

**514B.25A Insolvency protection — assessment.**

1. Upon a health maintenance organization or organized delivery system authorized to do business in this state and licensed by the director of public health being declared insolvent by the district court, the commissioner may levy an assessment on each health maintenance organization or organized delivery system doing business in this state and licensed by the director of public health, as applicable, to pay claims for uncovered expenditures for enrollees. The commissioner shall not assess an amount in any one calendar year which is more than two percent of the aggregate premium written by each health maintenance organization or organized delivery system.

2. The commissioner may use funds obtained through an assessment under subsection 1 to pay claims for uncovered expenditures for enrollees of an insolvent health maintenance organization or organized delivery system and administrative costs. The commissioner, by rule, may prescribe the time, manner, and form for filing claims under this section. The commissioner may require claims to be allowed by an ancillary receiver or the domestic receiver or liquidator.

3. a. A receiver or liquidator of an insolvent health maintenance organization or organized delivery system shall allow a claim in the proceeding in an amount equal to uncovered expenditures and administrative costs paid under this section.

b. A person receiving benefits under this section for uncovered expenditures is deemed to have assigned the rights under the covered health care plan certificates to the commissioner to the extent of the benefits received. The commissioner may require an assignment of such rights by a payee, enrollee, or beneficiary, to the commissioner as a condition precedent to the receipt of such benefits. The commissioner is subrogated to these rights against the assets of the insolvent health maintenance organization or organized delivery system that are held by a receiver or liquidator of a foreign jurisdiction.

c. The assigned subrogation rights of the commissioner and allowed claims under this subsection have the same priority against the assets of the insolvent health maintenance organization or organized delivery system as those claims of persons entitled to receive benefits under this section or for similar expenses in the receivership or liquidation.

4. If funds assessed under subsection 1 are unused following the completion of the liquidation of an insolvent health maintenance organization or organized delivery system, the commissioner shall distribute the remaining amounts, if such amounts are not de minimis, to the health maintenance organizations or organized delivery systems that were assessed.

5. The aggregate coverage of uncovered expenditures under this section shall not exceed three hundred thousand dollars with respect to one individual. Continuation of coverage shall cease after the lesser of one year after the health maintenance organization or organized delivery system is terminated by insolvency or the remaining term of the contract. The commissioner may provide continuation of coverage on a reasonable basis, including, but not limited to, continuation of the health maintenance organization or organized delivery system contract or substitution of indemnity coverage in a form as determined by the commissioner.

6. The commissioner may waive an assessment of a health maintenance organization or organized delivery system if such organization or system is impaired financially or would be impaired financially as a result of such assessment. A health maintenance organization or organized delivery system that fails to pay an assessment within thirty days after notice of the assessment is subject to a civil forfeiture of not more than one thousand dollars for each day the failure continues, and suspension or revocation of its certificate of authority. An action taken by the commissioner to enforce an assessment under this section may be appealed by the health maintenance organization or organized delivery system pursuant to chapter 17A.

2000 Acts, ch 1023, §26