



ADMINISTRATIVE RULES OF MONTANA



37.86.5010 HEALTH MAINTENANCE ORGANIZATIONS: CONTRACTS FOR SERVICES

- (1) The department may enter into a contract with an HMO with a certificate of authority under the provisions of 33-31-201 , et seq., MCA, to provide any of the services specified in ARM 37.86.5007.
- (2) An HMO, entering into a contract with the department, must meet the requirements in 53-6-705 , MCA.
- (3) A contract for the provision of services through an HMO must meet the requirements of 42 CFR part 434. The department hereby adopts and incorporates by reference 42 CFR part 434, dated October 1998. A copy of the incorporated provisions may be obtained through the Department of Public Health and Human Services, Health Policy and Services Division, 1400 Broadway, P.O. Box 202951, Helena, MT 59620-2951.
- (4) An HMO entering into a contract with the department for the delivery of services assumes the risk that the costs of performance may exceed the consideration available through the capitation rate and otherwise.
- (5) An HMO must provide the department with documented assurances to show that the HMO is not likely to become insolvent. This requirement may be satisfied by documenting compliance with 33-31-216 , MCA.
- (6) An HMO may not in any manner hold an enrollee responsible for the debts of the HMO.
- (7) A contract with an HMO must:
 - (a) list the covered services to be provided by the HMO;
 - (b) specify the method and rate of reimbursement; and
 - (c) provide for disclosure of ownership and subcontractor relationship; and
 - (d) owners, directors, officers, or partners of the HMO must certify that they meet federal nondebarment requirements.
- (8) A contract may be terminated for cause, if the contractor fails to:
 - (a) perform the services within the time limits specified in the contract;
 - (b) perform any requirement of the contract;
 - (c) perform its contractual duties or responsibilities specified in the standards of contractor performance defined in the contract;
 - (d) comply with any law, regulation or licensure and certification requirement; or

- (e) comply with the restrictions and limitations placed on contractor activities under the contract and its attachments.
- (9) Prior to termination of a contract or withholding of payments for cause, except as provided in (9) (a) , a notice to cure will be sent to the HMO, stating the failures in performance and specifying the HMO has 30 days to correct the failures. The department may proceed with the proposed termination or withholding of payments, if the HMO fails to correct the failures in performance in the specified time period for correction.
- (a) A contract with an HMO may be terminated immediately in whole or in part by the department when:
- (i) the HMO becomes insolvent;
 - (ii) the HMO loses a certificate of authority;
 - (iii) the department determines that termination is necessary to protect the health of enrollees;
 - (iv) the HMO applies for or consents to the appointment of a receiver, trustee, or liquidation for itself or any of its property;
 - (v) the HMO admits in writing that it is unable to pay its debts as they mature;
 - (vi) the HMO assigns for the benefit of creditors;
 - (vii) the HMO commences a proceeding in bankruptcy, reorganization, insolvency, or readjustment under a provision of a federal or state law or files an answer admitting the material allegations of a petition filed against the contract in any such proceeding; or
 - (viii) there is a commencement of an involuntary proceeding against the HMO under any bankruptcy, reorganization, insolvency, or readjustment in a provision of federal or state law that is not dismissed within 60 days.
- (10) An HMO may not appeal a contractual matter through the fair hearing process provided at ARM 37.5.304, et seq.
- (11) An HMO may specify in a contract a limit to the number of enrollees who can be enrolled with the HMO. If a limit is specified, the HMO must accept the number of voluntarily and assigned enrollees up to the limit specified in the contract.
- (12) The department may contract with one or more HMO or other managed health care providers to provide managed health care in an enrollment area.
- (13) The contract may contain proprietary information. An HMO entering into a contract with the department to provide HMO covered services does not constitute an agreement to release information, including information concerning the provider's information system, which is proprietary in nature.

Authorizing statute(s): Sec. 53-2-201 and 53-6-113, MCA

Implementing statute(s): Sec. 53-2-201, 53-6-101, 53-6-113 and 53-6-116, MCA

History: NEW, 1995 MAR p. 2155, Eff. 9/29/95; AMD, 1997 MAR p. 503, Eff. 3/11/97; AMD, 1997 MAR p. 1210, Eff. 7/8/97; TRANS, from SRS, 2000 MAR p. 481; AMD, 2000 MAR p. 866, Eff. 3/31/00.