

Title 23. Public Utilities and Regulated Industries
Chapter I. State Insurance Department, Department of Commerce
Subchapter B. Life, Health, and Accident
Part 95. Agent License for Health Maintenance Organizations

Codification Notes. This part as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"SECTION 2. AUTHORITY

The authority for this Rule is the power given to the Insurance Commissioner for the State of Arkansas by Ark. Code Ann. §§23-61-108, 23-61-701, et seq., 25-15-201, et seq., and 23-76-120, and Act 1004 of 1997, and other applicable laws.

SECTION 3. EFFECTIVE DATE

The Rule shall be effective on April 1, 1998."

"SECTION 10. SEVERABILITY

Any section or provision of this Rule held by a court to be invalid or unconstitutional will not affect the validity of any other section or provision of this Rule."

Subpart 1. Generally

23 CAR § 95-101. Purpose.

The purpose of this part is to set the standards and guidelines under which agents for health maintenance organizations can be licensed by the State of Arkansas.

Authority. Arkansas Code §§ 23-61-108, 23-76-120.

23 CAR § 95-102. Applicability and scope.

This part shall apply to all individuals, limited liability companies, and corporate or partnership (general or limited) agencies engaged in the business of marketing contacts, soliciting enrollments, or offering memberships with a health maintenance organization.

Authority. Arkansas Code §§ 23-61-108, 23-76-120.

23 CAR § 95-103. Definitions.

As used in this part:

(1) "Agent" means any individual person who, limited liability company that, or corporation or partnership (general or limited) that engages in solicitation and enrollment for any health maintenance organization, but shall exclude any salaried officer or employee who:

(A) Has duties that are primarily administrative; and

(B) Receives no commission for applications taken or enrollments made;

and

(2) "Applicant" means any person who, or firm or partnership (general or limited) that, or limited liability company or corporation that has applied for a:

(A) Certificate of authority as a health maintenance organization; or

(B) License as an HMO agent.

Authority. Arkansas Code §§ 23-61-108, 23-76-120.

Codification Notes. "HMO" means health maintenance organization.

23 CAR § 95-104. License qualifications.

(a) Every individual person applying for an agent license shall be qualified as follows:

(1) Must be of legal age or have the disabilities of minority removed by a court of law for general purposes;

- (2) Must be a resident of this state or a licensed nonresident;
- (3) Must be appointed by:
 - (A) A licensed health maintenance organization; or
 - (B) An applicant for said certificate of authority;
- (4) Must be deemed by the Insurance Commissioner to be:
 - (A) Competent;
 - (B) Trustworthy;
 - (C) Financially responsible; and
 - (D) Of good personal and business reputation;
- (5)(A) Must pass such written disability examination or other appropriate examination as required by the commissioner.
 - (B) Must complete required hours of prelicensure education as is required by Prelicense Education for Producers and Adjusters, 23 CAR pt. 14; and
- (6) Must file letter of certificate issued within ninety (90) days, evidencing the resident HMO agent license is current or in good standing from supervisory insurance official from state of domicile, if a nonresident.
 - (b) Every corporate or partnership agency or limited liability company applying for an agent license shall be qualified as follows:
 - (1) Must be domiciled in this state or a licensed nonresident;
 - (2)(A) Must file partnership articles or agreement, if a general or limited partnership, resident or nonresident.
 - (B) Must file registration from the Secretary of State, if a limited Arkansas partnership;
 - (3)(A) Must file articles of incorporation duly certified by the proper domiciliary state official, if a resident or nonresident corporation.
 - (B) Must file a certificate of organization from the Secretary of State if an Arkansas limited liability company.
 - (C) Must file registration if required by the Secretary of State, if a foreign corporation;
 - (4) Must be appointed by:

- (A) A licensed health maintenance organization; or
- (B) An applicant for said certificate of authority; and

(5) Must file letters of certification issued within ninety (90) days evidencing the resident HMO agency licensure and each individual agent from that state is current or in good standing from supervisory insurance official from state of domicile, if a nonresident.

Authority. Arkansas Code §§ 23-61-108, 23-76-120.

Codification Notes. "HMO" means health maintenance organization.

23 CAR § 95-105. Fees.

(a) Licensure fees payable by applicant only for resident agent/agency license:

(1) There shall be a thirty-dollar examination fee paid to the Insurance Commissioner prior to examination of resident individuals and a thirty-dollar retake fee;

(2) There shall be a thirty-five-dollar regulatory fee (ALF fee per Insurance Department Administrative and Regulatory Fees, 23 CAR pt. 22) for each issuance/annual renewal of each resident and nonresident agent and agency license; and

(3) If the commissioner contracts for these services, then the amount and method of payment and due date of fees may be determined by the vendor, subject to 23 CAR pt. 22 or Arkansas Code § 23-61-401.

(b) Licensure fees payable by the health maintenance organization on behalf of an applicant for agent/agency license:

(1) There shall be a sixty-dollar initial/annual fee amount paid to the commissioner for the initial/annual renewal appointment of an individual nonresident agent's license;

(2) There shall be a sixty-dollar initial/annual fee amount paid to the commissioner for the initial/renewal appointment of a corporate, limited liability company, or partnership agency license from a nonresident;

(3) There shall be a twenty-dollar initial/annual fee amount paid to the commissioner for the initial/renewal appointment of an individual resident agent's license; and

(4) There shall be a twenty-dollar initial/annual fee amount paid to the commissioner for the initial/renewal appointment of a corporate, limited liability company, or partnership agency license from a resident.

(c) There shall be a ten-dollar fee paid to the commissioner to cancel or otherwise terminate an appointment on any resident or nonresident agent or agency license by either the agent, agency, or HMO, per appointment.

(d) All fees shall be remitted to the Agent License Division of the State Insurance Department and shall be payable to "The State Insurance Department Trust Fund" with a check or money order from the agent, agency, or HMO as required by and appropriate with 23 CAR pt. 22, except for payments to vendors as permitted by the commissioner.

Authority. Arkansas Code §§ 23-61-108, 23-76-120.

Codification Notes. "ALF" means agent license fee.

"HMO" means health maintenance organization.

23 CAR § 95-106. Term of license.

(a) Every license and HMO appointment issued under this part shall be valid for the calendar year when issued, and each HMO appointment must be renewed biennially on even-numbered years contemporaneous with life and/or disability insurance agent appointments under Arkansas Code § 23-64-219(c).

(b) HMO agent licenses will be renewed when the State Insurance Department receives the appointment forms, Form I-45, the HMO appointment fees, and any ALF fees due or overdue from the HMO agent or agency.

(c) The amount of fees filed for licenses issued in odd-numbered years will vary.

(d) In addition, each resident HMO agent who is not otherwise exempt must file certifications and the accompanying 23 CAR pt. 22 fee for timely compliance with continuing education hours as mandated by Continuing Education for Producers and Adjusters, 23 CAR pt. 18, as amended or hereinafter amended, to be eligible for renewal licensure.

Authority. Arkansas Code §§ 23-61-108, 23-76-120.

Codification Notes. "HMO" means health maintenance organization.

"ALF" means agent license fee.

23 CAR § 95-107. Revocation and suspension of license.

(a) The Insurance Commissioner may suspend for not more than thirty-six (36) months pursuant to Arkansas Code § 23-64-216, or may revoke or refuse to continue any license issued under this part, after:

- (1) Written notice to the licensee;
- (2) A hearing is held under the provisions of Arkansas Code § 23-61-303 et seq., and/or § 23-64-216; and
- (3) The commissioner finds that any one (1) or more of the following causes exist:

(A) Any cause for which issuance of the license could have been refused had it then existed and been known to the commissioner;

(B) Violation of or noncompliance with any provision of the Arkansas Insurance Code or for willful violation of any rule or order of the commissioner;

(C) Obtaining or attempting to obtain any such license through fraud or misrepresentation;

(D) Misappropriation of or conversion to the licensee's own use or benefit any moneys received through the course of business that do not belong to the licensee;

(E) Conviction of or pleading of guilty or nolo contendere to a felony or any felony involving dishonesty or a breach of trust;

(F) If in the conduct of the licensee's affairs, the licensee has used:

(i) Fraudulent or dishonest practices; or

(ii) Trade practices prohibited by the insurance code or statutes and rules of the state;

(G) Failure to:

(i) Provide a written response after receipt of a written inquiry from the commissioner or his or her representative as to transactions under the license within thirty (30) days after receipt thereof, unless waived in writing by the commissioner; or

(ii) Notify the commissioner promptly of any change of address in writing; or

(H) Having an insurance agent or broker license or HMO agent license or other insurance license or registration suspended or revoked in this state or any other state, province, district, or territory; or if the licensee no longer meets the qualifications for licensure as described in this part and applicable laws.

(b)(1) If the commissioner finds that any one (1) or more grounds exist for the suspension or revocation of any license, the commissioner may in his or her discretion, in lieu of or in addition to such suspension or revocation, impose an administrative penalty in the amount of one thousand dollars (\$1,000) under Acts 1997, No. 1004, or if the commissioner has found willful misconduct or willful violation by the licensee, five thousand dollars (\$5,000) under Acts 1997, No. 1004.

(2) The commissioner may take judicial notice of prior sanction orders issued against the licensee in this or other licensed jurisdictions and enhance or increase the penalties ordered in any current misconduct proceeding as to the licensee, without an abuse of discretion.

(3) The commissioner may in his or her discretion order the licensee to pay restitution of actual losses to affected persons as specified in Arkansas Code § 23-64-

216, or in an order/consent order against the licensee, in addition to other sanctions imposed under this part.

(c) The commissioner may not again issue any license under this part to any person whose license has been revoked until after expiration of three (3) years and upon the same conditions expressed in Arkansas Code § 23-64-217(b), as for insurance agents and brokers, subject to other applicable laws.

Authority. Arkansas Code §§ 23-61-108, 23-76-120.

Codification Notes. "HMO" means health maintenance organization.