

114.5 CMR: DIVISION OF HEALTH CARE FINANCE AND POLICY

114.5 CMR 19.00: INSURER ASSESSMENT

Section

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19.01: General Provisions

- (1) Scope and Purpose. 114.5 CMR 19.00 governs the calculation of the Fiscal Year 2009 assessment on the net worth surplus of health insurers.
- (2) Authority. 114.5 CMR 19.00 is adopted pursuant to M.G.L. c. 118G, § 40 and St. 2008, c 302, § 66.
- (3) Effective Date. 114.5 CMR 19.00 is effective on March 15, 2009.

19.02: Definitions

Meaning of Terms: As used in 114.5 CMR 19.00, unless the context otherwise requires, terms shall have the following meanings:

Division. The Division of Health Care Finance and Policy established under M.G.L. c. 118G.

Insurer. A health insurance company, health maintenance organization, hospital service corporation or medical service corporation, as defined in M.G.L. c. 118G, § 1, which reports at least \$100,000 of annual Massachusetts health insurance premium revenue.

Risk-based Capital Level (RBC Level). An Insurer's Company Action Level RBC or Authorized Control Level RBC, as defined by the Division of Insurance (DOI) in 211 CMR 20.01 and 211 CMR 25.01, where:

Company Action Level RBC means, with respect to any insurer, the product of 2.0 and its Authorized Control Level RBC; and

Authorized Control Level RBC means the number determined under the risk-based capital formula in accordance with the RBC Instructions.

Surplus Notes. Instruments that have characteristics of both debt and equity that provide an alternative source of capitalization to insurers whose surplus levels are deemed inadequate to support their operations and that are subject to the control of the Commissioner of the Division of Insurance (DOI).

Unassigned Funds. Unassigned funds include retained earnings or surplus as reported in Line 29 of the Health Annual Statements filed by non-profits and in Line 35 of the Life Annual Statements filed by for-profit insurers. Unassigned funds do not include capital accounts or surplus notes.

19.03: Dtermination of the Assessment

- (1) Uniform Assessment Percentage. The Uniform Assessment is determined by dividing \$33 million by the sum of each Insurer's Net Worth Surplus Available as calculated under 114.5 CMR 19.03(2).
- (2) Determination of Net Worth Surplus Available. The Division will determine an Insurer's Net Worth Surplus Available using information reported by the Insurer in its 2007 annual financial statements submitted to DOI, and any supplemental surveys conducted by DOI. The Division will determine Net Worth Surplus Available as follows:
 - (a) Net Worth Surplus. An Insurer's unassigned funds.

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(b) Adjustments to Net Worth Surplus. The Division will calculate adjustments to the Insurer's Net Worth Surplus as follows:

1. Out of State Adjustment. The Division will calculate the proportion of the Insurer's premium revenue related to business in Massachusetts using information from Schedule T of the Insurer's annual financial statement. The Division will divide non-Massachusetts premium revenue by the Insurer's total premium revenue. The Division will calculate the Insurer's out of state adjustment by multiplying the Insurer's Net Worth Surplus by this percentage.
2. Non-health Business Adjustment. The Division will calculate the proportion of the Insurer's Massachusetts non-health business premium revenue to total Massachusetts premium revenue using information reported in the DOI Annual Survey. Non-health business premium revenue is revenue associated with an excluded Health Benefit Plan as defined in 211 CMR 66.04: Health Benefit Plan(a) through (m). The Division will calculate the Insurer's non-health business adjustment by multiplying the Insurer's Net Worth Surplus, minus the out of state adjustment, by this percentage.
3. Government Insurance Adjustment. The Division will calculate the proportion of the Insurer's Massachusetts health business premium revenue related to the following government insurance programs: Medicare, Federal Employee Health Benefit Plans, Medicaid and Commonwealth Care. For these government insurance programs, the Division will use information from Schedule T of the Insurer's 2007 annual financial statement. The Division will divide total premium revenue associated with these government programs by total Massachusetts premium revenue. The Division will calculate the Insurer's government insurance adjustment by multiplying the Insurer's Net Worth Surplus, minus the out of state adjustment, by this percentage.

(c) Net Worth Surplus Available. An Insurer's Net Worth Surplus Available is the result of the Insurer's Net Worth Surplus minus the Insurer's out of state adjustment, the Insurer's non-health business adjustment and the Insurer's government insurance adjustment.

(3) Preliminary Assessment Liability.

- (a) The Division will calculate the Insurer's Preliminary Assessment by multiplying the Insurer's Net Worth Surplus Available by the Uniform Assessment Percentage.
- (b) The Division will subtract the Preliminary Assessment from the Insurer's 2007 total capital and surplus as reported in the 2007 annual financial statement. If this amount is lower than the Insurer's Company Action Level RBC, the Insurer's Preliminary Assessment Liability will be limited to the amount which will not reduce its financial resources below its Company Action Level RBC. The Division will distribute any Preliminary Liability Amounts not assessed due to Insurer's Company Action Level RBC limitations proportionally to other Insurers' Preliminary Assessment amounts.

(4) Final Assessment Liability.

- (a) The Division will notify each Insurer of its Preliminary Assessment Liability and will provide each Insurer with a copy of the Preliminary Assessment Liability calculation.
- (b) If the Insurer believes that there is a mechanical error in the preliminary assessment liability calculation, or that the data used in the calculation is incorrect, it may request that the Division revise the calculation. The Insurer must notify the Division in writing within 14 days of notification by the Division of its request to change the calculation. The Insurer's request must contain a precise explanation of the claimed error and documentation to substantiate the request. The Division will review the documentation and issue a revised calculation to the Insurer, if the Division determines that an adjustment is material and necessary.
- (c) The Division will recalculate each Insurer's Assessment Liability to reflect any liability calculations revised under 114.5 CMR 19.03(4)(b) and notify each Insurer of its Final Assessment Liability.

19.04: Payment

- (1) Insurers, including Insurers that request a calculation review under 114.5 CMR 19.03(4)(b), must pay 75% of the Preliminary Assessment Liability within 14 days of initial notice by the Division.

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19.04: continued

- (2) An Insurer must pay the difference between its Preliminary Assessment Liability and its Final Assessment Liability within 14 days of notice by the Division.
- (3) The Division will specify payment procedures in an administrative bulletin.

19.05: Reporting Requirements

- (1) Each Insurer shall file or make available information which is required or which the Division deems reasonably necessary for calculating and collecting the assessment.
- (2) An insurer newly licensed after 2007 must report data necessary to calculate the assessment as required by the Division within 21 days of notification by the Division.

19.06: Other Provisions

- (1) Administrative Bulletins. The Division may issue administrative bulletins to clarify policies, update administrative requirements and specify information and documentation necessary to implement 114.5 CMR 19.00.
- (2) Severability. The provisions of 114.5 CMR 19.00 are severable. If any provision or the application of any provision is held to be invalid or unconstitutional, such invalidity shall not be construed to affect the validity or constitutionality of any remaining provisions of 114.5 CMR 19.00 or the application of such provisions.

REGULATORY AUTHORITY

114.5 CMR 19.00: M.G.L. c. 118G.

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