

**IC 27-13-12**

Chapter 12. Protection Against Insolvency; Net Worth Requirements

**IC 27-13-12-1**

**"Net worth" defined; computation**

Sec. 1. (a) As used in this chapter, "net worth" means the excess of total assets over total liabilities, excluding liabilities that have been subordinated in a manner acceptable to the commissioner.

(b) For the purposes of computing net worth, the total assets must be reduced by the value assigned to the following intangible assets:

- (1) Goodwill.
- (2) Going concern value.
- (3) Organizational expense.
- (4) Start-up costs.
- (5) Long term prepayments of deferred charges.
- (6) Nonreturnable deposits.
- (7) Obligations of officers, directors, owners, or affiliates, except short term obligations of affiliates for goods or services that:

- (A) arise in the normal course of business;
- (B) are payable on the same terms as equivalent transactions with nonaffiliates; and
- (C) are not past due.

(c) For purposes of computing net worth, the health maintenance organization may include in its assets the value assigned to the following:

- (1) Medical equipment that:
  - (A) is owned by the health maintenance organization and is not subject to any lien, claim, or encumbrance;
  - (B) is used in the treatment, diagnosis, or care of enrollees of the health maintenance organization;
  - (C) has an initial cost of at least three thousand dollars (\$3,000) for each piece of equipment; and
  - (D) has a useful life of at least two (2) years.
- (2) Data processing equipment that is:
  - (A) owned by the health maintenance organization and is not subject to any lien, claim, or encumbrance; and
  - (B) used in the operation of the health maintenance organization.

(d) The value assigned to the assets described in subsection (c) must equal the lesser of:

- (1) the fair market value; or
- (2) the cost of the equipment, minus its accumulated depreciation, calculated in accordance with generally accepted accounting principles.

(e) The aggregate value of the medical equipment described in subsection (c)(1) may not exceed thirty percent (30%) of the total assets permitted to be included in the computation of net worth.

*As added by P.L.26-1994, SEC.25. Amended by P.L.195-1996,*

SEC.6.

**IC 27-13-12-2**

**Initial minimum net worth**

Sec. 2. Before issuing a certificate of authority to a health maintenance organization, the commissioner shall require that the health maintenance organization:

- (1) have an initial net worth of at least one million five hundred thousand dollars (\$1,500,000); and
- (2) maintain, after issuance of the certificate, at least the minimum net worth required under section 3 of this chapter.

*As added by P.L.26-1994, SEC.25.*

**IC 27-13-12-3**

**Maintenance of minimum net worth**

Sec. 3. Except as provided in sections 4 and 5 of this chapter, a health maintenance organization shall maintain a minimum net worth equal to the greater of:

- (1) one million dollars (\$1,000,000);
- (2) based on annual premium revenues as reported on the most recent annual financial statement filed with the commissioner, the total of two percent (2%) of annual premium revenues on the first one hundred fifty million dollars (\$150,000,000) of premium and one percent (1%) of annual premium on the premium in excess of one hundred fifty million dollars (\$150,000,000);
- (3) an amount equal to the sum of three (3) months of uncovered health care expenditures, as reported on the most recent financial statement of the health maintenance organization filed with the commissioner under IC 27-13-8-2(a)(1); or
- (4) an amount equal to the sum of:
  - (A) eight percent (8%) of annual health care expenditures except those paid on a capitated basis or managed hospital payment basis as reported on the most recent financial statement filed with the commissioner; and
  - (B) four percent (4%) of annual hospital expenditures paid on a managed hospital payment basis as reported on the most recent financial statement filed with the commissioner.

*As added by P.L.26-1994, SEC.25.*

**IC 27-13-12-4**

**Net worth schedule**

Sec. 4. A health maintenance organization licensed before July 1, 1994, must maintain a net worth equal to the following:

- (1) Twenty-five percent (25%) of the amount required under section 3 of this chapter by December 31, 1994.
- (2) Fifty percent (50%) of the amount required under section 3 of this chapter by December 31, 1995.
- (3) Seventy-five percent (75%) of the amount required under

section 3 of this chapter by December 31, 1996.

(4) One hundred percent (100%) of the amount required under section 3 of this chapter by December 31, 1997.

*As added by P.L.26-1994, SEC.25.*

#### **IC 27-13-12-5**

##### **Consideration of debts**

Sec. 5. (a) In determining net worth under this chapter, a debt may not be considered fully subordinated unless:

(1) the subordination clause is in a form acceptable to the commissioner; and

(2) any interest obligation relating to the repayment of the subordinated debt is subordinated under a clause that is in a form acceptable to the commissioner.

(b) The interest expense relating to the repayment of any fully subordinated debt is considered a covered expense.

(c) Any debt that:

(1) is incurred through a note that meets the requirements of this chapter; and

(2) is otherwise acceptable to the commissioner;

may not be considered liability and must be recorded as equity.

*As added by P.L.26-1994, SEC.25.*

#### **IC 27-13-12-6**

##### **Adoption of rules**

Sec. 6. The commissioner may adopt rules to further define whether and to what extent the assets of a health maintenance organization may be considered admitted assets for purposes of complying with the requirements of this chapter.

*As added by P.L.26-1994, SEC.25.*