



Prepaid Health Plans

Recommended Solvency, Licensing and Fee Requirements

House Bill 372



House Bill 372:

Section 4(6a) of Session Law 2015-245:

(6a) To the extent allowed by Medicaid federal law and regulations and consistent with the requirements of this act, PHPs shall comply with the requirements of Chapter 58 of the General Statutes. This requirement shall not be construed to require PHPs to cover services that are not covered by the Medicaid program pursuant to federal law and regulations. The Department of Health and Human Services, Division of Health Benefits, and the Department of Insurance shall jointly review the applicability of provisions of Chapter 58 of the General Statutes to PHPs, and report to the Joint Legislative Oversight Committee on Medicaid and NC Health Choice by March 1, 2016, on the following:

- a. Proposed exceptions to the applicability of Chapter 58 of the General Statutes for PHPs.
- b. Recommendations for resolving conflicts between Chapter 58 of the General Statutes and the requirements of Medicaid federal law and regulations.
- c. Proposed statutory changes necessary to implement this subdivision.



House Bill 372:

*Section 6. **Role of the Department of Insurance.** – The transformed Medicaid and NC Health Choice system shall include the **licensing of PHPs based on solvency requirements** established and implemented by the Department of Insurance. The Commissioner of Insurance, in consultation with the Director of the Division of Health Benefits, shall develop **recommended solvency requirements that are similar to the solvency requirements for similarly situated regulated entities and recommended licensing procedures** that include an annual review by the Commissioner and reporting of changes in licensure to the Division of Health Benefits. The Commissioner shall report the recommendations as well as proposed fees to offset the cost of licensure and any necessary statutory changes to the Joint Legislative Oversight Committee on Medicaid and NC Health Choice by March 1, 2016.*



Department Recommendation

- Solvency and licensing requirements for PHPs are based on the solvency and licensing requirements for North Carolina Health Maintenance Organizations (HMOs).
- HMOs are considered to be the most similarly situated regulated organization.
- HMOs are regulated under Article 67 of Chapter 58



Financial Requirements

- Capital Standards
- Reserve Requirements
- Investment Restrictions
- Deposits
- Working Capital
- Financial Reporting Requirements
- Examinations
- Protection against Insolvency



• Capital Standards

- Each PHP will be required to maintain a minimum capital and surplus equal to the greater of:
 - one million dollars (\$1,000,000) or
 - the amount required pursuant to the risk based capital (RBC) standards of Article 12 of Chapter 58 of the North Carolina General Statutes.
- Capital and surplus provide a cushion against unexpected increases in liabilities or decreases in assets.
- By utilizing RBC standards the capital and surplus requirement for a PHP may increase or decrease as a PHP increases or decreases its risk.



• Capital Standards

- The RBC calculation uses a **standardized formula to establish a de facto minimum capital level** (authorized control level or ACL) that is then compared to a company's actual capital level.
- Utilizing a fixed minimum capital standard rather than RBC is not considered adequate by the Department.
- Fixed minimum capital standards are generally intended to make sure that there is adequate capital to initiate operations and to fund receivership expenses in the event of insolvency.



• Reserve Requirements

- PHP reserves must be sufficient to provide:
 - Payment of all unpaid claims,
 - Cover any unearned premium amounts, and
 - Any expenses for adjustment or settlement of claims.
- Reserves must be actuarially determined.



• Investment Restrictions

- PHP funds can only be invested or maintained in:
 - Securities
 - Other investments or assets permitted by the laws of North Carolina for the investment of assets constituting the legal reserves of life insurance companies
 - Other securities or investments permitted by the Commissioner.
- The Commissioner will not allow any investment that would substantially and adversely affect the financial soundness of the PHP and endanger its ability to meet its obligations.



• Deposits

- **Minimum** deposit of five hundred thousand dollars (\$500,000)
 - or higher amount as Commissioner deems necessary
- All deposits will be kept on deposit in accordance with the provisions of Article 5 of Chapter 58 of the North Carolina General Statutes.



• Working Capital

- Minimum working capital of \$1,500,000
 - At time of licensing
- Must be sufficient to cover all start-up costs and operating expenses
 - for a reasonable period of time from issuance of the license.
- Going forward, the amount of working capital shall be enough to reasonably expect the PHP to meet its obligations.



• Financial Reporting Requirements

- PHPs must submit financial information consistent with that required for other insurers, including HMOs.
 - These standardized reports will be utilized by Department analysts in order to determine a PHP's financial condition.
- As with other insurers, PHPs will report utilizing statutory accounting principles (SAP).
- PHPs will file financial statements utilizing the NAIC Model Financial Statement Blank.



• Financial Reporting Requirements

- PHP annual filing will include:
 - An actuarial certification of unpaid claim reserves
 - A calculation of risk based capital
- PHPs must file audited financial statements with the Department on or before June 1 of each year.
- PHPs will be subject to Article 19 of Chapter 58 (Insurance Holding Company Act)
 - to monitor transactions between a PHP and its affiliates.
- All financial filings will be treated as public documents.



• Examinations

- The Commissioner may examine any PHP as often as the Commissioner deems necessary but not less frequently than once every five years.
- Examinations will be conducted under G.S. 58-2-131 through 58-2-134 (Examination Law).



• Protection against Insolvency

- In addition to:
 - \$500,000 deposit
 - Capital and surplus requirement
- Each PHP must have and maintain at all times an adequate plan for protection against insolvency



Department Intervention

When a PHP has been identified as troubled or potentially troubled, the Department will take preventive and corrective measures that are timely, suitable and necessary to reduce the impact of risks identified during on-site and off-site solvency monitoring.



Department Intervention

- Order to Rectify Hazardous Financial Condition
- Suspension or Revocation of License
- Rehabilitation and Liquidation



• Hazardous Financial Condition

- If continued operation of a PHP might be hazardous to its enrollees, creditors, or the general public, then the Commissioner may order the PHP to take such action as may be reasonably necessary to rectify the condition.
- The Commissioner may consider any or all of the standards in G.S. 58-30-60(b) when determining whether the continued operation of a PHP is hazardous to its enrollees, creditors or the general public.
- The Commissioner will notify the Division of Health Benefits prior to taking any action against a PHP.



• Suspension or Revocation of License

- The Commissioner may suspend or revoke a PHP license for various reasons including:
 - PHP operations are hazardous to its enrollees
 - PHP is no longer financially responsible & may be unable to meet its obligations to enrollees
 - PHP fails or refuses to comply with applicable law
- The Commissioner will notify the Division of Health Benefits prior to suspending or revoking a PHP license.



• Rehabilitation or Liquidation

- Commissioner may apply for an order to rehabilitate or liquidate a PHP if:
 - One or more grounds set out in Article 30 of Chapter exist
 - Continued operation of the PHP would be hazardous either to the enrollees, creditors or to the general public
- Conducted under the supervision of the Commissioner pursuant to Article 30 of Chapter 58
- Articles 48 and 62 of Chapter 58 don't apply to PHPs
 - No guaranty association coverage
- Priority will be given to the Department of Health and Human Services over all other claims in G.S. 58-30-220
 - except for claims in G.S. 58-30-220(1) (cost of the receiver's administrative expenses)



• Licensing

- A new license type will be created for PHPs that are not already licensed as a health organization in North Carolina.
- The application process is substantially similar to the application process for HMOs.
- The application will require an applicant to provide certain information to the Department.



• Licensing

- The Department will issue a license to the applicant upon the payment of the application fee and upon being satisfied of the following:
 - The amounts provided as working capital are repayable only out of earned income in excess of amounts paid and payable for operating expenses and expenses of providing services and such reserve as the Department deems adequate.
 - The amount of money actually available for working capital is sufficient to carry all acquisition costs and operating expenses for a reasonable period of time from the date of the issuance of the license.
 - The adequacy of the expertise, experience, and character of the person or persons who will manage the PHP.
- After licensure a PHP must:
 - Submit to the Commissioner for approval any material change in the information submitted at the time of licensure.
 - Report to the Division of Health Benefits any change in licensing status.
 - Satisfy all financial reporting requirements.



• Fees

- The amount of fees necessary to offset the cost of licensing, including ongoing solvency monitoring, will vary based on the number of PHPs licensed:

# PHPs	3	4	5	6	7	8
Estimated Salary & Benefits	\$536,718	\$640,376	\$725,606	\$725,606	\$725,606	\$1,018,152
Estimated Other Expenses	40,621	47,605	54,446	54,446	54,446	75,256
Estimated Total	\$577,339	\$687,981	\$780,052	\$780,052	\$780,052	\$1,093,408

# PHPs	9	10	11	12	13
Estimated Salary & Benefits	\$1,018,152	\$1,158,666	\$1,158,665	\$1,158,665	\$1,158,665
Estimated Other Expenses	75,256	82,240	82,240	82,240	82,240
Total	\$1,093,408	\$1,240,905	\$1,240,905	\$1,240,905	\$1,240,905



• Proposed Statutes

- § 58-xx-10. Licensing.
- § 58-xx-15. Commissioner use of consultants and other professionals.
- § 58-xx-20. Issuance and continuation of license.
- § 58-xx-25. Deposits.
- § 58-67-30. Management and exclusive agreements; custodial agreements.
- § 58-xx-45. Fiduciary responsibilities.
- § 58-xx-55. Statements filed with Commissioner.



• Proposed Statutes

- § 58-xx-100. Examinations.
- § 58-xx-105. Hazardous financial condition.
- § 58-xx-110. Protection against insolvency.
- § 58-xx-120. Continuation of benefits.
- § 58-xx-135. Incurred but not reported claims.
- § 58-xx-140. Suspension or revocation of license.



• Proposed Statutes

- § 58-xx-145. Rehabilitation or liquidation of PHP.
- § 58-xx-150. Regulations.
- § 58-xx-155. Administrative procedures.
- § 58-xx-160. Fees.
- § 58-xx-165. Penalties and enforcement.
- § 58-xx-170. Statutory construction and relationship to other laws.
- § 58-xx-171. Other laws applicable to PHPs.
- § 58-xx-175. Filings and reports as public documents.