

1 Public Protection Cabinet

2 Department of Insurance

3 Division of Financial Standards and Examinations

4 (Amendment)

5 806 KAR 17:100. Certificate of filing for provider-sponsored networks.

6 RELATES TO: KRS 304.17A-100(6), 304.17A-300, 304.17A-310

7 STATUTORY AUTHORITY: KRS 304.2-110(1), 304.17A-300, 304.17A-310

8 NECESSITY, FUNCTION, AND CONFORMITY: KRS 304.2-110(1) authorizes

9 ~~[provides that]~~ the commissioner to ~~[executive director may]~~ promulgate reasonable
10 administrative regulations necessary for or as an aid to the effectuation of any provision of the
11 Kentucky Insurance Code, established in KRS 304.1-010. KRS 304.17A-300 requires that
12 provider sponsored networks shall obtain a certificate of filing before doing business in
13 Kentucky. The purpose of this [This] administrative regulation is to establish [sets forth] the
14 requirements for a provider sponsored network applying for a certificate of filing.

15 Section 1. Definitions. A provider-sponsored network is a provider sponsored integrated
16 health delivery network as defined in KRS 304.17A-100(6).

17 Section 2. A provider-sponsored network shall apply for and obtain a certificate of filing
18 from the commissioner ~~[executive director]~~ in order to provide, directly or through arrangements

1 with others, a health benefit plan to consumers voluntarily enrolled with the organization
2 on a per capita or a predetermined, fixed prepayment basis.

3 Section 3. (1) Each application for a certificate of filing for a provider-sponsored network
4 shall be filed on a Form 996 and verified by an officer or authorized representative of the
5 applicant.

6 (2) Each application shall set forth or be accompanied by the following:

7 (a) Name, address, principal place of business, owners, officers, managers, and sponsors
8 of provider-sponsored networks.

9 (b) Address where books and records of the provider-sponsored network shall [~~will~~] be
10 maintained at all times.

11 (c) The providers who sponsor, own, govern, or manage the provider-sponsored network
12 shall provide a copy of their licenses and affidavit confirming good standing with their licensure
13 board.

14 (d) A copy of the organizational documents of the applicant including:

15 1. Articles of incorporation;

16 2. Articles of association;

17 3. Partnership agreement;

18 4. Trust agreement;

19 5. Bylaws;

20 6. Organizational chart; and

1 7. Other applicable documents and amendments.

2 (e) A copy of the policies, procedures, and other documents explaining how the provider
3 sponsored network will:

4 1. Administer health plans;

5 2. Have ability, experience, and structure to arrange for appropriate level and type of
6 health care services;

7 3. Conduct utilization management activities;

8 4. Achieve, monitor, and evaluate the quality and cost effectiveness of care provided;

9 5. Monitor access to its provider network; and

10 6. Use standardized electronic claims₂ [~~and~~] billing processes₂ and formats.

11 (f) Names, addresses, and biographical information of the following:

12 1. Board of directors;

13 2. Board of trustees;

14 3. Executive committee or other governing body;

15 4. Each owner of five (5) percent or more of the provider-sponsored network;

16 5. Principal officers;

17 6. Partners; and

18 7. Persons responsible for the conduct of the applicants affairs and day to day operations.

1 (g) Financial statements audited by an independent certified public accountant in
2 conformity with statutory accounting practices prescribed or otherwise permitted by the
3 commissioner [~~executive director~~] that reflect the following:

- 4 1. Financial position of the applicant;
- 5 2. Results of its operation;
- 6 3. Cash flows; and
- 7 4. Changes in capital and surplus.

8 (h) If the "as of" date of the financial statements filed pursuant to paragraph (f) of this
9 subsection is more than ninety (90) days from the date of the application, interim financial
10 statements compiled by an independent certified public accountant as of a date less than ninety
11 (90) days from the application containing the same information as the audited financial
12 statements.

13 (i) List of providers including name, address, license number, and health services
14 provided.

15 (j) A statement or map reasonably describing the counties to be served and written
16 assurance that health services will be provided to enrollees within fifty (50) miles of their
17 residences.

18 (k) Proposed contracts and agreements including the following:

- 19 1. Applications or individual enrollment forms;
- 20 2. Master contract forms for group enrollment;

1 3. Evidence of coverage or handbook;

2 4. Riders or endorsements; and

3 5. Rates with actuarial justifications.

4 (l) A copy of the following professional agreements:

5 1. Provider agreements;

6 2. Third party administrators agreements;

7 3. Service agreements;

8 4. Administrative agreements; and

9 5. Reinsurance agreements.

10 (m) A copy of grievance procedures to be utilized for the investigation and resolution of
11 enrollee and provider complaints and grievances.

12 (n) A copy of the applicant's plan for handling insolvency as required by KRS 304.17A-
13 310(6).

14 (o) Financial program setting forth a three (3) year projection of operations on a quarterly
15 basis which shall include the following:

16 1. Detailed enrollment projections;

17 2. Projection of balance sheets;

18 3. Projection of cash flow statements showing any capital expenditures;

19 4. Projection of purchase and sale of investments and deposits;

1 5. Projection of income and expense statements anticipated from the start of operation
2 until the organization has had net income for one (1) year; and

3 6. Statement of the sources of working capital as well as other sources of funding.

4 Section 4. If any of the information filed with the office pursuant to Section 3 of this
5 administrative regulation changes or becomes incorrect, then the provider-sponsored network
6 shall immediately notify the office in writing of the change and immediately give the office the
7 correction.

8 Section 5. Incorporated by reference. (1) Form 996, 03/2021 is incorporated by
9 reference.~~[Form numbered "996", revised June 1996, is prescribed by the office and incorporated~~
10 ~~by reference. Copies may be obtained from the Office of Insurance, P.O. Box 517, 215 West~~
11 ~~Main Street, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.]~~

12 (2) This material may be inspected, copied, or obtained, subject to applicable copyright
13 law, at the Kentucky Department of Insurance, The Mayo-Underwood Building, 500 Mero St.,
14 Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m. Forms may also be
15 obtained on the department Web site at <http://insurance.ky.gov>.

806 KAR 17:100
READ AND APPROVED:

Sharon P. Clark
Commissioner, Department of Insurance

Date

Kerry B. Harvey
Secretary, Public Protection Cabinet

Date

PUBLIC HEARING AND PUBLIC COMMENT PERIOD

A public hearing on this administrative regulation shall be held at 9:00 AM on July 23rd, 2021 at 500 Mero Street, Frankfort, KY 40602. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through 11:59 PM on July 30th, 2021. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person below.

Contact Person: Abigail Gall
Title: Executive Administrative Secretary
Address: 500 Mero Street, Frankfort, KY 40601
Phone: +1 (502) 564-6026
Fax: +1 (502) 564-1453
Email: abigail.gall@ky.gov

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Regulation: 806 KAR 17:100

Contact Person: Abigail Gall

Phone: +1 (502) 564-6026

Email: abigail.gall@ky.gov

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the requirements for a provider sponsored network applying for a certificate of filing.

(b) The necessity of this administrative regulation:

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 304.17A-300 requires that provider sponsored networks shall obtain a certificate of filing before doing business in Kentucky.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation will assist by providing the requirements for a provider sponsored network applying for a certificate filing.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: The amendments to this administrative regulation are technical in nature and are due in part to the drafting requirements of Chapter 13A.

(b) The necessity of the amendment to this administrative regulation: The necessity of these amendments are set forth in Chapter 13A.

(c) How the amendment conforms to the content of the authorizing statutes: Chapter 13A establishes several specific drafting requirements to ensure conformity and consistency with administrative regulation formatting.

(d) How the amendment will assist in the effective administration of the statutes: These amendments assist in the administration of statutes KRS 304.2-110(1), 304.17A-300, 304.17A-310.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This regulation will effect 5 provider sponsored networks in Kentucky.

(4) Provide an analysis of how the entities identified in the previous question will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions each of the regulated entities have to take to comply with this regulation or amendment: A provider-sponsored network shall apply for and obtain a certificate of filing from the commissioner in order to provide, directly or through arrangements with others, a health benefit plan to consumers voluntarily enrolled with the organization on a per capita or a predetermined, fixed prepayment basis. In order to file for this certificate the regulated entity must use a Form 996.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities: There are no cost associated with this administrative regulation nor the amendments.

(c) As a result of compliance, what benefits will accrue to the entities: A provider-sponsored network applying for a certificate of filing will uphold it's statutory duties in order to obtain said certificate.

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation: There is no cost associated with the administrative regulation.

(a) Initially: Implementation of this amendment is not anticipated to have an initial cost on the Department of Insurance.

(b) On a continuing basis: Implementation of this amendment is not anticipated to have an on-going cost on the Department of Insurance.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The Department will use funds from its current operational budget to perform the tasks necessary.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment:

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees:

(9) TIERING: Is tiering applied? Explain why or why not. Tiering is not applied because this regulation applies equally to all provider-sponsored network.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

Regulation: 806 KAR 17:100
Contact Person: Abigail Gall
Phone: +1 (502) 564-6026
Email: abigail.gall@ky.gov

(1) What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? .The Department as the implementer.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 304.2-110(1), 304.17A-300, 304.17A-310

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect. If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? No revenue is expected to be generated.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? No revenue is expected to be generated.

(c) How much will it cost to administer this program for the first year? No cost is expected.

(d) How much will it cost to administer this program for subsequent years? No cost is expected.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

(4) Revenues (+/-): Neutral

(5) Expenditures (+/-): Neutral

(6) Other Explanation:

SUMMARY OF MATERIALS INCORPORATED BY REFERENCE

806 KAR 17:100

(1) Form 996, this form is what applicants should file when applying for certification of filing for a provider-sponsored network. This form must also be verified by an officer or authorized representative of the applicant and received by the Commissioner.

SUMMARY OF CHANGES TO MATERIALS INCORPORATED BY REFERENCE

806 KAR 17:100

(1) Form 996, this form was amended to update the Department's address and contact information as well as edition date update.