

53865 Financial Performance Guarantee

(a)

Each plan shall provide evidence of and maintain an acceptable financial performance guarantee to the department as specified below.

(b)

The department shall approve the form and amount of financial performance guarantee required for each plan contract.

(c)

The department may waive the requirement for a financial performance guarantee for a plan which is qualified as an HMO under Title XIII, Public Health Service Act (42 U.S.C. Section 300e et seq.).

(d)

The department shall take possession of the financial performance guarantee sufficient to indemnify the department in the event that the plan defaults on any contractual obligation to the department.

(e)

A financial performance guarantee is required, and shall be equal to at least one month's capitation as determined by the department and may be in the form of, but not limited to, one of the following options cited below. The department may extend the time periods for compliance if the department determines that such extension or phase-in will not present a significant financial risk to the State, and if

it will not cause the plan to be operated in a manner that may be hazardous to its members. (1) Guarantee/Performance Bond, or (2) A guaranteed letter of credit, or (3) A time certificate of deposit. A plan electing the time certificate of deposit option may fulfill this requirement by making a deposit with the department, or at the discretion of the department, with any bank authorized to do business in this State and insured by the Federal Deposit Insurance Corporation, or savings and loan association doing business in this State and insured by the Savings Association Insurance Fund. Cash, investment certificates, accounts, or any combination of these shall be assigned to the department, upon those terms as the department may prescribe, until released by the department. The deposit required shall be an allowable asset of the plan in the determination of tangible net equity and all income from the deposit shall be an asset of the plan. A plan that has made a deposit pursuant to this option may withdraw that deposit or any part thereof, after making a substitute deposit of cash, investment certificates, accounts or any combination of these. Any substitute deposit shall be approved by the department before being deposited or substituted. (4) A trust agreement under a Financial Security Agreement with an approved financial institution. (5) Withhold from capitation by the department an amount equal to the required amount and retained by the department until completion of the contractual obligations associated with the contract.

(1)

Guarantee/Performance Bond, or

(2)

A guaranteed letter of credit, or

(3)

A time certificate of deposit. A plan electing the time certificate of deposit option may

fulfill this requirement by making a deposit with the department, or at the discretion of the department, with any bank authorized to do business in this State and insured by the Federal Deposit Insurance Corporation, or savings and loan association doing business in this State and insured by the Savings Association Insurance Fund. Cash, investment certificates, accounts, or any combination of these shall be assigned to the department, upon those terms as the department may prescribe, until released by the department. The deposit required shall be an allowable asset of the plan in the determination of tangible net equity and all income from the deposit shall be an asset of the plan. A plan that has made a deposit pursuant to this option may withdraw that deposit or any part thereof, after making a substitute deposit of cash, investment certificates, accounts or any combination of these. Any substitute deposit shall be approved by the department before being deposited or substituted.

(4)

A trust agreement under a Financial Security Agreement with an approved financial institution.

(5)

Withhold from capitation by the department an amount equal to the required amount and retained by the department until completion of the contractual obligations associated with the contract.