

Chapter Ins 57

CARE MANAGEMENT ORGANIZATIONS

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Ins 57.01 Definitions. In addition to the definitions in s. 648.01, Stats., in this chapter:

(1) “Affiliate” of, or person “affiliated” with, a specific person means a person that directly or indirectly through one or more intermediaries, controls or is controlled by, or is under common control with, the person specified.

(2) “Care management organization” or “CMO” means an entity defined at s. 648.01 (1), Stats.

(3) “Commissioner” means the commissioner of insurance of this state or the commissioner’s designee.

(4) “Department” means the department of health services of this state.

(5) “Independent certified public accountant” means an independent certified public accountant, or independent accounting firm, in good standing with the American Institute of Certified Public Accountants in this state, and in the states in which the accountant or firm is licensed, or required to be licensed, to practice.

(6) “Net assets” means assets minus liabilities.

(7) “Restricted reserve” means liquid assets maintained in a segregated account by a care management organization.

(8) “Subsidiary” of a person means a person which is controlled, directly or indirectly through one or more intermediaries, by the first person.

(9) “Ultimate controlling person” means a person who is not controlled by any other person.

(10) “Work papers” means records kept by the independent certified public accountant of the procedures followed, the tests performed, the information obtained, and the conclusions reached pertinent to the independent certified public accountant’s examination of the financial statements of a care management organization. “Work papers” includes audit planning documentation, audit guides, work programs, analyses, memoranda, letters of confirmation and representation, abstracts of company documents and schedules or commentaries prepared or obtained by the independent certified public accountant in the course of examination of the financial statements of a care management organization or which support the opinion of the independent certified public accountant regarding the financial statements.

(11) “Working capital” means a measure calculated as current assets minus current liabilities.

History: EmR0927; emerg. cr. eff. 10–10–09; CR 09–093; cr. Register May 2010 No. 653, eff. 6–1–10.

Ins 57.04 Financial requirements. All of the following are the minimum financial requirements for compliance with this section unless a different amount is ordered by the commissioner, after consultation with the department:

(1) **WORKING CAPITAL.** Unless otherwise ordered by the commissioner the care management organization shall maintain working capital of not less than 3% of the projected annual capitation made over the effective contract period.

(2) **RESTRICTED RESERVE.** Unless otherwise ordered by the commissioner the care management organization shall maintain a restricted reserve of not less than the sum of the following:

- (a) 8% of the first \$5 million of annual budgeted capitation revenue.
- (b) 4% of the next \$5 million annual budgeted capitation revenue.
- (c) 3% of the next \$10 million annual budgeted capitation revenue.
- (d) 2% of the next \$30 million annual budgeted capitation revenue.
- (e) 1% of annual budgeted capitation revenue in excess of \$50 million.

(3) **ACCESSING RESTRICTED RESERVE FUNDS.** A care management organization may not access the restricted reserve unless:

- (a) A plan for accessing the funds is filed with the commissioner at least 30 days prior to the proposed effective date; and
- (b) The commissioner, after consulting with the department, does not disapprove the plan in the 30 day timeframe.

(4) **RISKS.** Risks and factors the commissioner may consider in determining whether to require greater restricted reserves by order include all of the following:

(a) *Types of contingencies.* The commissioner shall consider the risks of:

- 1. Increases in the frequency or severity of losses beyond the levels contemplated by the capitation payments received;
- 2. Increases in expenses beyond those contemplated by the capitation payments received; and

3. Any other contingencies the commissioner can identify which may affect the care management organization’s operations.

(b) *Controlling factors.* In making the determination under this subsection, the commissioner shall take into account the following factors:

- 1. The most reliable information available as to the magnitude of the various risks under par. (a);
- 2. The extent to which the risks in par. (a) are independent of each other or are related, and whether any dependency is direct or inverse;
- 3. The care management organization’s recent history of profits or losses;
- 4. The extent to which the care management organization has provided protection against the contingencies in ways other than

the establishment of restricted reserves, including the use of conservative actuarial assumptions to provide a margin of security; and

5. Any other relevant factors.

(5) CORRECTIVE ACTION PLAN. A care management organization that does not meet the requirements in sub. (1) or (2) shall file a corrective action plan with the commissioner. The corrective action plan shall include all of the following:

(a) Identification of the conditions which contribute to the deficiency.

(b) Proposals of corrective actions which the care management organization intends to take and would be expected to result in compliance with subs. (1) and (2).

(c) Projections of the care management organization's financial results in the current year and at least the first succeeding year.

(d) Identification of the key assumptions impacting the care management organization's projections and the sensitivity of the projections to the assumptions.

(e) Such other information as is requested by the commissioner, after consultation with the department.

History: EmR0927: emerg. cr. eff. 10-10-09; CR 09-093: cr. Register May 2010 No. 653, eff. 6-1-10.

Ins 57.05 Business plan. All applications for permits of a care management organization shall include a proposed business plan. In addition to the items listed in s. 648.05 (2), Stats., the following information shall be contained in the business plan:

(1) ORGANIZATIONAL INFORMATION. All care management organization business plans shall include:

(a) A narrative that discusses the business environment, the strategies and tactics that will be employed to manage the business including a plan to utilize mandated care principles and targets associated with that plan, and other areas of focus, stress, change, efficiency or any other information that supports or affects the financial projections.

(b) A description of the general business model to be employed by the care management organization.

(c) A brief organizational history, providing and describing major milestones in the development of the care management organization including organizational strengths and deficits, as they relate to the ongoing delivery of the Family Care program.

(d) A description of the care management organization's governance structure, including organizing documents (e.g., articles, by-laws, mission statement, etc.), and an organizational chart that clearly demonstrates reporting lines and domains of management authority, with names of current incumbents for management positions.

(e) Information for all persons or entities who are in direct control of the care management organization, including the names, addresses and occupations of all controlling persons, directors and principal officers of the care management organization currently and for the preceding 10 years. The care management organization information shall also include the position held and target group representation, if applicable, for each member of the board of directors.

(2) GEOGRAPHICAL SERVICE AREA. The geographical service area by county including a chart showing the number of providers with locations and service areas by county. A description and the method of handling out-of-area services shall also be included.

(3) ENROLLMENT. A description of the target populations being served by the care management organization, in what proportions these target groups are currently being served, what the long range expectations of the care management organization are in serving each target group (i.e., anticipated program growth), and how historical trends or projections are similar to, or different, from program averages.

(4) PROVIDER AGREEMENTS. The extent to which any of the following are included in provider agreements and the form of any provisions that do any of the following:

(a) Permit or require the provider to assume a financial risk in the care management organization, including any provisions for assessing the provider, adjusting capitation or fee-for-service rates, or sharing in the earnings or losses.

(b) Govern amending or terminating agreements with providers.

(5) PROVIDER AVAILABILITY. A description of the care management organization's general plan for delivering care management services to its members. Differences in the delivery of this service across target groups or counties shall be described. Changes in the delivery of care management over time, either completed or anticipated shall be described.

(6) PLAN ADMINISTRATION. A summary of how administrative services are provided, including the size and qualifications of the administrative staff and the projected cost of administration in relation to capitation income. If administrative services are to be provided by a person outside the organization, the business plan shall include a copy of the contract. The contract shall include all of the following:

(a) The services to be provided.

(b) The standards of performance for the manager.

(c) The method of payment.

(d) The duration of the contract.

(e) Any provisions for modifying, terminating or renewing the contract.

(7) FINANCIAL PROJECTIONS. A summary of all of the following:

(a) Current and projected enrollment.

(b) Income from capitation payments.

(c) Other income.

(d) Expenses associated with providing services to enrollees. A budget narrative that accompanies any projections related to care management utilization shall be provided. The narrative will identify assumed staff-to-member ratios, by type of staff; historical trends and projections regarding care management utilization; explanations regarding any major changes; and unit cost trends for each time period and target group.

(e) Administrative and other costs.

(f) The estimated break even point if a loss is being projected.

(g) A summary of the assumptions made in developing projected operating results.

(8) STRENGTHS, WEAKNESSES, OPPORTUNITIES AND THREATS ANALYSIS. An analysis of the CMO's strengths, weaknesses, opportunities and threats, a description of the major challenges the CMO faces, both internal and external to the organization, in providing services to each target group, and the strategies it is employing, or plans to employ, to address those challenges.

(9) FINANCIAL GUARANTEES. A summary of all financial guarantees by providers, sponsors, affiliates or parents within a holding company system, or any other guarantees which are intended to ensure the financial success of the care management organization. These include hold harmless agreements by providers, stop loss insurance, or other guarantees.

(10) BUSINESS PLAN REQUIREMENTS OF THE DEPARTMENT. The business plan filed with the department pursuant to provisions in the family care contract is acceptable for the purposes of this section.

History: EmR0927: emerg. cr. eff. 10-10-09; CR 09-093: cr. Register May 2010 No. 653, eff. 6-1-10.

Ins 57.06 Changes in the business plan. A care management organization shall file a written report of any proposed substantial change in its business plan. The care management organization shall file the report at least 30 days prior to the effective date of the change.

tive date of the change. The office, after consulting with the department, may disapprove the change. The care management organization may not enter into any transaction, contract, amendment to a transaction or contract or take action or make any omission that is a substantial change in the care management organization's business plan prior to the effective date of the change or if the change is disapproved. Substantial changes include changes in articles and bylaws, organization type, geographical service areas, provider agreements, provider availability, plan administration, financial projections and guarantees and any other change that might affect the financial solvency of the organization. Any transaction or series of transactions that exceed the lesser of 5% of the care management organization's assets or 10% of net assets as of December 31 of the immediately preceding calendar year shall be deemed material. Any changes in the items listed in s. Ins 9.05 (3) shall be filed under this section.

History: EmR0927: emerg. cr. eff. 10-10-09; CR 09-093: cr. Register May 2010 No. 653, eff. 6-1-10.

Ins 57.07 Copies of provider agreements. (1) Notwithstanding any claim of trade secret or proprietary information, all care management organizations shall, upon request, from the commissioner, make available to the commissioner all executed copies of any provider agreements between the care management organization and intermediate entities or individual providers. Any party to a provider agreement may assert that a portion of the contracts contain trade secrets, and the commissioner may withhold that portion to the extent it may be withheld under s. Ins 6.13.

(2) All care management organizations shall file with the commissioner a list of providers executing a standard contract and a copy of the form of the contract may be filed instead of copies of the executed contracts.

History: EmR0927: emerg. cr. eff. 10-10-09; CR 09-093: cr. Register May 2010 No. 653, eff. 6-1-10.

Ins 57.10 Acquisition of control of or merger with a care management organization. (1) **FILING REQUIREMENTS.**

(a) No person other than the care management organization may enter into an agreement to merge with or otherwise to acquire or attempt to acquire control of a care management organization or any person having control of a care management organization unless all of the following are complied with:

1. The person first files the information required under sub. (2) with the commissioner and sends a copy of the information to the care management organization; and

2. The offer, request, invitation, agreement or acquisition has been approved by the commissioner.

(b) For purposes of this section "care management organization" includes any person having control of a care management organization.

(2) **CONTENT OF STATEMENT.** A person required to file under sub. (1) shall file the following information not less than 30 days after the care management organization signs a letter of intent, using information substantially similar to that contained in form A in Appendix 1 to this chapter, in a sworn statement by an official of the care management organization:

(a) For each acquiring person:

1. The acquiring person's name and address;

2. If the acquiring person is an individual, his or her principal occupation and all offices and positions held during the past 5 years, any conviction of crimes other than traffic violations not involving death or injury during the past 10 years and all relevant information regarding any occupational license or registration; and

3. If the acquiring person is not an individual, a report of the nature of its business operations during the past 5 years or for the lesser period that the acquiring person and any predecessors of the acquiring person have been in existence, if shorter; an informative description of the business intended to be done by the acquiring

person and the acquiring person's subsidiaries; and a list of all individuals who are or who have been selected to become directors or executive officers of the acquiring person, or who perform or will perform functions similar to those positions. The list shall include for each individual the information required by subds. 1. and 2.

(b) The source, nature and amount of the consideration used or to be used in effecting the merger or other acquisition of control, a description of any transaction from which funds were or are to be obtained for that purpose, including any pledge of the care management organization's assets or the assets of any of its subsidiaries or affiliates which control the care management organization, the criteria used in determining the nature and amount of consideration and the identity of persons furnishing the consideration.

(c) Fully audited financial information as to the earnings and financial condition of each acquiring person for the preceding 5 fiscal years of each acquiring person or for the period the acquiring person and any predecessors of the acquiring person have been in existence, if shorter, and similar unaudited information as of a date not earlier than 90 days prior to the filing of the statement.

(d) Any plans or proposals under which any acquiring person is considering to liquidate, to sell assets of, or to merge or consolidate the care management organization or to make any other material change in the care management organization's business or corporate structure or management.

(e) A full description of any contracts, arrangements or understandings with respect to any security in which any acquiring person is involved, including, but not limited to, transfer of any of the securities, joint ventures, loan or option arrangements, guarantees of loans, guarantees against loss or guarantees of profits, or division of losses or profits. The description shall identify the persons with whom the contracts, arrangements or understandings have been entered into.

(3) **MATERIAL CHANGES.** A person required to file under sub. (1) shall file an amendment to the filing if any material change occurs in the facts set forth in a statement previously filed with the commissioner. The person shall include in the amendment a description of the change and copies of all documents and other material relevant to the change. The amendment shall be filed with the commissioner and sent to the care management organization within 2 business days after the person learns of the change.

History: EmR0927: emerg. cr. eff. 10-10-09; CR 09-093: cr. Register May 2010 No. 653, eff. 6-1-10.

Ins 57.12 Standards for transactions within a holding company system. (1) **TRANSACTIONS WITHIN A HOLDING COMPANY SYSTEM.** A care management organization or affiliate of a care management organization may not enter directly or indirectly into a transaction between the care management organization and the affiliate unless the care management organization and affiliate comply with all of the following:

(a) Comply with s. 648.45 (5) and (6), Stats.

(b) Allocate to the care management organization for expenses incurred and payment received for the transaction in conformity with customary accounting practices consistently applied.

(c) Disclose clearly and accurately in books, accounts and records of each party the nature and details of the transaction including the accounting information which is necessary to support the reasonableness of the charges or fees to the respective parties.

(2) **TRANSACTIONS REQUIRED TO BE REPORTED AND SUBJECT TO DISAPPROVAL.** A care management organization, and a person attempting to acquire control of a care management organization, or an affiliate of a care management organization, which directly or indirectly is involved in or benefits from, a transaction, shall report, under s. 648.45 (6), Stats., each of the following transactions to the commissioner in writing at least 30 days before the

care management organization enters into the transaction, unless the commissioner in writing approves a shorter period:

(a) Sales, purchases, exchanges, loans, extensions of credit, guarantees, or investments involving the care management organization and an affiliate or a person attempting to acquire control of the care management organization if the transactions are equal to or exceed the lesser of 2% of the care management organization's assets or 10% of net assets as of December 31 of the immediately preceding calendar year.

(b) Loans, extensions of credit, or guarantees to any person who is not an affiliate, where the care management organization makes loans, extensions of credit or guarantees with the agreement or understanding that the proceeds of the transactions or benefit of the guarantees, in whole or in significant part, directly or indirectly, are to be used to make loans or extensions of credit to, to purchase assets of, or to make investments in, any affiliate of the care management organization making the loans, extensions of credit, or guarantee, or any person attempting to acquire control of the care management organization, if the transactions are equal to or exceed the lesser of 2% of the care management organization's assets or 10% of net assets as of December 31 of the immediately preceding calendar year.

(c) All management agreements, exclusive agency agreements, service contracts or cost-sharing arrangements which involve a care management organization and either an affiliate or a person attempting to acquire control of the care management organization.

(d) A transaction not in the ordinary course of business which involves a care management organization and either an affiliate of, or a person attempting to acquire control of, a care management organization and which involves or exposes to risk an amount equal to or exceeding the lesser of 2% of the care management organization's assets or 10% of net assets as of the 31st day of December of the immediately preceding calendar year.

(e) Any material transactions which the commissioner requires to be reported by order.

(3) ILLEGAL TRANSACTIONS NOT AUTHORIZED. This section does not authorize or permit any transaction which would be otherwise contrary to law.

(4) GROUP OR SERIES OF RELATED TRANSACTIONS. For the purpose of applying sub. (2), a group or series of related transactions shall be treated as if they are a single transaction.

(5) SUBTERFUGE PROHIBITED. A care management organization, person attempting to acquire control of a care management organization, person having control of a care management organization or affiliate of a care management organization may not enter into transactions which are part of a group or series of transactions if the purpose of those separate transactions is to attempt to avoid a threshold amount under this chapter.

(6) DISAPPROVAL. Transactions subject to reporting under sub. (2) may be disapproved by the commissioner, after consulting with the department, under s. 648.45 (6) (b), Stats. No person may enter into or assent to a transaction that is disapproved by the commissioner or which is subject to reporting under sub. (2) but not reported.

(7) CARE MANAGEMENT ORGANIZATION MAY REPORT ON BEHALF OF AFFILIATE OR PERSON ATTEMPTING TO ACQUIRE CONTROL. A care management organization may file a report under sub. (2) on behalf of its affiliate or of the person attempting to acquire control of the care management organization. Lack of knowledge that a care management organization has not reported on behalf of the affiliate or person or that the report is incomplete or inaccurate is not a defense for the affiliate or person attempting to acquire control of the care management organization.

History: EmR0927: emerg. cr. eff. 10-10-09; CR 09-093: cr. Register May 2010 No. 653, eff. 6-1-10.

Ins 57.13 Privileged information. The information required to be filed with the commissioner under s. Ins 57.10 is required under s. 601.42, Stats., and the commissioner may keep it confidential as provided under s. 601.465, Stats.

History: EmR0927: emerg. cr. eff. 10-10-09; CR 09-093: cr. Register May 2010 No. 653, eff. 6-1-10.

Ins 57.20 Forms and Instructions. (1) GENERAL. Forms A and B contained in Appendix 1 to this chapter are intended to be guides in the preparation of the statements required by this chapter. They are not intended to be blank forms which are to be filled in. The statements filed shall contain the numbers and captions of all items, but the text of the items may be omitted provided the answers are prepared in such a manner as to indicate clearly the scope and coverage of the items. All instructions, whether appearing under the items of the form or elsewhere therein, are to be omitted. Unless expressly provided otherwise, if any item is inapplicable or the answer is in the negative, an appropriate statement to that effect shall be made.

(2) FILING FORMAT AND PROCEDURE. (a) One complete copy of each statement, including exhibits and all other papers and documents filed as a part of the statement, shall be filed with the commissioner. At least one of the copies shall be manually signed in the manner prescribed on the form. Unsigned copies shall be conformed. If the signature of any person is affixed pursuant to a power of attorney or other similar authority, a copy of the power of attorney or other authority shall also be filed with the statement.

(b) Statements shall be prepared on paper 8 1/2 x 11 inches in size and preferably bound at the top or the top left-hand corner. Exhibits and financial statements, unless specifically prepared for the filing, may be submitted in their original size. All copies of any statement, financial statements or exhibits shall be clear, easily readable and suitable for photocopying. Debits in credit categories and credits in debit categories shall be designated so as to be clearly distinguishable as such on photocopies. Statements shall be in the English language and monetary values shall be stated in United States currency. If any exhibit or other paper or document filed with the statement is in a foreign language, it shall be accompanied by a translation into the English language and any monetary value shown in a foreign currency shall be converted into United States currency.

History: EmR0927: emerg. cr. eff. 10-10-09; CR 09-093: cr. Register May 2010 No. 653, eff. 6-1-10.

Ins 57.22 Forms — incorporation by reference, summaries and omissions. (1) INCORPORATION BY REFERENCE. Information required by any item of forms A, B or C contained at Appendix 1, may be incorporated by reference in answer or partial answer to any other item. Information contained in any financial statement, annual report, proxy statement, statement filed with a governmental authority, or any other document may be incorporated by reference in answer or partial answer to any item of form A, B or C provided the document or paper is filed as an exhibit to the statement. Excerpts of documents may be filed as exhibits if the documents are extensive. Documents currently on file with the commissioner which were filed within the preceding 3 years need not be attached as exhibits. References to information contained in exhibits or in documents already on file shall clearly identify the material and shall specifically indicate that the material is to be incorporated by reference in answer to the item. Information may not be incorporated by reference in any case where the incorporation would render the statement incomplete, unclear or confusing.

(2) SUMMARY. Where an item requires a summary or outline of the provisions of any document, only a brief statement shall be made as to the pertinent provisions of the document. In addition to the statement, the summary or outline may incorporate by reference particular parts of any exhibit or document currently on file

with the commissioner which was filed within 3 years and may be incorporated in its entirety by the reference. In any case where 2 or more documents required to be filed as exhibits are substantially identical in all material respects except as to the parties to the documents, the dates of execution, or other details, a copy of only one of the documents need be filed with a schedule identifying the omitted documents and setting forth the material details in which such documents differ from the documents that were filed.

History: EmR0927: emerg. cr. eff. 10-10-09; CR 09-093: cr. Register May 2010 No. 653, eff. 6-1-10.

Ins 57.23 Transactions subject to prior notice — notice filing. A person required to give notice of a proposed transaction under this chapter shall furnish the required information in substantially similar in format and in response to questions presented on form B in Appendix 1.

History: EmR0927: emerg. cr. eff. 10-10-09; CR 09-093: cr. Register May 2010 No. 653, eff. 6-1-10.

Ins 57.24 Dividends and other distributions. Requests for approval of dividends or any other distributions to shareholders or corporate members shall include the following:

- (1) The amount of the proposed dividend or distribution;
- (2) The date established for payment of the dividend or distribution;
- (3) A statement as to whether the dividend or distribution is to be in cash or other property and, if in property, a description of the property, its cost, and its fair market value together with an explanation of the basis for valuation;
- (4) A balance sheet and statement of income for the period between the date on which of the last annual statement was filed with the commissioner and the end of the month preceding the month in which the request for dividend approval is submitted.
- (5) A brief statement as to the effect of the proposed dividend upon the care management organization's net assets, the reasonableness of net assets in relation to the care management organization's outstanding liabilities, and the adequacy of net assets relative to the care management organization's financial needs.

History: EmR0927: emerg. cr. eff. 10-10-09; CR 09-093: cr. Register May 2010 No. 653, eff. 6-1-10.

Ins 57.25 Consent to jurisdiction. Any person required to file consent to jurisdiction under s. 648.45 (3), Stats., shall do so in a format substantially similar to the format and questions contained in form C of Appendix 1 to this chapter.

History: EmR0927: emerg. cr. eff. 10-10-09; CR 09-093: cr. Register May 2010 No. 653, eff. 6-1-10.

Ins 57.26 General requirements related to filing and extensions for filing of annual audited financial reports.

- (1) A care management organization shall:
 - (a) Annually obtain or cause an audit of the care management organization by an independent certified public accountant; and
 - (b) File an audited financial report that complies with s. Ins 57.30 with the commissioner on or before June 1 for the immediately preceding calendar year. If the care management organization is part of a county financial audit, the deadline for the Family Care care management organization audit is the deadline for the county financial audit, which is nine months from the end of the fiscal period.
- (2) The commissioner may require a care management organization to file the audited financial report earlier than the date specified under sub. (1) if the commissioner gives 90 days advance notice to the care management organization.
- (3) The commissioner may grant extensions of the filing date under sub. (1) for 31-day periods if the care management organization and independent certified public accountant establish there is good cause for an extension. A request for an extension shall be submitted in writing not less than 10 days prior to the date specified under sub. (1) in sufficient detail to permit the commis-

sioner to make an informed decision with respect to the requested extension.

(4) A care management organization may not retain an accountant or accounting firm to comply with sub. (1) or s. Ins 57.31 unless the accountant or accounting firm is an independent certified public accountant, regardless of whether the commissioner has issued a ruling under s. Ins 57.32 (1). A care management organization may not retain an accountant or accounting firm to comply with sub. (1) or s. Ins 57.31 if the commissioner under s. Ins 57.32 (1) rules that the accountant or accounting firm is not qualified or if the accountant or accounting firm does not comply with s. Ins 57.32 (2).

History: EmR0927: emerg. cr. eff. 10-10-09; CR 09-093: cr. Register May 2010 No. 653, eff. 6-1-10.

Ins 57.30 Contents of annual audited financial report. The annual audited financial report required under s. Ins 57.26 shall comply with all of the following:

- (1) Report the financial position of the care management organization as of the end of the most recent calendar year and the results of its operations, cash flows and changes in net assets for that year in conformity with generally accepted accounting principles.
- (2) Include all of the following:
 - (a) The report of the independent certified public accountant.
 - (b) A balance sheet reporting assets, liabilities, and net assets.
 - (c) A statement of operations.
 - (d) A statement of cash flows.
 - (e) A statement of changes in net assets.
 - (f) A report on the internal control environment of the CMO.
 - (g) A report describing the system of cost allocation for shared overhead and direct services between programs or lines of business.
 - (h) A supplemental financial report that demonstrates the financial position and segregated reserves of the CMO business for each state program contract where the organization serves members under multiple Medicaid managed care contracts or other lines of business. The report shall be in columnar format for the various programs as required.

(i) Management letter as issued or written assurance that a management letter was not issued with the audit report.

(j) Management responses and corrective action plan for each audit issue identified in the audit report or in the management letter.

(k) Notes to financial statements. These notes shall be those required by generally accepted accounting principles. The notes shall include a reconciliation of differences, if any, between the audited financial statements and the annual statement filed pursuant to s. Ins 57.40 with a written description of the nature of these differences.

(3) The financial statement shall be comparative, presenting the amounts as of December 31 of the current year and the amounts as of the immediately preceding December 31, except in the first year in which a care management organization is required to file an audited financial report, the comparative data may be omitted.

History: EmR0927: emerg. cr. eff. 10-10-09; CR 09-093: cr. Register May 2010 No. 653, eff. 6-1-10; correction in (2) (k) made under s. 13.92 (4) (b) 7., Stats., Register May 2010 No. 653.

Ins 57.31 Designation of independent certified public accountant. (1) A care management organization shall, within 60 days after the care management organization becomes subject to this subchapter:

(a) Provide the commissioner in writing the name and address of the independent certified public accountant retained to conduct the annual audit required by this subchapter.

(b) File with the commissioner a copy of the letter required to be obtained under sub. (3).

(2) Care management organizations not retaining an independent certified public accountant on June 1, 2010, shall register the name and address of their retained independent certified public accountant not less than 6 months before the date when the first audited financial report is to be filed.

(3) A care management organization shall obtain a letter from the independent certified public accountant it retains to conduct the annual audit required by this subchapter. The letter shall state that the independent certified public accountant:

(a) Is aware of the provisions of the administrative code and the rules and regulations of the insurance department or equivalent agency of the state of domicile of the care management organization that relate to accounting and financial matters of care management organizations; and

(b) Will express an opinion on whether the financial statements conform to the generally accepted accounting practices prescribed or otherwise permitted by that department or equivalent agency and will specify exceptions as appropriate.

(4) If an independent certified public accountant for the immediately preceding filed audited financial report of a care management organization is dismissed or resigns, the care management organization shall comply with all of the following:

(a) The care management organization shall within 5 business days notify the commissioner of the dismissal or resignation.

(b) The care management organization shall within 15 business days of the dismissal or resignation furnish the commissioner with a letter which clearly states that there was no disagreement required to be disclosed under this paragraph or which describes any disagreement between the care management organization and the independent certified public accountant in the 24 months preceding the dismissal or resignation, which:

1. Was on any matter of accounting principles or practices, financial statement disclosure, or auditing scope or procedure; and

2. Would require the independent certified public accountant to make reference to the subject matter of the disagreement in connection with the opinion required under s. Ins 57.30. The requirement to provide a description applies regardless of whether the disagreement was resolved or whether the former independent certified public accountant was satisfied with the resolution.

(c) The care management organization shall within 15 business days of the dismissal or resignation furnish the commissioner with a letter from the independent certified public accountant addressed to the care management organization stating whether the independent certified public accountant agrees with the statements contained in the care management organization's letter required under par. (b) and, if not, stating the reasons why not.

History: EmR0927: emerg. cr. eff. 10-10-09; CR 09-093: cr. Register May 2010 No. 653, eff. 6-1-10.

Ins 57.32 Qualifications of independent certified public accountants. (1) The commissioner may rule that an accountant or accounting firm is not qualified for purposes of expressing an opinion on the financial statements in the annual audited financial report required under this subchapter, prohibit care management organizations from retaining the accountant or an accounting firm, and require care management organizations to replace the accountant or accounting firm, if the commissioner finds there is cause, including, but not limited to, a finding that the accountant or accounting firm:

(a) Is not in good standing with the American institute of certified public accountants and in all states in which the accountant or accounting firm is, or is required to be, licensed to practice;

(b) Has either directly or indirectly entered into an agreement of indemnification with respect to the audit of the care management organization;

(c) Has not conformed to the standards of the accounting profession as contained in the code of professional ethics of the

American institute of certified public accountants and rules and regulations and code of ethics and rules of professional conduct of the accounting examining board, or a similar code;

(d) Has been convicted of fraud, bribery, a violation of the Racketeer Influenced and Corrupt Organizations Act, 18 USC 1961 to 1968, as revised, or any dishonest conduct or practices under federal or state law;

(e) Has been found to have violated the insurance laws or rules of this state; or

(f) Has demonstrated a pattern or practice of failing to detect or disclose material information in financial reports.

(2) The commissioner may not recognize an independent certified public accountant as qualified for a particular care management organization if a member of the board, president, chief executive officer, controller, chief financial officer, chief accounting officer, or any person serving in an equivalent position for the care management organization was employed by the independent certified public accountant and participated in the audit of the care management organization during the one-year period preceding the date that the most current statutory opinion is due. This subsection shall only apply to partners and senior managers involved in the audit. A care management organization may make application to the commissioner for relief from the requirement of this paragraph on the basis of unusual circumstances.

History: EmR0927: emerg. cr. eff. 10-10-09; CR 09-093: cr. Register May 2010 No. 653, eff. 6-1-10.

Ins 57.33 Scope of audit and report of independent certified public accountant. Financial statements furnished under s. Ins 57.30 shall be audited by the independent certified public accountant. The independent certified public accountant shall conduct the audit of the care management organization's financial statements in accordance with generally accepted auditing standards.

History: EmR0927: emerg. cr. eff. 10-10-09; CR 09-093: cr. Register May 2010 No. 653, eff. 6-1-10.

Ins 57.35 Notification of adverse financial condition. (1) A care management organization shall require the independent certified public accountant to report, in writing and within 5 business days, to the board of directors of the care management organization or its audit committee any determination by the independent certified public accountant that the care management organization has materially misstated its financial condition as reported to the commissioner as of the balance sheet date currently under audit or that the care management organization does not meet the working capital or risk reserve requirements.

(2) A care management organization who receives a report required under sub. (1) shall forward a copy of the report to the commissioner within 5 business days of receipt of the report and shall provide the independent certified public accountant making the report with evidence that the report has been furnished to the commissioner.

(3) An independent certified public accountant shall furnish to the commissioner a copy of its report required under sub. (1) within 10 business days after it is furnished to the care management organization under sub. (1) unless the independent certified public accountant receives evidence the care management organization has provided it within the 10 business day period to the commissioner as required under sub. (2).

(4) An executive officer or director of a care management organization which receives notice under sub. (1) shall report the notification in writing to the commissioner within 5 business days of the date the executive officer or director first acquires knowledge of the notification unless prior to that date the care management organization complies with sub. (2).

(5) If the independent certified public accountant, subsequent to the date of the audited financial report filed pursuant to this chapter, becomes aware of facts that might have affected the

report, the independent certified public accountant shall take the action as prescribed in Volume 1, Section AU 561 of the Professional Standards of the AICPA.

History: EmR0927: emerg. cr. eff. 10-10-09; CR 09-093: cr. Register May 2010 No. 653, eff. 6-1-10.

Ins 57.37 Accountant's letter of qualifications. An accountant or accounting firm retained by a care management organization to comply with this subchapter shall furnish the care management organization, and the care management organization shall obtain and include with the filing of the annual audited financial report required under s. Ins 57.26, a letter from the accountant or accounting firm stating:

(1) That the accountant or accounting firm is independent with respect to the care management organization and conforms to the standards of his or her profession as contained in the code of professional ethics and pronouncements of the American institute of certified public accountants and the rules of professional conduct of the board of public accountancy of this state, or similar code.

(2) The background and experience, in general, and the experience in audits of care management organizations of the staff assigned to the engagement and whether each is an independent certified public accountant. This subchapter does not prohibit the accountant or accounting firm from utilizing such staff as he or she deems appropriate where use is consistent with the standards prescribed by generally accepted auditing standards.

(3) That the accountant or accounting firm understands that the annual audited financial report and his or her opinion on the annual audited financial report will be filed in compliance with this chapter and that the commissioner will be relying on this information in the monitoring and regulation of the financial position of care management organizations.

(4) That the accountant or accounting firm consents to the requirements of s. Ins 57.38 and that the accountant or accounting firm consents and agrees to make work papers available for review by the commissioner.

(5) A representation that the accountant or accounting firm is properly licensed by an appropriate state licensing authority and is a member in good standing in the American institute of certified public accountants.

(6) A representation that the accountant or accounting firm is an independent certified public accounting firm and that there are no grounds for disqualification of the accountant or accounting firm under s. Ins 57.32.

History: EmR0927: emerg. cr. eff. 10-10-09; CR 09-093: cr. Register May 2010 No. 653, eff. 6-1-10.

Ins 57.38 Availability and maintenance of CPA work papers. (1) A care management organization shall require the accountant or accounting firm which conducts an audit or other procedure under this subchapter to make available for review by the commissioner all work papers and any communications related to the audit or procedure between the care management organization and the accountant or accounting firm at the offices of the care management organization or at a reasonable place designated by the commissioner. The care management organization shall require that the accountant retain the audit work papers and communications until the commissioner has filed a report on examination covering the period of the audit but no longer than 7 years from the date of the audit report.

(2) The commissioner may access work papers, reports, and other materials generated during the audit. Such access shall include the right to obtain photocopies of the work papers and

copies of computer disks, or other electronic media, upon which records or working papers are stored. All working papers and communications obtained by the commissioner under this section may be treated by the commissioner as confidential under s. 601.465, Stats.

History: EmR0927: emerg. cr. eff. 10-10-09; CR 09-093: cr. Register May 2010 No. 653, eff. 6-1-10.

Ins 57.39 Conduct of care management organization in connection with the preparation of required reports and documents. (1) No director or officer of a care management organization may, directly or indirectly:

(a) Make or cause to be made a materially false or misleading statement to an accountant in connection with any audit, review or communication required under this chapter.

(b) Make or cause to be made omissions of any material fact necessary in order to make statements made not misleading to an accountant in connection with any audit, review or communication required under this chapter.

(2) No officer or director of a care management organization, or any other person acting under the direction thereof, shall directly or indirectly take any action to coerce, manipulate, mislead or fraudulently influence any independent certified public accountant engaged in the performance of an audit pursuant to this chapter if that person knew or should have known that the action, if successful, could result in rendering the care management organization's financial statements materially misleading. In this subsection, actions that "if successful, could result in rendering the care management organization's financial statements materially misleading" include actions taken at any time with respect to the professional engagement period to coerce, manipulate, mislead or fraudulently influence an independent certified public accountant to do any of the following:

(a) To issue or reissue a report on a care management organization's financial statements that is not warranted in the circumstances, due to material violations of generally accepted accounting principles, generally accepted auditing standards, or other professional or regulatory standards.

(b) To not perform audit, review or other procedures required by generally accepted auditing standards or other professional standards.

(c) To not withdraw an issued report.

(d) To not communicate matters to a care management organization's audit committee.

History: EmR0927: emerg. cr. eff. 10-10-09; CR 09-093: cr. Register May 2010 No. 653, eff. 6-1-10.

Ins 57.40 Care management organizations to file financial statements. A care management organization shall file annual and quarterly financial statements with the commissioner. A care management organization shall file the financial statements in a format determined by the commissioner in consultation with the department.

History: EmR0927: emerg. cr. eff. 10-10-09; CR 09-093: cr. Register May 2010 No. 653, eff. 6-1-10.

Ins 57.41 Exemptions and effective dates. (1) The commissioner may grant an exemption from compliance with s. Ins 57.26 if the commissioner finds that compliance would constitute a financial or organizational hardship upon the care management organization, except as provided in s. Ins 57.32 (2).

(2) An exemption may be granted at any time and from time to time for a specified period.

History: EmR0927: emerg. cr. eff. 10-10-09; CR 09-093: cr. Register May 2010 No. 653, eff. 6-1-10.