

## **1300.75.4.8 Corrective Action**

Every contract involving a risk arrangement between a plan and an organization or a sub-delegating organization and an organization shall require the plan and the organization or the sub-delegating organization and the organization to comply with a process, set forth in this regulation and administered by the Department, for the development and implementation of Corrective Action Plans (CAPs).

### **(a)**

Organizations reporting deficiencies in any of the Grading Criteria shall submit a self-initiated CAP proposal on the DMHC Corrective Action Plan (CAP) Form, dated May, 2018, and incorporated by reference herein, published by the Department on its webpage at [www.dmhc.ca.gov](http://www.dmhc.ca.gov) to the Department and to every plan and sub-delegating organization with which the organization maintains a contract involving a risk arrangement that meets the following requirements: (1) Identifies the Grading Criteria that the organization has failed to meet; (2) Identifies the amount by which the organization has failed to meet the Grading Criteria; (3) Identifies all plans and sub-delegating organizations with which the organization contracts with, including the identification of the name, title, telephone and facsimile numbers, and postal and e-mail addresses for the person responsible at each contracting plan and sub-delegating organization for monitoring compliance with the final CAP; (4) Describes the specific actions the organization has taken or will take to correct any deficiency identified in subsections (1) and (2) of this

section. This description should include any written representations made by contracting plans and sub-delegating organizations to assist the organization in the implementation of its CAP. The actions shall be appropriate and reasonable in scope and breadth depending upon the nature and degree of the deficiency, and acceptable to the Department; (5) Describes the timeframe for completing the corrective action and specifies a schedule for submitting progress reports to the Department and the organization's contracting plans and sub-delegating organizations. Except in situations where the organization can demonstrate to the Department's satisfaction and written approval that an extended period of time is necessary and appropriate to correct the deficiency, that: (A) Timetables specified in the self-initiated CAP for correcting working capital deficiencies shall not exceed twelve (12) months; (B) Timetables specified in the self-initiated CAP for correcting tangible net equity (TNE) deficiencies shall not exceed twelve (12) months; (C) Timetables specified in the self-initiated CAP for incurred but not reported (IBNR) deficiencies shall not exceed three (3) months; (D) Timetables specified in the self-initiated CAP for correcting claims timeliness deficiencies shall not exceed six (6) months; (E) Timetables specified in the self-initiated CAP for correcting cash-to-claims ratio deficiencies shall not exceed twelve (12) months. (6) Identifies the name, title, telephone and facsimile numbers, and postal and e-mail addresses for the person responsible at the organization for ensuring compliance with the final CAP; and (7) An organization may avoid submitting a self-initiated CAP proposal if it demonstrates to the Department that necessary and prudent capital investments have caused or may cause a temporary deficiency in its TNE, working capital, or cash-to-claims ratios and that the organization has implemented an appropriate business plan that will correct the deficiency within a reasonable time period without causing a deficiency in the organization's claims processing

timeliness. The organization shall seek and receive written approval from the Department to avoid submitting a self-initiated CAP proposal.

**(1)**

Identifies the Grading Criteria that the organization has failed to meet;

**(2)**

Identifies the amount by which the organization has failed to meet the Grading Criteria;

**(3)**

Identifies all plans and sub-delegating organizations with which the organization contracts with, including the identification of the name, title, telephone and facsimile numbers, and postal and e-mail addresses for the person responsible at each contracting plan and sub-delegating organization for monitoring compliance with the final CAP;

**(4)**

Describes the specific actions the organization has taken or will take to correct any deficiency identified in subsections (1) and (2) of this section. This description should include any written representations made by contracting plans and sub-delegating organizations to assist the organization in the implementation of its CAP. The actions shall be appropriate and reasonable in scope and breadth depending upon the nature and degree of the deficiency, and acceptable to the Department;

**(5)**

Describes the timeframe for completing the corrective action and specifies a schedule for submitting progress reports to the Department and the organization's contracting plans and sub-delegating organizations. Except in situations where the organization can demonstrate to the Department's satisfaction and written approval that an extended period of time is necessary and appropriate to correct the deficiency, that: (A)

Timetables specified in the self-initiated CAP for correcting working capital deficiencies

shall not exceed twelve (12) months; (B) Timetables specified in the self-initiated CAP for correcting tangible net equity (TNE) deficiencies shall not exceed twelve (12) months; (C) Timetables specified in the self-initiated CAP for incurred but not reported (IBNR) deficiencies shall not exceed three (3) months; (D) Timetables specified in the self-initiated CAP for correcting claims timeliness deficiencies shall not exceed six (6) months; (E) Timetables specified in the self-initiated CAP for correcting cash-to-claims ratio deficiencies shall not exceed twelve (12) months.

**(A)**

Timetables specified in the self-initiated CAP for correcting working capital deficiencies shall not exceed twelve (12) months;

**(B)**

Timetables specified in the self-initiated CAP for correcting tangible net equity (TNE) deficiencies shall not exceed twelve (12) months;

**(C)**

Timetables specified in the self-initiated CAP for incurred but not reported (IBNR) deficiencies shall not exceed three (3) months;

**(D)**

Timetables specified in the self-initiated CAP for correcting claims timeliness deficiencies shall not exceed six (6) months;

**(E)**

Timetables specified in the self-initiated CAP for correcting cash-to-claims ratio deficiencies shall not exceed twelve (12) months.

**(6)**

Identifies the name, title, telephone and facsimile numbers, and postal and e-mail addresses for the person responsible at the organization for ensuring compliance with the final CAP; and

**(7)**

An organization may avoid submitting a self-initiated CAP proposal if it demonstrates to the Department that necessary and prudent capital investments have caused or may cause a temporary deficiency in its TNE, working capital, or cash-to-claims ratios and that the organization has implemented an appropriate business plan that will correct the deficiency within a reasonable time period without causing a deficiency in the organization's claims processing timeliness. The organization shall seek and receive written approval from the Department to avoid submitting a self-initiated CAP proposal.

**(b)**

To the extent possible, the self-initiated CAP proposal shall be set forth in a single document that addresses the concerns of all plans and sub-delegating organizations with which the organization maintains a contract that includes a risk arrangement.

**(c)**

Unless, within fifteen (15) calendar days of the receipt of an organization's self-initiated CAP proposal, a contracting health plan or sub-delegating organization provides written notice to the Department and the organization stating the reason for its objections and recommendations for revisions, the self-initiated CAP shall be considered a final CAP subject to approval by the Department.

**(d)**

In the event that a contracting plan or sub-delegating organization files a written objection with the Department and the organization, the Department shall, within ten (10) calendar days, review the objections and inform the organization if revisions to the CAP proposal are needed or if the objections can be resolved. If the objections can be resolved, the self-initiated CAP proposal shall be considered the

final CAP subject to approval by the Department. If revisions to the CAP proposal are required, the organization will have ten (10) calendar days to: (1) Implement all corrective action strategies contained in its self-initiated CAP proposal that were not objected to by a contracting plan; and (2) Submit to each of its contracting plans and sub-delegating organizations and the Department a revised CAP proposal that addresses the concerns raised in the objections. To the extent possible, the revised CAP proposal shall be prepared as a single document that addresses the concerns of all plans and sub-delegating organizations with which the organization maintains a contract that includes a risk arrangement.

**(1)**

Implement all corrective action strategies contained in its self-initiated CAP proposal that were not objected to by a contracting plan; and

**(2)**

Submit to each of its contracting plans and sub-delegating organizations and the Department a revised CAP proposal that addresses the concerns raised in the objections. To the extent possible, the revised CAP proposal shall be prepared as a single document that addresses the concerns of all plans and sub-delegating organizations with which the organization maintains a contract that includes a risk arrangement.

**(e)**

Each contracting plan and sub-delegating organization shall have seven (7) calendar days to either accept or object to the self-initiated revised CAP proposal. If a plan or sub-delegating organization objects to the revised CAP proposal, the objection(s) and recommended revisions shall be submitted to the organization and the Department, in an electronic format prepared by the Department. If there are no objections, the self-initiated revised CAP proposal shall become the final

CAP subject to approval by the Department.

**(f)**

Within seven (7) calendar days of receipt of any contracting plans' or sub-delegating organization's objections and recommended revisions to the revised CAP proposal, the Department shall schedule a meeting ("CAP Settlement Conference") with the organization and all of its contracting plans and sub-delegating organizations to discuss and reconcile the differences.

**(g)**

Within seven (7) calendar days of the CAP Settlement Conference, the organization shall submit a final self-initiated CAP proposal to all of its contracting plans, sub-delegating organizations, and the Department.

**(h)**

Within twenty (20) calendar days of receipt of the organization's final self-initiated CAP proposal, the external party shall submit its recommendation to the Department to approve, disapprove or modify the organization's final self-initiated CAP proposal.

**(i)**

Within seven (7) calendar days of receipt of the external party's recommendation, the Department shall approve, disapprove or modify the organization's final self-initiated CAP proposal, which shall then become the final CAP. If the Department does not act upon the recommendations of the external party within seven (7) calendar days, the external party's recommendation shall be deemed approved.

**(j)**

A final CAP shall remain in effect until the organization demonstrates compliance with the requirements of the CAP, or the CAP expires in accordance with its own

terms.

**(k)**

In addition to the CAP requirements specified in subsection (a) above, the Department may direct an organization to initiate a CAP whenever it determines that an organization has experienced an event that materially alters its ability to remain compliant with the Grading Criteria or when the Department's review process indicates that the organization may lack sufficient financial capacity to meet its contractual obligations consistent with the requirements of section 1300.70(b)(2)(H) of Title 28, California Code of Regulations.

**(l)**

CAP Reporting: (1) Each periodic progress report prepared pursuant to a final CAP shall be submitted to the Department and all plans and sub-delegating organizations with which the organization has a contract involving a risk arrangement, and shall include a written verification stating that the periodic progress report is true and correct to the best knowledge and belief of a principal officer of the organization, as defined by section 1300.45(o) of Title 28 California Code of Regulations. (2) In addition to the quarterly progress reports specified in a CAP, every contract involving a risk arrangement between a plan or sub-delegating organization and an organization shall require: (A) the organization advise the plan and the Department in writing within five (5) calendar days if the organization experiences an event that materially alters the organization's ability to remain compliant with the requirements of a final CAP; and (B) the organization, upon the Department's request, provides additional documentation to the Department and its contracting plans to demonstrate the organization's progress towards fulfilling the requirements of a CAP. (3) Non-disclosure of CAP documentation and supporting work papers: (A) All draft, preliminary and final CAPs and all CAP



compliance reports required by a final CAP, including supporting documentation and supplemental financial information, submitted to the Department shall be received and maintained on a confidential basis and shall not be disclosed, except for the information outlined in section 1300.75.4.4(c)(3) to any party other than the organization and, as necessary, to its contracting plans and sub-delegating organizations that are participating in the CAP.

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Each periodic progress report prepared pursuant to a final CAP shall be submitted to the Department and all plans and sub-delegating organizations with which the organization has a contract involving a risk arrangement, and shall include a written verification stating that the periodic progress report is true and correct to the best knowledge and belief of a principal officer of the organization, as defined by section 1300.45(o) of Title 28 California Code of Regulations.

**(2)**

In addition to the quarterly progress reports specified in a CAP, every contract involving a risk arrangement between a plan or sub-delegating organization and an organization shall require: (A) the organization advise the plan and the Department in writing within five (5) calendar days if the organization experiences an event that materially alters the organization's ability to remain compliant with the requirements of a final CAP; and (B) the organization, upon the Department's request, provides additional documentation to the Department and its contracting plans to demonstrate the organization's progress towards fulfilling the requirements of a CAP.

**(A)**

the organization advise the plan and the Department in writing within five (5) calendar days if the organization experiences an event that materially alters the organization's ability to remain compliant with the requirements of a final CAP; and

**(B)**

the organization, upon the Department's request, provides additional documentation to the Department and its contracting plans to demonstrate the organization's progress towards fulfilling the requirements of a CAP.

**(3)**

Non-disclosure of CAP documentation and supporting work papers: (A) All draft, preliminary and final CAPs and all CAP compliance reports required by a final CAP, including supporting documentation and supplemental financial information, submitted to the Department shall be received and maintained on a confidential basis and shall not be disclosed, except for the information outlined in section 1300.75.4.4(c)(3) to any party other than the organization and, as necessary, to its contracting plans and sub-delegating organizations that are participating in the CAP.

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All draft, preliminary and final CAPs and all CAP compliance reports required by a final CAP, including supporting documentation and supplemental financial information, submitted to the Department shall be received and maintained on a confidential basis and shall not be disclosed, except for the information outlined in section 1300.75.4.4(c)(3) to any party other than the organization and, as necessary, to its contracting plans and sub-delegating organizations that are participating in the CAP.