

516E.4 Reimbursement insurance policy requirements — insurer qualifications.

1. *Requirements.* A reimbursement insurance policy insuring a service contract issued, sold, or offered for sale in this state shall provide for all of the following:

a. The reimbursement insurance policy shall, in the event of the service company's failure to perform under the service contract or otherwise, either reimburse or pay on behalf of the service company any covered amounts that the service company is legally obligated to pay under the service contract, including the return of any unearned service company fee owed by the service company to the service contract holder.

b. An insurer that issues a reimbursement insurance policy shall assume full responsibility for the administration of claims made pursuant to a service contract in the event that the service company is unable to do so.

c. If a service covered under a service contract is not provided by the service company within sixty days of proof of loss by the service contract holder, the service contract holder is entitled to apply directly against the reimbursement insurance policy of the service company.

2. *Termination.* As applicable, an insurer that issued a reimbursement insurance policy shall not terminate the policy unless a written notice has been received by the commissioner and by each applicable provider, service company, or third-party administrator. The notice shall fix the date of termination at a date no earlier than ten days after receipt of the notice by the commissioner and by the applicable provider, service company, or third-party administrator. The notice may be delivered in person or sent by mail, and a restricted certified mail return receipt shall be deemed proof of receipt of notice. The termination of a reimbursement insurance policy shall not reduce the issuer's responsibility for a service contract issued by a service company prior to the date of termination.

3. *Indemnification or subrogation.* This section does not prevent or limit the right of an insurer that issued a reimbursement insurance policy to seek indemnification from or subrogation against a service company if the insurer pays or is obligated to pay a service contract holder sums that the service company was obligated to pay pursuant to the provisions of a service contract or pursuant to a contractual agreement.

4. *Obligations insured.* If a service company secures its service contracts with a reimbursement insurance policy, the reimbursement insurance policy shall insure one hundred percent of the obligations of all service contracts sold by the service company.

5. *Qualifications of insurer.* An insurer issuing a reimbursement insurance policy under this chapter shall be authorized, registered, or otherwise permitted to transact business in this state, or shall be an excess and surplus lines insurer authorized, registered, or otherwise permitted to transact business in this state, and shall meet one of the following requirements:

a. At the time the policy is filed with the commissioner, and continuously thereafter, the insurer maintains surplus as to policyholders and paid-in capital of at least fifteen million dollars and annually files copies of the insurer's financial statements, national association of insurance commissioners annual statement, and actuarial certification, if required and filed in the insurer's state of domicile.

b. At the time the policy is filed with the commissioner and continuously thereafter, the insurer does all of the following:

(1) Maintains surplus as to policyholders and paid-in capital of less than fifteen million dollars but at least ten million dollars.

(2) Demonstrates to the satisfaction of the commissioner that the insurer maintains a ratio of net written premiums, wherever written, to surplus as to policyholders and paid-in capital of not greater than three to one.

(3) Files copies annually of the insurer's financial statements, national association of insurance commissioners annual statement, and actuarial certification, if required and filed in the insurer's state of domicile.

85 Acts, ch 45, §4

CS85, §321I.4

2000 Acts, ch 1147, §15

C2001, §516E.4

2005 Acts, ch 70, §28; 2006 Acts, ch 1117, §83, 84