

**STATE OF MICHIGAN
DEPARTMENT OF INSURANCE AND FINANCIAL SERVICES**

Bulletin 2016-22-INS

In the matter of

Guidelines for Alternative Financing and Delivery Systems

Issued and entered
this 21st day of December 2016
by Patrick M. McPharlin
Director

This bulletin supersedes Bulletin 2001-05-INS, issued on June 25, 2001.

Section 3573 of the Insurance Code (Code), MCL 500.3573, was effective June 29, 2000, and provides that Alternative Financing and Delivery Systems (AFDS) may operate in a manner similar to a health maintenance organization (HMO), even though they fail to meet the standards of Chapter 35 of the Code, if the Director finds that the proposed operations will benefit those persons served by it. Section 3573 also provides that an AFDS shall be authorized and regulated in the same manner as an HMO under Chapter 35 of the Code, including the filing of periodic reports, except to the extent that the Director finds that the regulation is inappropriate to the system of health care delivery and financing. This bulletin provides guidelines for the regulation of AFDS, recognizing that AFDS have categorical differences from HMOs that result in differences in regulation.

Bulletin 2001-05-INS established guidelines for the regulation of AFDS. Recent amendments to the Code require updates to several of those guidelines, as set forth below. These guidelines prescribe appropriate regulatory standards to be used by AFDS for compliance with Chapter 35 of the Insurance Code.

GUIDELINES

1. An AFDS' net worth standard should be the greater of \$250,000 or 3 times the Managed Care Organization risk based capital authorized control level as found in Section 3551, MCL 500.3551.
2. An AFDS will be held to the same working capital standards as HMOs, as indicated in Section 3555, MCL 500.3555. Escrow accounts may not be included in the working capital calculation. Escrow account and trust deposits are restricted assets held for the benefit of enrollees in the event of an insolvency and, therefore, are not considered current assets and cannot be part of the working capital calculation.
3. The statutory deposit for an AFDS should be equal to 2.5% of premium revenue, with a minimum deposit of \$100,000 and a maximum of \$500,000. The inclusion of escrow accounts held under group contracts as part of the statutory deposit will be assessed on a case-by-case basis. The statutory deposit is intended to be used for the benefit of all members of the AFDS. The Director will evaluate on a case-by-case basis whether escrow accounts can be used to meet the statutory deposit requirements. The Director will also consider whether the escrow accounts provide preferential treatment to certain members when evaluating

the inclusion of escrow accounts. If a determination is made to allow the use of escrow accounts for deposit purposes, minimum requirements for these escrow accounts will be developed to meet the deposit requirements.

4. An AFDS must follow the requirements for developing a financial plan and quality assessment program found in Section 3555, MCL 500.3555, and Section 3508, MCL 500.3508.

5. An AFDS must comply with the board composition requirements found in Section 3511, MCL 500.3511.

6. An AFDS must comply with Sections 3513 and 3530, MCL 500.3513 and MCL 500.3530, although an AFDS service area expansion may not necessarily be limited to the standard that requires a 30-minute travel time from contracted providers.

7. An AFDS' rates must be filed pursuant to the requirements of Sections 3521 and 3525, MCL 500.3521 and MCL 500.3525. Rates that are collectively bargained do not require pre-approval, but must be filed immediately, pursuant to Section 3525(2), MCL 500.3525(2), and must include sufficient data and rate support. The standard for actuarially sound rates is found in Section 2242, MCL 500.2242. Contracts and forms must be filed at the same time rates are filed.

8. An AFDS that offers only dental and vision benefits is not required to comply with the open enrollment requirements of Section 3472, MCL 500.3472, because of the limited and optional nature of the benefits it offers. The Director will consider granting waivers for other types of AFDS on a case-by-case basis.

9. An AFDS must continue to provide all subscribers with full subscriber certificates that contain all essential information about the benefits provided and other information as required by Section 2212a, MCL 500.2212a.

10. An AFDS must continue to offer benefits on an emergency basis. However, the required emergency services are limited to benefits for services only of the type offered by a particular AFDS.

11. An AFDS must have quality assurance standards that are consistent with the particular benefits it provides. The standards for the particular benefit must adhere to those found in Sections 3508, 3513(2)(c), and 3528, MCL 500.3508, MCL 500.3513(2)(c), and MCL 500.3528.

12. Waivers from an AFDS' requirement to maintain reinsurance for possible insolvency will be considered on a case-by-case basis as long as the statutory net worth and deposit requirements described above are met.

13. An AFDS must have a financial plan to minimize the possible impact of an insolvency on the members. Waivers from purchasing outside coverage for insolvency will be evaluated and approved on a case-by-case basis as long as the statutory net worth and deposit requirements are met. The Director will consider other measures the AFDS may propose to minimize the effects of insolvency or the level of risk in the event of an insolvency.

14. An AFDS must follow the internal grievance and external review procedures found in Section 2213, MCL 500.2213, and the Patient's Right to Independent Review Act, PA 251 of 2000, MCL 500.1901 *et seq.*

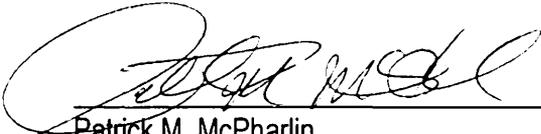
Requests for waivers of other AFDS requirements not listed in this bulletin will be considered by the Director on a case-by-case basis.

The amendments to the Code, PA 276 of 2016, became effective July 1, 2016; the guidelines of this bulletin are effective immediately.

Any questions regarding this bulletin should be directed to:

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A handwritten signature in black ink, appearing to read 'Patrick M. McPharlin', is written over a horizontal line.

Patrick M. McPharlin
Director