

1300.75.4.5 Plan and Sub-Delegating Organization Compliance

(a)

Every plan and sub-delegating organization that maintains a risk arrangement with an organization shall have adequate procedures in place to ensure: (1) That plan or sub-delegating organization personnel review all reports and financial information made available pursuant to Health and Safety Code section 1375.4, these Solvency Regulations, and as provided under the terms of the contract with an organization as part of the plan's responsibility to evaluate and ensure the financial viability of its arrangements consistent with section 1300.70(b)(2)(H)(1) of Title 28, California Code of Regulations; (2) Appropriate action(s) are taken following the Department's written notification to an organization's contracting health plan(s) or sub-delegating organization(s) that the organization has: (A) Failed to substantially comply with the reporting obligations specified in section 1300.75.4.2 of Title 28, California Code of Regulations, by failing to file a required periodic financial and organizational information disclosure, including the filing of an annual financial survey report based upon an audited financial statement prepared in accordance with generally accepted accounting principles (GAAP), or by failing to include significant portions of information on a required periodic financial organizational information disclosure; (B) Refused to permit the activities of the Department as specified in Health and Safety Code section 1375.4 or in

these Solvency Regulations; or, (C) Failed to substantially comply with the requirements of a final CAP for a period of more than ninety (90) days, as determined by the Department. (3) Appropriate action shall include, but is not limited to, a prohibition on the assignment or addition of any additional enrollees to the risk arrangement with that organization without the prior written approval of the Director. The prohibition on assignments of additional enrollees to an organization pursuant to subsection (2) shall not apply to dependents of enrollees who are already under the risk-arrangement with the organization or to enrollees who selected the organization during an open enrollment or other selection period that was prior to the effective date of the prohibition on the assignment of additional enrollees. The prohibition on the assignment of additional enrollees shall take effect thirty (30) days after the date of Department's notification to the organization's contracting plan(s), and shall remain in effect until the Department notifies the organization's contracting health plan in writing that the organization's non-compliance has been remedied. (4) The plan or sub-delegating organization complies with the corrective action process and cooperates in the implementation of a final CAP, as defined in section 1300.75.4.8, including, but not limited to, implementing contingency plans for continuous delivery of health care services to plan enrollees served by the organization. (5) The plan or sub-delegating organization shall advise the Department and the organization in writing within five (5) days of becoming aware: (A) that a contracting organization is not in compliance with the requirements of a final CAP, or (B) that an organization's conduct may cause the plan to be subject to disciplinary action pursuant to Health and Safety Code section 1386. (6) If a plan proposes to transfer plan enrollees receiving care from an organization that is compliant with a final CAP to alternative providers and the reassignment is based, in part, on the organization's failure to

meet one or more of the Grading Criteria, the plan shall, prior to transferring enrollees from that organization, file with the Department a Block Transfer Filing pursuant to Health and Safety Code section 1373.65. In addition to all other criteria for reviewing block transfers, the Director may disapprove, postpone or suspend the plan's proposed transfer of enrollees if the department reasonably determines: (A) That the proposed reassignment of enrollees will likely cause the organization's failure or result in the organization ceasing operations within three (3) months; (B) That the organization has the financial and administrative capacity to provide timely access to care through an adequate network of qualified health care providers; and (C) That the organization is not denying or delaying basic health care services or continuity of care for the plan's enrollees assigned to the organization. (7) If a sub-delegating organization proposes to transfer plan enrollees receiving care from an organization that is compliant with a final CAP to alternative providers and the reassignment is based, in part, on the organization's failure to meet one (1) or more of the Grading Criteria, the sub-delegating organization shall notify the plan, prior to transferring enrollees from the organization, and the plan shall determine whether it is necessary to file with the Department a Block Transfer Filing pursuant to Health and Safety Code section 1373.65. In addition to all other criteria for reviewing block transfers, the Director may disapprove, postpone or suspend the sub-delegating organization's proposed transfer of enrollees if the Department reasonably determines: (A) That the proposed reassignment of enrollees will likely cause the organization's failure or result in the organization ceasing operations within three (3) months; (B) That the organization has the financial and administrative capacity to provide timely access to care through an adequate network of qualified health care providers; and (C) That the organization is not denying or delaying basic health care services or

continuity of care for the plan's enrollees assigned to the organization. (8)

Notwithstanding subsection (6) and (7) of this section, nothing in these regulations shall limit or impair: (A) the Director's authority, consistent with Health and Safety Code sections 1367, 1373.65(b) and 1391.5, to require a plan to reassign or transfer plan enrollees to alternate providers or organizations on an expedited basis to avoid imminent harm to enrollees; (B) an enrollee's right to self-select a new provider; or (C) the plan's ability to transfer individual enrollees assigned to a provider who terminates his/her relationship with the organization to ensure that the enrollee receives appropriate continuity of care.

(1)

That plan or sub-delegating organization personnel review all reports and financial information made available pursuant to Health and Safety Code section 1375.4, these Solvency Regulations, and as provided under the terms of the contract with an organization as part of the plan's responsibility to evaluate and ensure the financial viability of its arrangements consistent with section 1300.70(b)(2)(H)(1) of Title 28, California Code of Regulations;

(2)

Appropriate action(s) are taken following the Department's written notification to an organization's contracting health plan(s) or sub-delegating organization(s) that the organization has: (A) Failed to substantially comply with the reporting obligations specified in section 1300.75.4.2 of Title 28, California Code of Regulations, by failing to file a required periodic financial and organizational information disclosure, including the filing of an annual financial survey report based upon an audited financial statement prepared in accordance with generally accepted accounting principles (GAAP), or by failing to include significant portions of information on a required periodic financial organizational information disclosure; (B) Refused to permit the activities of the

Department as specified in Health and Safety Code section 1375.4 or in these Solvency Regulations; or, (C) Failed to substantially comply with the requirements of a final CAP for a period of more than ninety (90) days, as determined by the Department.

(A)

Failed to substantially comply with the reporting obligations specified in section 1300.75.4.2 of Title 28, California Code of Regulations, by failing to file a required periodic financial and organizational information disclosure, including the filing of an annual financial survey report based upon an audited financial statement prepared in accordance with generally accepted accounting principles (GAAP), or by failing to include significant portions of information on a required periodic financial organizational information disclosure;

(B)

Refused to permit the activities of the Department as specified in Health and Safety Code section 1375.4 or in these Solvency Regulations; or,

(C)

Failed to substantially comply with the requirements of a final CAP for a period of more than ninety (90) days, as determined by the Department.

(3)

Appropriate action shall include, but is not limited to, a prohibition on the assignment or addition of any additional enrollees to the risk arrangement with that organization without the prior written approval of the Director. The prohibition on assignments of additional enrollees to an organization pursuant to subsection (2) shall not apply to dependents of enrollees who are already under the risk-arrangement with the organization or to enrollees who selected the organization during an open enrollment or other selection period that was prior to the effective date of the prohibition on the assignment of additional enrollees. The prohibition on the assignment of additional enrollees shall take effect thirty (30) days after the date of Department's notification to

the organization's contracting plan(s), and shall remain in effect until the Department notifies the organization's contracting health plan in writing that the organization's non-compliance has been remedied.

(4)

The plan or sub-delegating organization complies with the corrective action process and cooperates in the implementation of a final CAP, as defined in section 1300.75.4.8, including, but not limited to, implementing contingency plans for continuous delivery of health care services to plan enrollees served by the organization.

(5)

The plan or sub-delegating organization shall advise the Department and the organization in writing within five (5) days of becoming aware:(A) that a contracting organization is not in compliance with the requirements of a final CAP, or (B) that an organization's conduct may cause the plan to be subject to disciplinary action pursuant to Health and Safety Code section 1386.

(A)

that a contracting organization is not in compliance with the requirements of a final CAP, or

(B)

that an organization's conduct may cause the plan to be subject to disciplinary action pursuant to Health and Safety Code section 1386.

(6)

If a plan proposes to transfer plan enrollees receiving care from an organization that is compliant with a final CAP to alternative providers and the reassignment is based, in part, on the organization's failure to meet one or more of the Grading Criteria, the plan shall, prior to transferring enrollees from that organization, file with the Department a Block Transfer Filing pursuant to Health and Safety Code section 1373.65. In addition to all other criteria for reviewing block transfers, the Director may disapprove, postpone or

suspend the plan's proposed transfer of enrollees if the department reasonably determines: (A) That the proposed reassignment of enrollees will likely cause the organization's failure or result in the organization ceasing operations within three (3) months; (B) That the organization has the financial and administrative capacity to provide timely access to care through an adequate network of qualified health care providers; and (C) That the organization is not denying or delaying basic health care services or continuity of care for the plan's enrollees assigned to the organization.

(A)

That the proposed reassignment of enrollees will likely cause the organization's failure or result in the organization ceasing operations within three (3) months;

(B)

That the organization has the financial and administrative capacity to provide timely access to care through an adequate network of qualified health care providers; and

(C)

That the organization is not denying or delaying basic health care services or continuity of care for the plan's enrollees assigned to the organization.

(7)

If a sub-delegating organization proposes to transfer plan enrollees receiving care from an organization that is compliant with a final CAP to alternative providers and the reassignment is based, in part, on the organization's failure to meet one (1) or more of the Grading Criteria, the sub-delegating organization shall notify the plan, prior to transferring enrollees from the organization, and the plan shall determine whether it is necessary to file with the Department a Block Transfer Filing pursuant to Health and Safety Code section 1373.65. In addition to all other criteria for reviewing block transfers, the Director may disapprove, postpone or suspend the sub-delegating organization's proposed transfer of enrollees if the Department reasonably determines:

(A) That the proposed reassignment of enrollees will likely cause the organization's failure or result in the organization ceasing operations within three (3) months; (B) That the organization has the financial and administrative capacity to provide timely access to care through an adequate network of qualified health care providers; and (C) That the organization is not denying or delaying basic health care services or continuity of care for the plan's enrollees assigned to the organization.

(A)

That the proposed reassignment of enrollees will likely cause the organization's failure or result in the organization ceasing operations within three (3) months;

(B)

That the organization has the financial and administrative capacity to provide timely access to care through an adequate network of qualified health care providers; and

(C)

That the organization is not denying or delaying basic health care services or continuity of care for the plan's enrollees assigned to the organization.

(8)

Notwithstanding subsection (6) and (7) of this section, nothing in these regulations shall limit or impair: (A) the Director's authority, consistent with Health and Safety Code sections 1367, 1373.65(b) and 1391.5, to require a plan to reassign or transfer plan enrollees to alternate providers or organizations on an expedited basis to avoid imminent harm to enrollees; (B) an enrollee's right to self-select a new provider; or (C) the plan's ability to transfer individual enrollees assigned to a provider who terminates his/her relationship with the organization to ensure that the enrollee receives appropriate continuity of care.

(A)

the Director's authority, consistent with Health and Safety Code sections 1367, 1373.65(b)

and 1391.5, to require a plan to reassign or transfer plan enrollees to alternate providers or organizations on an expedited basis to avoid imminent harm to enrollees;

(B)

an enrollee's right to self-select a new provider; or

(C)

the plan's ability to transfer individual enrollees assigned to a provider who terminates his/her relationship with the organization to ensure that the enrollee receives appropriate continuity of care.

(b)

Every contract involving a risk arrangement between a plan and an organization and every contract involving a risk arrangement between a sub-delegating organization and an organization, shall provide that an organization's failure to substantially comply with the contractual requirements required by these Solvency Regulations shall constitute a material breach of the risk arrangement contract. Neither a plan nor sub-delegating organization shall request or accept a waiver of any the contractual requirements set forth in these Solvency Regulations.

(c)

Within thirty (30) days of notification pursuant to section 1300.75.4.5(a)(2)(C) of Title 28, California Code of Regulations, a plan or sub-delegating organization shall submit to the Department a specific Provider Transition Plan for the deficient organization which provides for the continuity of care for plan enrollees served by the organization.

(d)

Any failure of a plan to comply with the requirements of Health and Safety Code section 1375.4 and these Solvency Regulations shall constitute grounds for disciplinary action against the plan pursuant to Health and Safety Code section

1386.

(e)

The Director may seek and employ any combination of remedies and enforcement procedures provided under the Knox-Keene Act to enforce Health and Safety Code section 1375.4 and these Solvency Regulations.