ADOPTED REGULATION OF THE

COMMISSIONER OF INSURANCE

LCB File No. R250-03

Effective November 12, 2004

EXPLANATION – Matter in ***italics*** is new; matter in brackets **[**~~omitted material~~**]** is material to be omitted.

AUTHORITY: §§1-5, NRS 679B.130 and 695F.300.

A REGULATION relating to insurance; requiring prepaid limited health service organizations to file an annual report with the Commissioner of Insurance, and requiring, under certain circumstances, a foreign or alien organization to submit an affidavit, a jurat page or a copy of the jurat page to the Commissioner of Insurance to indicate that the annual report of the organization has been filed; authorizing the Commissioner to require a foreign or alien organization to file a financial report more frequently than annually under certain circumstances; requiring each domestic organization to file a quarterly report with the Commissioner; requiring an organization to file an audited financial statement with the Commissioner in accordance with certain forms and instructions provided by the National Association of Insurance Commissioners; authorizing the Commissioner to grant a reasonable extension of time for filing an annual report or audited financial statement under certain circumstances; revising the address of the Division of Insurance of the Department of Business and Industry; requiring an organization to maintain certain reserves based on the premiums collected for the immediately preceding calendar year; authorizing the Commissioner to permit an organization to obtain certain contracts of insurance for the cost of providing limited health services under certain circumstances; requiring an organization to maintain blanket fidelity coverage issued by an authorized issuer; and providing other matters properly relating thereto.

Section 1. Chapter 695F of NAC is hereby amended by adding thereto a new section to read as follows:

1. As a condition of doing business in this State, each organization must file with the Commissioner an annual report required by NRS 695F.320 that:

(a) Conforms to the format prescribed by the National Association of Insurance Commissioners in the Annual Statement Instructions for Health and the Accounting Practices and Procedures Manual, which have been adopted by reference in NAC 679B.033;

(b) Contains exhibits and schedules that follow the specifications developed by the National Association of Insurance Commissioners; and

(c) Contains any other information relating to the organization required by the Commissioner.

2. Information from the annual report of the organization must be filed:

(a) Pursuant to the specifications adopted by the National Association of Insurance Commissioners for filing information in an electronic format;

(b) At the central office of the National Association of Insurance Commissioners, 2301 McGee Street, Suite 800, Kansas City, Missouri 64108-2662; and

(c) On or before March 1 of each year.

3. If a foreign or alien organization files a report in an electronic format with the National Association of Insurance Commissioners, that report will be deemed to have been filed with the Commissioner if:

(a) The foreign or alien organization submits an affidavit, a jurat page or a copy of the jurat page to the Commissioner indicating that the report has been so filed. If the organization submits a jurat page, the jurat page must:

(1) Conform to the format prescribed by the National Association of Insurance Commissioners in the Annual Statement Instructions for Health, which has been adopted by reference in NAC 679B.033; and

(2) Be executed by a notarial officer pursuant to NRS 240.1655 and 240.167.

(b) The affidavit, jurat page or copy of the jurat page is accompanied by the applicable fees set forth in NRS 680B.010.

4. An annual report required by NRS 695F.320 to be filed with the Commissioner by an organization must be on the current version of the Annual Statement Blanks for Health adopted by the National Association of Insurance Commissioners, which has been adopted by reference in NAC 679B.033. Each organization shall, in preparing the report, follow the Annual Statement Instructions for Health adopted by the National Association of Insurance Commissioners, which accompanies the Annual Statement Blanks for Health.

5. If necessary to determine the financial condition of a foreign or alien organization or the fulfillment of contractual obligations or compliance with law by a foreign or alien organization, the Commissioner may require the foreign or alien organization to file a financial report more frequently than annually. Such a report must be:

(a) Filed on the current form adopted by the National Association of Insurance Commissioners for the type of organization filing;

(b) Completed in accordance with the instructions accompanying that form; and

(c) Filed with the National Association of Insurance Commissioners in an electronic format.

6. Each domestic organization shall file a quarterly report with the Commissioner. A quarterly report must be:

(a) Filed on the current form adopted by the National Association of Insurance Commissioners for the type of organization filing;

(b) Completed in accordance with the instructions accompanying that form; and

(c) Filed with the National Association of Insurance Commissioners in an electronic format.

7. The audited financial statement of the organization filed pursuant to subsection 3 of NRS 695F.320 is a separate document from the annual report required to be filed pursuant to subsection 1 of NRS 695F.320. The audited financial statement must:

(a) Cover the most recent fiscal year of the organization;

(b) Be filed with the Commissioner within 120 days after the end of that fiscal year; and

(c) Be filed pursuant to the specifications and instructions adopted by the National Association of Insurance Commissioners which are included in the Annual Statement Instructions for Health, which have been adopted by reference in NAC 679B.033.

➥ Consolidated statements for organizations that are members of an insurance holding company are not acceptable.

8. The Commissioner may grant a reasonable extension of time for filing the annual report or the audited financial statement required by NRS 695F.320 if the request for an extension is submitted in writing and in advance and shows good cause.

9. As used in this section, "jurat page" means a written declaration by a notarial officer that the signer of a document signed the document in the presence of the notarial officer and swore to or affirmed that the statements in the document are true.

Sec. 2. NAC 695F.110 is hereby amended to read as follows:

695F.110 The proposed plan of operation required by NAC 695F.100 must include:

1. A projection of income and expected costs allocated to:

(a) Services rendered outside of the organization's specified geographic area of service;

(b) Per capita payments to providers pursuant to NAC 695F.310;

(c) Other fees to providers;

(d) A contract of stop loss insurance ~~[;]~~ ***pursuant to NAC 695F.210;***

(e) Expenses of administration; and

(f) Amortization of necessary costs for the establishment of the organization.

2. Procedures to be used by administrators and other agents of the organization for:

(a) The handling of underwriting claims; and

(b) The servicing of clients and claims.

3. The organization's plans for the recruitment, training, licensing and supervision of agents.

4. An evaluation of the demand for the organization's products and services in this State.

5. The number of persons expected to be employed by the organization in this State.

6. Any other information the Commissioner deems necessary.

Sec. 3. NAC 695F.130 is hereby amended to read as follows:

695F.130 1. Any person wishing to review an application for issuance of a certificate of authority for an organization shall submit a request to the Commissioner in writing. A copy of the application may be reviewed at or, at the expense of the person making the request, obtained from the offices of the Commissioner at ~~[1665 Hot Springs Road, Suite 152,]~~ ***788 Fairview Drive, Suite 300,*** Carson City, Nevada ~~[89710.]~~ ***89701-5491.***

2. If any person wishes to be notified of a pending application or hearing concerning the denial of such a certificate of authority, he must request in writing that he be placed on a list maintained by the Division for that purpose.

Sec. 4. NAC 695F.200 is hereby amended to read as follows:

695F.200 1. An organization shall:

(a) Maintain the reserve required to be set aside pursuant to ***subsection 1 of*** NRS 695F.190. ***The reserve must be:***

(1) Based on the premiums collected for the immediately preceding calendar year, as reported on the annual report of the organization filed with the Commissioner; and

(2) Designated as a "write-in liability" on each report of the organization filed with the Commissioner.

(b) ~~[Maintain a reserve in an amount equal to the taxes on premiums owed pursuant to chapter 680B of NRS. Payments of those taxes may be made from the account maintained for that reserve.~~

~~(c)]~~ After the first year of operation, set aside a reserve for incurred but unreported claims in an amount equal to ***at least*** 5 percent of its earned premiums ***for the immediately preceding calendar year, as reported on the annual report of the organization filed with the Commissioner,*** or $250,000, whichever is greater. ***The reserve for incurred but unreported claims must be included with the claims unpaid and the unpaid claims adjustment expenses.***

2. No organization may reduce the reserve for incurred but unreported claims unless it notifies the Commissioner in writing and receives his written approval of the reduction. Any unauthorized reduction in this reserve creates a presumption that the organization is in an unsound financial condition.

3. The reserve for incurred but unreported claims must be deposited in a trust account in a federally insured financial institution located in this State. The income earned on money in the account must be paid to the organization and used for its operations.

Sec. 5. NAC 695F.210 is hereby amended to read as follows:

695F.210 1. Except as otherwise provided in ~~[subsection 2 ,]~~ ***subsections 2 and 5,*** each organization shall obtain a contract of insurance for the cost of providing limited health services which exceed in the aggregate, for an organization that has a free surplus of:

(a) Not more than $1,000,000, $30,000 per enrollee per year.

(b) More than $1,000,000 but not more than $2,000,000, $50,000 per enrollee per year.

(c) More than $2,000,000, $100,000 per enrollee per year.

2. ~~[The]~~ ***Upon written application by the organization, the*** Commissioner may authorize an organization to obtain a contract of insurance for the cost of providing limited health services which exceed in the aggregate per enrollee an amount which is less than the amount required pursuant to subsection 1 if the maximum benefit payable per enrollee is less than the amount required pursuant to subsection 1. ***An organization may not reduce the amount of the aggregate per enrollee unless it has requested the reduction of the amount from the Commissioner in writing and the Commissioner has given written approval of the reduction. Any unauthorized reduction in the amount of the aggregate creates a presumption that the organization is in an unsound financial condition.***

3. The contract of insurance may have an aggregate limit of $5,000,000. Subject to that limit, the contract must:

(a) Include a provision that, in case of the insolvency of the organization, the insurer will pay all claims made by an enrollee for the period for which a premium has been paid to the organization.

(b) Specifically provide for:

(1) The continuation of benefits to enrollees for the period for which the subscribers have made prepayments to the organization;

(2) The continuation of benefits for enrollees confined in a medical facility or facility for the dependent at the time of the insolvency of the organization until the enrollee is discharged from the facility; and

(3) The payment of a provider who is not affiliated with the organization and who provided medically necessary services, as described in the evidence of coverage, to an enrollee for the time the subscriber made payments to the organization.

4. A contract of insurance obtained by an organization pursuant to this section may not be cancelled unless the organization and insurer provide the Commissioner with 90 days' prior written notice of the cancellation.

5. Upon written application from an organization pursuant to this section, the Commissioner may find that good cause exists for an exemption of the amounts listed in subsection 1 for the year if, at the end of the immediately preceding calendar year:

(a) The organization fully capitated all the services provided by the organization pursuant to this chapter; and

(b) The capitation agreement contains provisions similar to the provisions set forth in subsections 3 and 4 in which the provider would take the place of the insurer.

NOTICE OF ADOPTION OF PROPOSED REGULATION
LCB File No. R250-03

The Commissioner of Insurance adopted regulations assigned LCB File No. R250-03 which pertain to chapter 695F of the Nevada Administrative Code on May 31, 2004.

Notice date: 12/30/2003 **Date of adoption by agency:** 5/31/2004
Hearing date: 1/30/2004 **Filing date:** 11/12/2004

INFORMATIONAL STATEMENT

A hearing was held on January 30, 2004, at the offices of the Department of Business and Industry, Division of Insurance (Division), 788 Fairview Drive, Suite 300, Carson City, Nevada 89701, with a simultaneous video-conference conducted at the Bradley Building, 2501 E. Sahara Avenue, Manufactured Housing Division Conference Room, 2nd Floor, Las Vegas, Nevada 89104, regarding the adoption of the regulation concerning prepaid limited health service organization financial reporting.

Public comment was solicited by posting notice of the hearing in the following public locations: 788 Fairview Drive, Legislative Counsel Bureau, Capitol Building Lobby, Blasdel Building, Carson City Courthouse, State Library, Clark County Library, Capitol Press Room and the Division's Las Vegas office.

In addition, the Division maintains a list of interested parties, comprised mainly of insurance companies, agencies, and other persons regulated by the Division. These persons were notified of the hearing and that copies of the regulation could be obtained from or examined at the offices of the Division in Carson City.

The hearing was attended by 13 individuals. Mr. Bob Burch, Ms. Connie Ward, Ms. Kathy Nghe, and Ms. Peggy Willard-Ross, representing the Division, provided oral testimony. Mr. Bob Feldman, representing Nevada General Insurance Company, and Mr. James Wadhams, Esq., also provided oral testimony. The Division received no written testimony. Mr. Burch stated that the regulation added provisions to identify and clarify the reporting requirements for a prepaid limited health service organization, clarified the contract of stop loss insurance required by NAC 695F.100, updated the Division's address, distinguished the two reserve requirements pursuant to NRS 695F.190, and added a provision granting a reduction or exemption from obtaining a contract of insurance as required pursuant to NAC 695F.210. During the workshop, the participants concurred with the Division on the changes to the proposed regulation. A revised version of the regulation is attached. The revision amends the proposed regulation for clarification. The Commissioner has issued an order adopting the regulation, as revised pursuant to the workshop and hearing, as a permanent regulation of the Division.

Based upon the testimony received at the hearing, the proposed regulation is revised to read as follows:

1. Paragraph (a) of subsection 1 of section 1 is amended to read as follows:

1(a). Conforms to the format prescribed by the National Association of Insurance Commissioners in the Annual Statement Instructions ***for Health*** for the organization filing the report and the Accounting Practices and Procedures Manual, which have been adopted by reference in NAC 679B.033;

2. Paragraph (a) of subsection 3 of section 1 is amended to read as follows:

3(a). The foreign or alien organization submits an affidavit or ***Jurat page or*** a copy ~~[of a jurat]~~ ***thereof,*** executed by a notarial officer pursuant to NRS 240.1655 and 240.167 to the Commissioner indicating that the report has been so filed; and

3. Paragraph (b) of subsection 3 of section 1 is amended to read as follows:

3(b). The affidavit or ***Jurat page or a*** copy ~~[of the jurat]~~ ***thereof,*** is accompanied by the applicable fees set forth in NRS 680B.010.

4. Subsection 4 of section 1 is amended to read as follows:

4. An annual report required by NRS 695F.320 to be filed with the Commissioner by an organization must be on the current form adopted by the National Association of Insurance Commissioners for the type of organization reporting. Each organization shall, in preparing the report, follow the Annual Statement Instructions ***for Health*** adopted by the National Association of Insurance Commissioners for the type of organization reporting. These forms may be obtained from the National Association of Insurance Commissioners, Publications Department, 2301 McGee Street, Suite 800, Kansas City, Missouri 64108-2662, for the price of $200 each or by ordering via telephone at 888.275.7585 or the Internet at ~~[http://www.ncqa.org/publications]~~ ***http://www.naic.org/publications***.

5. Subsection 5 of section 1 is amended to read as follows:

5. If necessary to determine the financial condition, fulfillment of contractual obligations or compliance with law ~~[of]~~ ***by*** a foreign or alien organization, the Commissioner may require the foreign or alien organization to file a financial statement more frequently than annually. Such a statement must be:

6. Subsection 7 of section 1 is amended to read as follows:

7. The audited financial statement of the organization filed pursuant to subsection 3 of NRS 695F.320 is a separate document from the annual report required to be filed pursuant to subsection 1 of NRS 695F.320. The audited financial statement must cover the most recent fiscal year of the organization and must be filed with the Commissioner within 120 days after the end of that fiscal year

and filed pursuant to the specifications and instructions adopted by the National Association of Insurance Commissioners which are included in the Annual Statement Instructions for Health, which have been adopted by reference in NAC 679B.033. Consolidated statements for organizations that are members of an insurance holding company are not acceptable.

7. Subsection 1 of section 4 is amended to read as follows:

1. An organization shall:

(a) Maintain the reserve required to be set aside pursuant to subsection 1 of NRS 695F.190. The reserve must be~~[:~~

~~(1) B]~~***b***ased on the premiums collected for the immediately preceding calendar year, as reported on the annual report of the organization filed with the Commissioner ***and identified as a write-in liability.*** ~~[; and~~

~~(2) Separately identified as a restriction of surplus on the annual and quarterly statements under the section designated "capital and surplus."~~

~~(b) Maintain a reserve in an amount equal to the taxes on premiums owed pursuant to chapter 680B of NRS. Payments of those taxes may be made from the account maintained for that reserve. The reserve on taxes due on premiums must be accrued as a liability.~~

~~(c)]~~***(b)*** After the first year of operation, set aside a ***minimum*** reserve for incurred but unreported claims in an amount equal to 5 percent of its earned premiums for the immediately preceding calendar year, as reported on the annual report of the organization filed with the Commissioner, or $250,000, whichever is greater. The reserve for incurred but unreported claims must be included with the claims unpaid and the unpaid claims adjustment expenses.

8. Subsection 2 of section 5 is amended to read as follows:

2. Upon written application by the organization, the Commissioner may authorize an organization to obtain a contract of insurance for the cost of providing limited health services which exceed in the aggregate per enrollee an amount which is less than the amount required pursuant to subsection 1 if the maximum benefit payable per enrollee ~~[for the immediately preceding calendar year, as reported on the annual report of the organization filed with the Commissioner]~~ is less than the amount required pursuant to subsection 1. An organization may not reduce the amount of the aggregate per enrollee unless it has requested the reduction of the amount from the Commissioner in writing and the Commissioner has given written approval of the reduction. Any unauthorized reduction in the amount of the aggregate creates a presumption that the organization is in an unsound financial condition.

The economic impact of the regulation is as follows:

(a) <u>On the business it is to regulate</u>: The regulation will have no economic impact on the industry.

(b) On the Public: The regulation will have no economic impact on the public.

The Division anticipates no additional cost to enforce the regulation.

The Division is not aware of any overlap or duplication of the regulation with any state, local or federal regulation.

ADDENDUM TO INFORMATIONAL STATEMENT

This letter provides additional information on the economic impact of the regulation as expressed on page 4 of the Informational Letter. This regulation affects those organizations licensed pursuant to chapter 695F of NRS, Prepaid Limited Health Service Organizations.

The economic impact of the regulation on the business that it is to regulate is amended to read as follows:

Section 1 identifies the forms and procedures for the filing of annual financial statements with the Commissioner and the National Association of Insurance Commissioners (NAIC), including the locations and prices where such materials can be obtained. The filing requirements are being updated, but are not new to these organizations. As a result, the economic impact on the organizations is the cost of purchasing and implementing current forms and procedures.

Section 2 makes a minor clarification and there is no economic impact.

Section 3 corrects the address of the Division of Insurance; there is no economic impact.

Section 4 provides specific instructions for the annual report which supplements the instructions provided by the NAIC. This is a clarification only, therefore, should result in little or no economic impact.

Section 5 provides guidance to both organizations and regulators to separately identify premium reserve requirements in accordance with statutes. An organization will now have greater flexibility in meeting the requirements found in subsection 1 of NAC 695F.210. This flexibility should have a positive economic impact.

STATE OF NEVADA
DEPARTMENT OF BUSINESS AND INDUSTRY
DIVISION OF INSURANCE

IN THE MATTER OF

CAUSE NO. **03.784**
LCB FILE NO. **R250-03**

REGULATION FOR PREPAID LIMITED HEALTH SERVICE ORGANIZATION FINANCIAL REPORTING /

SUMMARY OF PROCEEDINGS AND ORDER

SUMMARY OF PROCEEDINGS

A public workshop, as required by NRS 233B.061, on the proposed regulation relating to prepaid limited health service organization financial reporting, was held before Cliff King, Chief Insurance Assistant, on January 30, 2004, in Carson City, Nevada, and video-conferenced to the Bradley Building in Las Vegas, Nevada. A public hearing on the proposed regulation was also held before Cliff King, Chief Insurance Assistant, on January 30, 2004, in Carson City, Nevada, and video-conferenced to the Bradley Building in Las Vegas, Nevada. The regulation is proposed under the authority of NRS 679B.130.

The hearing was attended by 13 individuals. The following persons provided testimony before the Hearing Officer: Connie Ward, Bob Burch, Kathy Nghe, and Peggy Willard-Ross, representing the Department of Business and Industry, Division of Insurance (Division); Bob Feldman, representing Nevada General Insurance Company; and James Wadhams. No written comments were received by the Division.

Mr. Burch testified that the intent of the regulation was to add provisions to identify and clarify the reporting requirements pursuant to NRS 695F.320; to allow foreign or alien organizations to submit an affidavit or a copy of their signed jurat page to the Commissioner of Insurance (Commissioner) in order to comply with the reporting requirements; to specify the forms to be used in preparing the reports, where the forms may be obtained, and the prices of such forms. Mr. Burch testified that the regulation also clarified the contract of stop loss insurance required pursuant to NAC 695F.100 and updated the Division's current address. Mr. Burch testified that the regulation also distinguished the two reserve requirements pursuant to NRS 695F.190, and allowed for a reduction or exemption from obtaining a contract of insurance as required pursuant to NAC 695F.210.

Mr. Burch testified that the Legislative Counsel Bureau (LCB) version was similar and included the following minor changes as noted on the LCB version:

1. In addition to the annual report required by NRS 695F.320, paragraph (c) of subsection 1 of section 1 is a new provision that allows the Commissioner to request other information as deemed necessary.

2. In order to be consistent with all of the other regulations proposed, LCB added subsection 3 of section 1 regarding the filing requirements for foreign and alien organizations. Mr. Burch stated that, for consistency purposes, the wording in paragraph (b) of subsection 3 of section 1 should be changed to "affidavit or jurat page, or a copy thereof, ..."

3. As noted in other proposed regulations, under subsection 4 of section 1, LCB removed the phrase "Price may be subject to change."

4. LCB added the provision under subsection 7 of section 1 stating that the audited financial statements are separate documents from the annual statement and another provision under subsection 8 of section 1 allowing for an extension for filing of the annual report, as well as, the audited financial statements.

5. LCB also added subsection 9 of section 1 to provide a definition for the term "jurat."

Mr. King inquired about the addition of the words "for Health" under subsection 4 of section 1 of the LCB version after the title *Annual Statement Instructions*. To maintain consistency with prior regulation hearings, Mr. Burch agreed to the change and mentioned that under paragraph (a) of subsection 1 of section 1, the words "for Health" are also to be added to specify the type of instruction manual.

Ms. Ward testified that under subsection 7 of section 1, in order to maintain consistency with earlier regulation hearings, the second sentence ending with "of that fiscal year" should be followed with the phrase "and filed pursuant to the specifications and instructions adopted by the National Association of Insurance Commissioners which are included in the *Annual Statement Instructions for Health*, which have been adopted by reference in NAC 679B.033."

Testimony was received from Mr. Wadhams suggesting that the Internet address under subsection 4 of section 1 of the LCB version should be changed to http://www.naic.org/publications. The web address shown was incorrect.

Mr. Wadhams also testified that the language in paragraphs (a) and (b) of subsection 1 of section 4 of the LCB version suggested that by separately identifying the reserve required pursuant to NRS 695F.190 would establish a restriction of surplus, thus constituting a redundant and double reserve. After discussions between Division staff and Mr. Wadhams, and review of NRS 695F.190, it was noted that the intent of the regulation was not to double reserve, but rather to provide guidance for both organizations and regulators to separately identify the premium reserve in accordance with the statute. Therefore, it was suggested that the reserve be separately identified as a write-in liability and that the language starting with paragraph (a) of subsection 1 of section 4, second sentence, be changed to "The reserve must be based on the premiums collected for the immediately preceding calendar year, as reported on the annual report of the organization filed with the Commissioner ***and identified as a write-in liability***."

Thereafter, discussion took place regarding paragraph (b) of subsection 1 of section 4 of the LCB version. It was recommended that the entire paragraph (b) of subsection 1 be deleted, since the premium tax reserve requirement in chapter 680B of NRS was stricken in previous legislation, and that the next subsection be renumbered accordingly to paragraph (b) instead of paragraph (c) of subsection 1.

Mr. Wadhams suggested that under subsection 2 of section 5, the phrase "for the immediately preceding calendar year, as reported on the annual report of the organization filed with the Commissioner" be stricken. Mr. Wadhams testified that an organization should

be able to apply for the deduction of the attachment point for the contract of insurance required pursuant to subsection 1 of NAC 695F.210 based on the current or prospective amount of maximum benefit payable by an organization rather than based on the previous or expired benefit payable in the past. The Division staff agreed to the changes.

Mr. Feldman questioned the wording of the first sentence under subsection 5 of section 1 of the LCB version. Through discussions with Mr. Feldman, Mr. Wadhams, and Division staff, it was agreed that the word "of" be changed to "by" to indicate "compliance with laws ***by*** a foreign or alien organization," since the intent of the provision was to ensure that they comply with the laws of Nevada, not just their own jurisdiction.

Testimony was received from Mr. Feldman regarding paragraph (c) of subsection 1 of section 4 which had just been renumbered to paragraph (b) of subsection 1. Mr. Feldman inquired whether the provision was a minimum amount of IBNR reserve requirement since the regulation appeared to suggest that an organization only had an option to reserve either five percent of its earned premiums or $250,000. Mr. Feldman testified that an organization should be able to set a reserve greater than five percent of its earned premiums if deemed actuarially necessary. Since it was agreed that the provision of this subsection was indeed a minimum, and to clarify that it was a minimum, it was agreed to insert the word "minimum" in the first sentence to read, "After the first year of operation, set aside a ***minimum*** reserve for incurred but unreported claims. . . ."

Hearing Officer Cliff King asked if there were any other comments. Being none, he directed staff to prepare the informational statement and the order adopting this regulation as amended.

RECOMMENDED ORDER OF THE HEARING OFFICER

Based upon the comments and testimony received at the hearing, it is recommended that the proposed regulation be revised to read as follows:

1. Paragraph (a) of subsection 1 of section 1 is amended to read as follows:

> 1(a). Conforms to the format prescribed by the National Association of Insurance Commissioners in the Annual Statement Instructions ***for Health*** for the organization filing the report and the Accounting Practices and Procedures Manual, which have been adopted by reference in NAC 679B.033;

2. Paragraph (a) of subsection 3 of section 1 is amended to read as follows:

> 3(a). The foreign or alien organization submits an affidavit or ***Jurat page or*** a copy ~~[of a jurat]~~ ***thereof,*** executed by a notarial officer pursuant to NRS 240.1655 and 240.167 to the Commissioner indicating that the report has been so filed; and

3. Paragraph (b) of subsection 3 of section 1 is amended to read as follows:

> 3(b). The affidavit or ***Jurat page or a*** copy ~~[of the jurat]~~ ***thereof,*** is accompanied by the applicable fees set forth in NRS 680B.010.

4. Subsection 4 of section 1 is amended to read as follows:

4. An annual report required by NRS 695F.320 to be filed with the Commissioner by an organization must be on the current form adopted by the National Association of Insurance Commissioners for the type of organization reporting. Each organization shall, in preparing the report, follow the Annual Statement Instructions ***for Health*** adopted by the National Association of Insurance Commissioners for the type of organization reporting. These forms may be obtained from the National Association of Insurance Commissioners, Publications Department, 2301 McGee Street, Suite 800, Kansas City, Missouri 64108-2662, for the price of $200 each or by ordering via telephone at 888.275.7585 or the Internet at ~~[~~http://www.ncqa.org/publications~~]~~ ***http://www.naic.org/publications.***

5. Subsection 5 of section 1 is amended to read as follows:

5. If necessary to determine the financial condition, fulfillment of contractual obligations or compliance with law ~~[of]~~ ***by*** a foreign or alien organization, the Commissioner may require the foreign or alien organization to file a financial statement more frequently than annually. Such a statement must be:

6. Subsection 7 of section 1 is amended to read as follows:

7. The audited financial statement of the organization filed pursuant to subsection 3 of NRS 695F.320 is a separate document from the annual report required to be filed pursuant to subsection 1 of NRS 695F.320. The audited financial statement must cover the most recent fiscal year of the organization and must be filed with the Commissioner within 120 days after the end of that fiscal year ***and filed pursuant to the specifications and instructions adopted by the National Association of Insurance Commissioners which are included in the Annual Statement Instructions for Health, which have been adopted by reference in NAC 679B.033***. Consolidated statements for organizations that are members of an insurance holding company are not acceptable.

7. Subsection 1 of section 4 is amended to read as follows:

1. An organization shall:

(a) Maintain the reserve required to be set aside pursuant to subsection 1 of NRS 695F.190. The reserve must be~~[:~~

~~(1) B~~~~]~~***b***ased on the premiums collected for the immediately preceding calendar year, as reported on the annual report of the organization filed with the Commissioner ***and identified as a write-in liability.*** ~~[; and~~

~~(2) Separately identified as a restriction of surplus on the annual and quarterly statements under the section designated "capital and surplus."~~

~~(b) Maintain a reserve in an amount equal to the taxes on premiums owed pursuant to chapter 680B of NRS. Payments of those taxes may be made from the account maintained for that reserve. The reserve on taxes due on premiums must be accrued as a liability.~~

~~(c)~~***(b)*** After the first year of operation, set aside a ***minimum*** reserve for incurred but unreported claims in an amount equal to 5 percent of its earned premiums for the immediately preceding calendar year, as reported on the annual report of the organization filed with the Commissioner, or $250,000, whichever is greater. The reserve for incurred but unreported claims must be included with the claims unpaid and the unpaid claims adjustment expenses.

8. Subsection 2 of section 5 is amended to read as follows:

2. Upon written application by the organization, the Commissioner may authorize an organization to obtain a contract of insurance for the cost of providing limited health services which exceed in the aggregate per enrollee an amount which is less than the amount required pursuant to subsection 1 if the maximum benefit payable per enrollee ~~[for the immediately preceding calendar year, as reported on the annual report of the organization filed with the Commissioner]~~ is less than the amount required pursuant to subsection 1. An organization may not reduce the amount of the aggregate per enrollee unless it has requested the reduction of the amount from the Commissioner in writing and the Commissioner has given written approval of the reduction. Any unauthorized reduction in the amount of the aggregate creates a presumption that the organization is in an unsound financial condition.

SO RECOMMENDED this _____ day of May, 2004.

_____
CLIFF KING, CPCU
Chief Insurance Assistant and Hearing Officer

ORDER OF THE COMMISSIONER

Having reviewed the record in this matter, it is hereby ordered that the proposed regulation concerning prepaid limited health service organization financial reporting, LCB File No. R250-03, be adopted, as amended, as a permanent regulation of the Division.

SO ORDERED this _____ day of May, 2004.

_____
ALICE A. MOLASKY-ARMAN
Commissioner of Insurance