint board of trustees or other similar group of representatives of the parties that establish or maintain the plan.

[PL 1989, c. 846, Pt. D, §2 (NEW); PL 1989, c. 846, Pt. E, §4 (AFF).]

9. "Premium" means any money charged a covered individual, plan sponsor or other entity to provide life, accident, workers' compensation or health insurance under a plan. The term "premium" includes amounts paid by or charged to a covered individual plan sponsor or other entity for stop loss or excess insurance.

[PL 1989, c. 846, Pt. D, §2 (NEW); PL 1989, c. 846, Pt. E, §4 (AFF).]

10. "Quasi-resident" means a nonresident licensee who receives or collects 50% or more of calendar year contributions, premium volume or other funds subject to administration from plan sponsors or insureds resident in this State.

[PL 1989, c. 846, Pt. D, §2 (NEW); PL 1989, c. 846, Pt. E, §4 (AFF).]

SECTION HISTORY

PL 1989, c. 846, §§D2,E4 (NEW). PL 1991, c. 885, §§E25,26 (AMD). PL 1991, c. 885, §E47 (AFF). PL 1993, c. 702, §A10 (AMD). PL 1995, c. 673, §§A1,2 (AMD). PL 1997, c. 457, §28 (AMD). PL 1999, c. 609, §2 (AMD). PL 2003, c. 428, §C1 (AMD).

§1902. License required

A person may not act as or profess to be an administrator after August 1, 1990, unless licensed under this chapter. An administrator doing business in this State on August 1, 1990, shall apply for a license by November 1, 1990. In addition to any other penalty that may be imposed for violation of this Title, any person violating this section shall, upon conviction, be punished by a fine of not less than \$100 nor more than \$1,000 or by imprisonment for less than one year, or both. [PL 1989, c. 846, Pt. D, §2 (NEW); PL 1989, c. 846, Pt. E, §4 (AFF).]

An administrator licensed under this chapter on or before December 31, 2003 shall submit information by March 21, 2004 as to the types of business conducted by that administrator in this State on a form prescribed by the superintendent. [PL 2003, c. 469, Pt. E, §3 (NEW).]

SECTION HISTORY

PL 1989, c. 846, §§D2,E4 (NEW). PL 2003, c. 469, §E3 (AMD).

§1903. Application

An applicant for a license shall file with the superintendent an application, on a form prescribed by the superintendent, that must include or have attached the following: [PL 1989, c. 846, Pt. D, §2 (NEW); PL 1989, c. 846, Pt. E, §4 (AFF).]

1. The names, addresses and official positions of the individuals who are responsible for the conduct of the affairs of the administrator, including, but not limited to, all members of the board of directors, board of trustees, executive committee, or other governing board or committee, the principal officers in the case of a corporation or the partners in the case of a partnership;

[PL 2003, c. 469, Pt. E, §4 (AMD).]

2. An application fee, as specified in section 601, that the superintendent shall apply toward the initial administrator annual fee if an administrator's license is granted to the applicant; and

[PL 2003, c. 469, Pt. E, §4 (AMD).]

3. The specific type of business in which the 3rd-party administrator will or intends to engage.

[PL 2003, c. 469, Pt. E, §5 (NEW).]

SECTION HISTORY

PL 1989, c. 846, §§D2,E4 (NEW). PL 2003, c. 469, §§E4,5 (AMD).

§1904. Bond requirements for administrators

1. Every applicant for an administrator's license shall file with the application, and shall maintain in force while licensed, a fidelity bond, and at the superintendent's discretion, a surety bond, in favor of the Treasurer of State, for the benefit of covered persons or plan sponsors as their interest may appear, executed by a surety company authorized to do business in this State and payable to any party injured under the terms of the bond. The bond must be continuous in form and in one of the following amounts:

A. For an administrator that maintains an ATF but does not maintain a CASA, the greater of \$50,000 or 5% of contributions and premiums projected to be received or collected in the ATF for the following plan year from residents of the State, but not to exceed \$1,000,000; [PL 1989, c. 846, Pt. D, §2 (NEW); PL 1989, c. 846, Pt. E, §4 (AFF).]

B. For an administrator that maintains a CASA but does not maintain an ATF, the greater of \$50,000 or 5% of the claims and claim expenses projected to be held in the CASA for the following year to pay claims and claim expenses for residents of the State, but not to exceed \$1,000,000; or [PL 1989, c. 846, Pt. D, §2 (NEW); PL 1989, c. 846, Pt. E, §4 (AFF).]

C. For an administrator that maintains an ATF and a CASA, the greater of \$50,000 or 5% of contributions and premiums projected to be received or collected in the ATF for the following plan year from residents of the State plus 5% of the claims and claim expenses projected to be held in the CASA accounts for the following year to pay claims and claim expenses for residents of the State, but not to exceed \$1,000,000. [PL 1993, c. 171, Pt. A, §1 (AMD).]

This subsection applies to an administrator who is required to maintain funds in a fiduciary capacity as set forth in section 1909.

[PL 1995, c. 329, §27 (AMD).]

2. The bond must remain in force and effect until the surety is released from liability by the superintendent or until the bond is cancelled by the surety. The surety may cancel the bond and be released from further liability under the bond upon 30 days' written notice in advance to the superintendent. The cancellation does not affect any liability incurred or accrued under the bond before the 30-day period expires. Upon receiving any notice of cancellation, the superintendent shall immediately notify the licensee.

[PL 1989, c. 846, Pt. D, §2 (NEW); PL 1989, c. 846, Pt. E, §4 (AFF).]

3. The administrator's license automatically terminates if the bond required by this section is not in force. Within 30 days after the bond ceases to be in force, the administrator shall return the license to the superintendent for cancellation.

[PL 1989, c. 846, Pt. D, §2 (NEW); PL 1989, c. 846, Pt. E, §4 (AFF).]

SECTION HISTORY

PL 1989, c. 846, §§D2,E4 (NEW). PL 1993, c. 171, §A1 (AMD). PL 1995, c. 329, §27 (AMD).

§1905. License

1. Upon receipt of a complete application for an administrator license, the superintendent shall investigate, to the extent the superintendent considers advisable, the applicant's experience, background and fitness for the license. The superintendent may obtain a credit and investigative report relative to the applicant from a recognized and established independent investigation and reporting agency. The superintendent may establish from time to time a reasonable uniform flat amount that the applicant must pay for the report. The report cost must be included with the application. The contents of the report are confidential.

[PL 1989, c. 846, Pt. D, §2 (NEW); PL 1989, c. 846, Pt. E, §4 (AFF).]

2. If the superintendent finds that the applicant is qualified for an administrator license, the superintendent shall promptly issue the license, which identifies the types of business in which the applicant may engage; otherwise the superintendent shall refuse to issue the license and promptly notify the applicant.

[PL 2003, c. 469, Pt. E, §6 (AMD).]

3. Sections 1417 and 1418 apply to licenses issued under this chapter.

[PL 1997, c. 457, §29 (AMD); PL 1997, c. 457, §55 (AFF).]

4. Unless revoked or suspended under section 1907, an administrator license remains in effect as long as the holder of the license maintains in force and effect the bond required by section 1904 and pays the annual fee required by section 601 before the anniversary date of the license.

[PL 1989, c. 846, Pt. D, §2 (NEW); PL 1989, c. 846, Pt. E, §4 (AFF).]

5. An administrator shall submit an application to amend its license if the administrator desires to amend the types of business on its then-current license.

[PL 2003, c. 469, Pt. E, §7 (NEW).]

SECTION HISTORY

PL 1989, c. 846, §§D2,E4 (NEW). PL 1997, c. 457, §29 (AMD). PL 1997, c. 457, §55 (AFF). PL 2003, c. 469, §§E6,7 (AMD).

§1906. Administrator requirements

1. Each administrator shall identify to the superintendent any ownership interest or affiliation of any kind with any plan sponsor, health care service plan, health maintenance organization or insurer responsible directly or through reinsurance for providing benefits to any plan for which the administrator provides services as an administrator.

[PL 1989, c. 846, Pt. D, §2 (NEW); PL 1989, c. 846, Pt. E, §4 (AFF).]

2. An administrator shall provide services as an administrator only pursuant to a written agreement between the administrator and the plan sponsor, health care service plan, health maintenance organization or insurer. The administrator shall retain the written agreement as part of its records for the duration of the agreement and for 7 years after the agreement expires.

[PL 1989, c. 846, Pt. D, §2 (NEW); PL 1989, c. 846, Pt. E, §4 (AFF).]

3. An administrator shall maintain, in its principal office for the duration of the written agreement with any plan sponsor or insurer and for 7 years after the agreement expires, adequate books and records of all transactions involving a plan sponsor, health care service plan, health maintenance organization or insurer and covered individuals and beneficiaries. These books and records must be maintained in accordance with generally accepted standards of business recordkeeping. An administrator is not required to maintain copies of books and records if the originals are returned to the plan sponsor, health care service plan, health maintenance organization or insurer before the end of the 7-year period. The administrator shall maintain evidence of the return of the originals for the balance of the 7-year period.

[PL 1989, c. 846, Pt. D, §2 (NEW); PL 1989, c. 846, Pt. E, §4 (AFF).]

4. The administrator shall file with the superintendent the names and addresses of the insurers, health care service plans, health maintenance organizations and plan sponsors with whom the administrator has entered into written agreements. If an insurer, health care service plan, health maintenance organization or plan sponsor does not assume or bear the risk, the administrator must disclose the name and address of the ultimate risk bearer. In addition, at the time of a license renewal, the administrator shall also file with the superintendent for the most recent complete calendar year for all covered individuals in the State the total number of claims paid by the administrator by each plan sponsor and the total dollar amount of claims paid by each plan sponsor. This subsection applies to the initial application for an administrator's license and any renewal of a license.

[PL 2001, c. 457, §20 (AMD).]

5. An administrator may use advertising pertaining to the plan only if that advertising has been approved in advance by the plan sponsor, health care service plan, health maintenance organization or insurer.

[PL 1989, c. 846, Pt. D, §2 (NEW); PL 1989, c. 846, Pt. E, §4 (AFF).]

6. Upon receiving instructions from the plan sponsor, health care service plan, health maintenance organization or insurer, an administrator shall deliver promptly to covered individuals or beneficiaries all policies, certificate booklets, termination notices or other written communications.

[PL 1989, c. 846, Pt. D, §2 (NEW); PL 1989, c. 846, Pt. E, §4 (AFF).]

7. An administrator may not receive compensation from a plan sponsor, health care service plan, health maintenance organization or insurer that is contingent upon the loss ratio of the plan. This subsection does not, however, prevent the administrator from engaging in cost containment activities with a plan sponsor, health care service plan, health maintenance organization or insurer.

[PL 1989, c. 846, Pt. D, §2 (NEW); PL 1989, c. 846, Pt. E, §4 (AFF).]

8. An administrator may not receive from any plan sponsor, health care service plan, health maintenance organization, insurer, covered individual or beneficiary under a plan any compensation or other payments except as expressly set forth in the written agreement between the administrator and the plan sponsor, health care service plan, health maintenance organization or insurer.

[PL 1989, c. 846, Pt. D, §2 (NEW); PL 1989, c. 846, Pt. E, §4 (AFF).]

9. Upon request of the superintendent, an administrator shall make available for examination, either at the Bureau of Insurance or at the licensee's principal place of business, all basic organizational documents, including, but not limited to, articles of incorporation, articles of association, partnership agreements, trade name certificates, trust agreements, shareholder agreements and other applicable documents and all amendments to those documents, bylaws, rules and regulations or similar documents regulating the conduct of the administrator's internal affairs.

[PL 1989, c. 846, Pt. D, §2 (NEW); PL 1989, c. 846, Pt. E, §4 (AFF).]

10. When acting as an administrator, the acts of an insurance administrator are deemed to be the acts of the plan sponsor, health care service plan, health maintenance organization, fraternal benefit society, nonprofit hospital or medical service organization or insurer.

[PL 1997, c. 457, §30 (NEW).]

11. In addition to any other applicable provisions of law, the plan sponsor, health care service plan, health maintenance organization, fraternal benefit society, nonprofit hospital or medical service organization or insurer is accountable and may be penalized by the superintendent, as provided for in this Title, for the actions of its administrators.

[PL 1997, c. 457, §30 (NEW).]

SECTION HISTORY

PL 1989, c. 846, §§D2,E4 (NEW). PL 1997, c. 457, §30 (AMD). PL 2001, c. 457, §20 (AMD).

§1907. License suspension, revocation or denial

Any license issued under this chapter may be suspended or revoked after notice to the licensee and an opportunity for hearing and any application for license may be denied after notice and opportunity for hearing: [PL 1989, c. 846, Pt. D, §2 (NEW); PL 1989, c. 846, Pt. E, §4 (AFF).]

1. For any of the grounds for suspension or revocation of a license set forth in section 1417; or [PL 1997, c. 457, §31 (AMD); PL 1997, c. 457, §55 (AFF).]

2. If the licensee or applicant:

A. Is using any method or practice in conducting business that renders further transaction of business in this State hazardous or injurious to covered individuals or the public; [PL 1989, c. 846, Pt. D, §2 (NEW); PL 1989, c. 846, Pt. E, §4 (AFF).]

B. Is affiliated with and is under the same general management as another administrator that transacts business in this State without being licensed under this chapter; or [PL 1989, c. 846, Pt. D, §2 (NEW); PL 1989, c. 846, Pt. E, §4 (AFF).]

C. Has failed to report a conviction as required by section 1908. [PL 1989, c. 846, Pt. D, §2 (NEW); PL 1989, c. 846, Pt. E, §4 (AFF).]
[PL 1989, c. 846, Pt. D, §2 (NEW); PL 1989, c. 846, Pt. E, §4 (AFF).]

SECTION HISTORY

PL 1989, c. 846, §§D2,E4 (NEW). PL 1997, c. 457, §31 (AMD). PL 1997, c. 457, §55 (AFF).

§1908. Criminal convictions

Any administrator and any individual listed on the application, as required by section 1903, who is convicted of a crime punishable by imprisonment for more than one year shall report that conviction to the superintendent within 30 days after judgment is entered. Within that 30-day period, the administrator shall also provide the superintendent with a copy of the judgment and any commitment order and any other relevant documents relating to disposition of the criminal action. [PL 1989, c. 846, Pt. D, §2 (NEW); PL 1989, c. 846, Pt. E, §4 (AFF).]

SECTION HISTORY

PL 1989, c. 846, §§D2,E4 (NEW).

§1909. Fiduciary accounts and duties

1. Administrators shall hold in a fiduciary capacity all contributions and premiums received or collected on behalf of a plan sponsor or insurer, except service fees owed to the administrator pursuant to the written agreement between the plan sponsor, insurer, health care service plan or health maintenance organization and the administrator. These funds may not be used as general operating funds of the administrator. All contributions and premiums received or collected by the administrator from residents of this State that the administrator holds more than 30 days or deposits into an account that is not under the control of the plan sponsor, health care service plan, health maintenance organization or insurer, must be placed in a special fiduciary account, designated as an ATF. All resident and quasi-resident licensees required to maintain an ATF under this section shall maintain the ATF with one or more financial institutions located within the State and subject to jurisdiction of the courts of this State. Funds belonging to 2 or more plans may be held in the same ATF, provided the administrator's records clearly indicate the funds belonging to each plan. Checks drawn on the ATF must indicate on the face of the checks that the checks are drawn on the administrator's ATF.
[PL 1989, c. 846, Pt. D, §2 (NEW); PL 1989, c. 846, Pt. E, §4 (AFF).]

2. The administrator may make the following disbursements from the ATF:

A. Contributions and premiums due insurers or other persons providing life, accident and health, or workers' compensation coverage for a plan; [PL 1989, c. 846, Pt. D, §2 (NEW); PL 1989, c. 846, Pt. E, §4 (AFF).]

B. Return contributions and premiums to a plan or covered individual; [PL 1989, c. 846, Pt. D, §2 (NEW); PL 1989, c. 846, Pt. E, §4 (AFF).]

C. Commissions or administrative fees due to the administrator when earned under a written agreement; and [PL 1989, c. 846, Pt. D, §2 (NEW); PL 1989, c. 846, Pt. E, §4 (AFF).]

D. Transfers into the CASA of the administrator. [PL 1989, c. 846, Pt. D, §2 (NEW); PL 1989, c. 846, Pt. E, §4 (AFF).]

[PL 1989, c. 846, Pt. D, §2 (NEW); PL 1989, c. 846, Pt. E, §4 (AFF).]

3. For each plan for which an ATF is required, the balance in the ATF must at all times be the amount deposited plus accrued interest, if any, less authorized disbursements. If the balance at the

financial institution, with respect to the ATF, is less than the amount deposited plus accrued interest, if any, less authorized disbursements, the administrator is presumed, for purposes of license revocation or suspension, to have misappropriated funds and to have acted in a financially irresponsible manner. [PL 1989, c. 846, Pt. D, §2 (NEW); PL 1989, c. 846, Pt. E, §4 (AFF).]

4. Before establishing an ATF that is interest bearing or income producing, the administrator shall disclose the nature of the account to the plan sponsor, health care service plan, health maintenance organization or insurer on whose behalf the funds are to be held. The administrator shall secure written consent and authorization from the plan sponsor, health care service plan, health maintenance organization or insurer for the investment of the money and disposition of the interest or earnings. An administrator may not make any investment that assumes a risk other than the risk that the obligor might not pay the principal when due. The administrator may not use specialized techniques or strategies that incur additional risks to generate higher returns or to extend maturities. Such techniques include, but are not limited to, the use of financial futures or options, buying on margins and pledging of ATF balances.

[PL 1989, c. 846, Pt. D, §2 (NEW); PL 1989, c. 846, Pt. E, §4 (AFF).]

5. Administrators may place ATF funds in interest bearing or income producing investments and retain the interest or income on the funds, provided the administrator obtains the prior written authorization of the plan sponsors, health care service plans, health maintenance organizations or insurers on whose behalf the funds are to be held. In addition to savings and checking accounts, an administrator may invest in the following:

A. Direct obligations of the United States or government agency securities with maturities of not more than one year; [PL 1989, c. 846, Pt. D, §2 (NEW); PL 1989, c. 846, Pt. E, §4 (AFF).]

B. Certificates of deposit, with a maturity of not more than one year, issued by financial institutions insured by the Federal Deposit Insurance Corporation (FDIC) or Federal Savings and Loan Insurance Corporation (FSLIC), provided any such deposit does not exceed the maximum level of insurance protection provided to certificates of deposit held by those institutions; [PL 1989, c. 846, Pt. D, §2 (NEW); PL 1989, c. 846, Pt. E, §4 (AFF).]

C. Repurchase agreements with financial institutions or government securities dealers recognized as primary dealers by the Federal Reserve System provided:

(1) The value of the repurchase agreement is collateralized with assets that are allowable investments for ATF funds;

(2) The collateral has a market value, at the time the repurchase agreement is entered into, at least equal to the value of the repurchase agreement; and

(3) The repurchase agreement does not exceed 30 days; [PL 1989, c. 846, Pt. D, §2 (NEW); PL 1989, c. 846, Pt. E, §4 (AFF).]

D. Commercial paper, provided the commercial paper is rated at least P-1 by Moody's Investors Service, Inc. or at least A-1 by Standard & Poor's Corporation; or [PL 1989, c. 846, Pt. D, §2 (NEW); PL 1989, c. 846, Pt. E, §4 (AFF).]

E. Money market funds, provided the money market fund invests exclusively in assets that are allowable investments pursuant to paragraphs A to D for ATF funds. [PL 1989, c. 846, Pt. D, §2 (NEW); PL 1989, c. 846, Pt. E, §4 (AFF).]

Each investment transaction must be made in the name of the administrator's ATF. The administrator shall maintain evidence of any such investments. Each investment transaction must flow through the administrator's ATF.

[PL 1989, c. 846, Pt. D, §2 (NEW); PL 1989, c. 846, Pt. E, §4 (AFF).]

6. The administrator shall hold in a fiduciary capacity all money that the administrator receives to pay claims and claim adjustment expenses. All resident and quasi-resident licensees shall place all such money for claims and claim adjustment expenses for residents of this State, whether received from a plan sponsor, health care service plan, health maintenance organization or insurer or from the administrator's ATF, in a special fiduciary account in a financial institution located in this State. The account must be designated a CASA. Funds belonging to 2 or more plans may be held in the same CASA, provided the administrator's records clearly indicate the funds belonging to each plan. Checks drawn on the CASA must indicate on the face of the checks that the checks are drawn on the administrator's CASA.

[PL 1989, c. 846, Pt. D, §2 (NEW); PL 1989, c. 846, Pt. E, §4 (AFF).]

7. No deposit may be made into a CASA and no disbursement may be made from a CASA except for claims and claim adjustment expenses. For each plan for which a CASA is required, the balance in the CASA must at all times be the amount deposited less claims and claims adjustment expenses paid. If the CASA balance is less than that amount, the administrator shall be presumed, for purposes of license revocation or suspension, to have misappropriated funds and to have acted in a financially irresponsible manner.

[PL 1989, c. 846, Pt. D, §2 (NEW); PL 1989, c. 846, Pt. E, §4 (AFF).]

8. Administrators shall maintain detailed books and records that reflect all transactions involving the receipt and disbursement of:

A. Contributions and premiums received on behalf of a plan sponsor, health care service plan, health maintenance organization or insurer; and [PL 1989, c. 846, Pt. D, §2 (NEW); PL 1989, c. 846, Pt. E, §4 (AFF).]

B. Claims and claim adjustment expenses received and paid on behalf of a plan sponsor, health care service plan, health maintenance organization or insurer. [PL 1989, c. 846, Pt. D, §2 (NEW); PL 1989, c. 846, Pt. E, §4 (AFF).]

[PL 1989, c. 846, Pt. D, §2 (NEW); PL 1989, c. 846, Pt. E, §4 (AFF).]

9. The detailed preparation, journalizing and posting of books and records required by subsection 8 must be maintained on a timely basis and all journal entries for receipts and disbursements must be supported by evidential matter that must be referenced in the journal entry so that receipts and disbursements may be traced for verification. Administrators shall prepare and maintain monthly financial institution account reconciliations of any ATF and CASA established by the administrator. Reconciliation of accounts is timely if accomplished not more than 45 days after the end of the month in which the transaction occurred. The reconciliation must include, at a minimum, the following:

A. The source and amount of any money received and deposited by the administrator, and the date of receipt and deposit; [PL 1989, c. 846, Pt. D, §2 (NEW); PL 1989, c. 846, Pt. E, §4 (AFF).]

B. The date each disbursement was made, the person to whom the disbursement was made and a written explanation of any difference between the amount disbursed and the amount billed or authorized; and [PL 1989, c. 846, Pt. D, §2 (NEW); PL 1989, c. 846, Pt. E, §4 (AFF).]

C. A description of the disbursement in sufficient detail to identify the source document substantiating the purpose of the disbursement. [PL 1989, c. 846, Pt. D, §2 (NEW); PL 1989, c. 846, Pt. E, §4 (AFF).]

[PL 1989, c. 846, Pt. D, §2 (NEW); PL 1989, c. 846, Pt. E, §4 (AFF).]

10. Failure to accurately maintain the required books and records in a timely manner is deemed to be untrustworthy, hazardous or injurious to participants in the plan or the public and financially irresponsible.

[PL 1989, c. 846, Pt. D, §2 (NEW); PL 1989, c. 846, Pt. E, §4 (AFF).]

SECTION HISTORY

PL 1989, c. 846, §§D2,E4 (NEW).

§1910. Unauthorized activities

Nothing in this chapter may be construed to permit any person or entity to receive or collect charges, contributions or premiums for, or adjust or settle claims in connection with, any type of life or accident or health benefit, unless the person or entity is authorized through the insurance laws of a state or the Employee Retirement Income Security Act of 1974, 29 United States Code, Section 1001, et seq. as amended, to provide those benefits. [PL 1989, c. 846, Pt. D, §2 (NEW); PL 1989, c. 846, Pt. E, §4 (AFF).]

SECTION HISTORY

PL 1989, c. 846, §§D2,E4 (NEW).

§1911. Audits and examinations

The superintendent may designate examiners or consultants, as appropriate, to perform an audit of an administrator when the superintendent considers an audit necessary. Administrators shall make all records and books of account available to the examiners or consultants, and shall otherwise facilitate the performance of the audit. All claims information respecting individual claimants must be kept confidential. [PL 1989, c. 846, Pt. D, §2 (NEW); PL 1989, c. 846, Pt. E, §4 (AFF).]

SECTION HISTORY

PL 1989, c. 846, §§D2,E4 (NEW).

§1912. Standardized claim forms

All administrators who administer claims and who provide payment or reimbursement for diagnosis or treatment of a condition or a complaint by a licensed health care practitioner must accept the current standardized claim form for professional services approved by the Federal Government and submitted electronically. All administrators who administer claims and who provide payment or reimbursement for diagnosis or treatment of a condition or a complaint by a licensed hospital must accept the current standardized claim form for professional or facility services, as applicable, approved by the Federal Government and submitted electronically, and any claims for facility services must identify the physical location, including hospital off-campus locations, where services are provided. An administrator may not be required to accept a claim submitted on a form other than the applicable form specified in this section and may not be required to accept a claim that is not submitted electronically, except from a health care practitioner who is exempt pursuant to Title 24, section 2985. All services provided by a health care practitioner in an office setting must be submitted on the standardized federal form used by noninstitutional providers and suppliers. Services in a nonoffice setting may be billed as negotiated between the administrator and health care practitioner. For purposes of this section, "office setting" means a location where the health care practitioner routinely provides health examinations, diagnosis and treatment of illness or injury on an ambulatory basis whether or not the office is physically located within a facility. [PL 2023, c. 521, §2 (AMD).]

SECTION HISTORY

PL 1993, c. 477, §D8 (NEW). PL 1993, c. 477, §F1 (AFF). PL 2003, c. 218, §2 (AMD). PL 2003, c. 469, §D3 (AMD). PL 2003, c. 469, §D9 (AFF). PL 2005, c. 97, §1 (AMD). PL 2023, c. 521, §2 (AMD).

§1913. Registration of pharmacy benefits managers

(REPEALED)

SECTION HISTORY

PL 2009, c. 581, §4 (NEW). PL 2011, c. 443, §4 (RPR). PL 2019, c. 469, §5 (RP). PL 2019, c. 469, §9 (AFF).

§1914. Plan sponsor access to claims data; right to audit

1. High-cost claims data. Upon request of a plan sponsor that has certified its compliance with the use and disclosure requirements of 45 Code of Federal Regulations, Section 164.504(f), an administrator shall provide data on a high-cost claim so that a plan sponsor may perform an audit to ensure compliance with the plan sponsor's contract prior to payment of the high-cost claim. The data must include any itemized billing statements and medical records associated with the claim in the possession of the administrator or the administrator's agents. The plan sponsor or the plan sponsor's designee shall make a request for data on a high-cost claim within 2 business days of receipt of the claim and the administrator must provide the requested information within 30 business days of the request. For the purposes of this subsection, "high-cost claim" means any claim related to an individual provided health coverage by a plan sponsor that exceeds \$100,000.

[PL 2025, c. 487, §1 (NEW).]

2. Claims data; right to audit. An administrator that contracts with a plan sponsor to provide health coverage shall permit a plan sponsor to perform a post-payment audit of all claims paid to ensure compliance with the contract at least once in a calendar year as long as the request is not earlier than 6 months following a previously requested audit. Upon request of a plan sponsor as part of an audit, an administrator shall disclose within 30 business days to a plan sponsor that has certified its compliance with the use and disclosure requirements of 45 Code of Federal Regulations, Section 164.504(f) or, to the extent permitted by law and if requested by the plan sponsor, to the plan sponsor's designated business associate the following information specific to the plan sponsor:

A. Claims data received by the administrator via electronic claims transactions on any current standardized claim form approved by the Federal Government for professional services or institutional services. The form or transaction may be modified only as necessary to comply with the federal Health Insurance Portability and Accountability Act of 1996, Public Law 104-191; [PL 2025, c. 487, §1 (NEW).]

B. Claims payments, electronic funds transfers or remittance advice notices provided by the administrator as electronic files compliant with the federal Health Insurance Portability and Accountability Act of 1996, Public Law 104-191, including, but not limited to, electronic claims transactions for both the billed amount and the paid amount for professional services and both the billed amount and the paid amount for institutional services. The files may be modified only as necessary to comply with the federal Health Insurance Portability and Accountability Act of 1996, Public Law 104-191, and the federal Health Information Technology for Economic and Clinical Health Act of 2009, Title XIII, Subtitle D, Public Law 111-5, and any regulations promulgated under those laws; [PL 2025, c. 487, §1 (NEW).]

C. Any fees charged to the plan sponsor related to plan administration and claims processing, including renegotiation fees, access fees, repricing fees or enhanced review fees; and [PL 2025, c. 487, §1 (NEW).]

D. Any out-of-network fees or out-of-network negotiated discounts, aligned incentive program fees, pay-for-performance payments and recoveries, cost-containment program fees, overpayment recovery program fees, subrogation fees and any other special program fees and discounts. [PL 2025, c. 487, §1 (NEW).]

[PL 2025, c. 487, §1 (NEW).]

3. No conditions or fees on audit. An administrator may not impose on a plan sponsor:

A. Any fees relating to an audit request under this section that exceed the direct expenses properly and actually incurred by the administrator to provide the data; or [PL 2025, c. 487, §1 (NEW).]

B. Any conditions that would restrict a plan sponsor's right to conduct an audit under this section, including, but not limited to, restrictions on:

- (1) The time period covered by the audit, except that a request pursuant to this section must be made within 24 months of the end of each plan year to be audited;
- (2) The number of claims analyzed;
- (3) The type of analysis conducted;
- (4) The data elements used in the analysis;
- (5) The means by which an auditor is compensated by a plan sponsor; or
- (6) The plan sponsor's choice of auditor as long as the plan sponsor certifies that the auditor has adequate conflict of interest protection provisions to prevent conflicts of interest from adversely affecting the outcome of the audit. [PL 2025, c. 487, §1 (NEW).]

[PL 2025, c. 487, §1 (NEW).]

4. Nondisclosure and data use agreement. An administrator may require that the plan sponsor and the plan sponsor's designated business associate execute a nondisclosure and data use agreement that reasonably restricts the auditor's use of data provided by the administrator to the sole purpose of conducting an audit on behalf of a plan sponsor. The coverage limits of any cybersecurity insurance or liability insurance policy required under the nondisclosure and data use agreement may not exceed the administrator's limit of liability under the services agreement between the plan sponsor and the administrator, if such limit applies. In addition, an administrator is not required to provide data to an auditor selected by a plan sponsor if the auditor has previously breached a nondisclosure and data use agreement with that administrator or refuses to execute a nondisclosure and data use agreement.

[PL 2025, c. 487, §1 (NEW).]

5. Compliance with federal law. Information provided by an administrator to a plan sponsor in accordance with this section must comply with any applicable requirements of the federal Health Insurance Portability and Accountability Act of 1996, Public Law 104-191, and the federal Health Information Technology for Economic and Clinical Health Act of 2009, Title XIII, Subtitle D, Public Law 111-5, and any regulations promulgated under those laws.

[PL 2025, c. 487, §1 (NEW).]

6. Application. An administrator may not enter into, issue, amend or renew any contract or network services agreement with a plan sponsor on or after January 1, 2026 that contains any provision that violates this section.

[PL 2025, c. 487, §1 (NEW).]

7. Exclusive enforcement; violation. Notwithstanding section 12-A, a violation of this section is subject to exclusive enforcement under the Maine Unfair Trade Practices Act, including any of the remedies provided for in the Act. A violation is committed each time a prohibited act under this section occurs. Investigations of violations by administrators may include a 3rd party that may possess evidence supporting such investigation.

[PL 2025, c. 487, §1 (NEW).]

SECTION HISTORY

PL 2025, c. 487, §1 (NEW).

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