

§ 1394.8. Definitions; Insolvency of specialized health care service plan

(a) As used in this section:

(1) “Carrier” means a specialized health care service plan, and any of the following entities which offer coverage comparable to the coverages offered by a specialized health care service plan: an insurer issuing group disability coverage; a nonprofit hospital service plan; or any other entity responsible for either the payment of benefits for or the provisions of services under a group contract.

(2) “Insolvency” means that the director has determined that the specialized health care service plan is not financially able to provide specialized health care services to its enrollees and (A) the director has taken an action pursuant to Section 1386, 1391, 1399, or (B) an order requested by the director or the Attorney General has been issued by the superior court under Sections 1392, 1393, or 1394.1.

(3) “Specialized health care service plan” means any plan authorized to issue only specialized health care service plan contracts as defined in Section 1345.

(b) In the event of the insolvency of a specialized health care service plan and upon order of the director, any specialized health care service plan which the director determines to have sufficient health care delivery resources and sufficient financial and administrative capacity and that participated in the enrollment process with the insolvent specialized health care service plan at the last regular open enrollment period of a group for the same type of specialized health care services shall offer enrollees of the group in the insolvent specialized health care service plan a 30-day enrollment period commencing upon the date specified by the director. Each specialized health care service plan shall offer enrollees of the group in the insolvent specialized health care service plan the same specialized coverage and rates that it offered to the enrollees of the group at its last regular open enrollment period. Coverage shall be effective upon receipt by the successor plan of an application for enrollment by or on behalf of a subscriber or enrollee of the insolvent plan. The director shall send a notice of the insolvency of a specialized health care service plan to the Insurance Commissioner.

(c) If no other carrier for the same type of specialized health care services had been offered to some groups enrolled in the insolvent specialized health care service plan, or if the director determines that the other carriers do not include a sufficient number of specified health care service plans which have

adequate health care delivery resources or the financial and administrative capacity to assure that the specialized health care services will be available and accessible to all of the group enrollees of the insolvent specialized health care service plan, then the director shall allocate equitably the insolvent specialized health care service plan's group contracts for the groups among all specialized health care service plans which offer the same type of specialized health care services as the insolvent plan and which operate within at least a portion of the service area of the insolvent specialized health care service plan, taking into consideration the health care delivery resources and the financial and administrative capacity of each specialized health care service plan. The director shall also have the authority to allocate equitable enrollees if he or she has been unable to successfully place them through the open enrollment procedure in subdivision (b). The director shall make every reasonable effort to allocate enrollees within 30 days of the insolvency of the plan, but not later than 45 days after insolvency. Each specialized health care service plan to which a group or groups is so allocated shall offer such group or groups the specialized health care service plan's coverage which is most similar to each group's coverage with the insolvent specialized health care service plan as determined by the director, at rates determined in accordance with the successor specialized health care service plan's existing rating methodology. Coverage shall be effective on a date specified by the director. Further, except to the extent benefits for any condition would have been reduced or excluded under the insolvent specialized health care service plan's contract or policy, no provision in a successor specialized health care service plan's contract of coverage which would operate to reduce or exclude benefits on the basis that the condition giving rise to benefits preexisted on the effective date of the enrollee's assignment to the succeeding plan shall be applied with respect to those enrollees validly covered under the insolvent specialized health care service plan's contract or policy on the date of the assignment.

(d) The director shall also allocate equitably the insolvent specialized health care service plan's nongroup enrollees among all specialized health care services which offer the same type of specialized health care services as the insolvent plan and which operate within at least a portion of the insolvent specialized health care service plan's service area, taking into consideration the health care delivery resources and the financial and administrative capacity of each specialized health care service plan. Each specialized health care service plan to which nongroup enrollees are allocated shall offer the nongroup enrollees the health care service plan's most similar coverage for individual or conversion coverage, as determined by the director, taking into consideration his or her type of coverage in the insolvent specialized health care service plan at rates determined in accordance with the successor specialized health care service plan's existing rating methodology. Coverage shall be effective on the date specified by the director. Further, except to the extent benefits for any condition would have been reduced or excluded under the insolvent specialized health care service plan's contract or policy, no provision in a successor specialized health care service plan's contract of coverage which would operate to reduce or exclude benefits on the basis that the condition giving rise to benefits preexisted on the effective date of the enrollee's assignment to the succeeding plan shall be applied with respect to

those enrollees validly covered under the insolvent specialized health care service plan's contract or policy on the date of the assignment. Successor specialized health care service plans which do not offer direct nongroup enrollment may aggregate all allocated nongroup enrollees into one group for rating and coverage purposes.

(e) Contracting providers shall continue to provide services to enrollees of an insolvent plan until the effective date of an enrollee's coverage in a successor plan selected pursuant to either open enrollment or the allocation process but in no event for the period exceeding that required by their contract or 45 days in the case of allocation, whichever is greater; or for a period exceeding that required by their contract or 30 days in the case of open enrollment, whichever is greater.

(f) Failure to comply with an order pursuant to this section shall constitute a violation of this section.

HISTORY:

Added Stats 1990 ch 1043 § 9 (SB 785). effective January 1, 2000, operative July 1, 2000.
Amended Stats 1999 ch 525 § 149 (AB 78),

ARTICLE 9

Miscellaneous

Section

1395. Advertising; Contracts with licensed professionals; Offices; Misrepresentations by plan; Compliance by plan.

1395.5. Contract to restrict health care provider's advertising.

1395.6. Disclosure relating to health care provider's participation in network; Disclosures by contracting agent conveying its list of contracted health care providers and reimbursement rates; Election by provider to be excluded from list; Demonstration by payor of entitlement to pay contracted rate.

1395.7. Staff-model dental health care service plan; Compliance with policies and procedures.

1396. Misstatements or omissions in documents filed.

1396.5. Privileges of nonprofit hospital corporations which indemnified subscribers.

1397. Hearings; Judicial review.

1397.5. Summary of grievances against plans.

1397.6. Contracts with medical consultants.

1398. [Section repealed 2001.]

1398.5. References to prior law.

1399. Surrender of license; Summary suspension or revocation of license.

1399.1. Administrative actions applicable to transitionally licensed plans.

1399.3. Material change to contract effective upon delivery of notice by health care service plan to solicitor.

1399.5. Legislative intent; Application of chapter.

HISTORY: Added Stats 1975 ch 941 § 2, operative July 1, 1976.