

FIRST REGULAR SESSION

# HOUSE BILL NO. 224

## 92ND GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE LUETKEMEYER.

Read 1<sup>st</sup> time January 21, 2003, and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

1007L.011

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### AN ACT

To repeal sections 354.085 and 354.405, RSMo, and to enact in lieu thereof two new sections relating to health insurance administration.

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*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Sections 354.085 and 354.405, RSMo, are repealed and two new sections  
2 enacted in lieu thereof, to be known as sections 354.085 and 354.405, to read as follows:

354.085. No corporation subject to the provisions of sections 354.010 to 354.380 shall  
2 deliver or issue for delivery in this state a form of membership contract, or any endorsement or  
3 rider thereto, until a copy of the form shall have been approved by the director. The director  
4 shall not approve any policy forms which are not in compliance with the provisions of sections  
5 354.010 to 354.380 of this state, or which contain any provision which is deceptive, ambiguous  
6 or misleading, or which do not contain such words, phraseology, conditions and provisions  
7 which are specific, certain and reasonably adequate to meet needed requirements for the  
8 protection of those insured. If a policy form is disapproved, the reasons therefor shall be stated  
9 in writing; a hearing shall be granted upon such disapproval, if so requested; provided, however,  
10 that such hearing shall be held no sooner than fifteen days following the request. The failure of  
11 the director of insurance to take action approving or disapproving a submitted policy form within  
12 [thirty] **forty-five** days from the date of filing shall be deemed an approval thereof [until such  
13 time as the director of insurance shall notify the submitting company, in writing, of his  
14 disapproval]. **The director shall not disapprove any deemed policy form for a period of**  
15 **twelve months thereafter. If at any time during that twelve-month period the director**  
16 **determines that any provision of the deemed policy form is contrary to state law, the**

**EXPLANATION — Matter enclosed in bold faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law. Matter in boldface type in the above law is new proposed language.**

17 **director shall notify the health services corporation of the specific provision that is**  
18 **contrary to state law, and any specific statute to which the provision is contrary to, and**  
19 **request that the health services corporation file, within thirty days of receipt of the request,**  
20 **an amendment form that modifies the provision to conform to state law. Upon approval**  
21 **of the amendment form by the director, the health services corporation shall issue a copy**  
22 **of the amendment to each individual and entity to which the deemed policy form was**  
23 **previously issued and shall attach a copy of the amendment to the deemed policy form**  
24 **when it is subsequently issued. Such amendment shall have the force and effect as if the**  
25 **amendment was in the original filing or policy.** The director of insurance shall have authority  
26 to make such reasonable rules and regulations concerning the filing and submission of such  
27 policy forms as are necessary, proper or advisable.

354.405. 1. Notwithstanding any law of this state to the contrary, any person may apply  
2 to the director for a certificate of authority to establish and operate a health maintenance  
3 organization in compliance with this act. No person shall establish or operate a health  
4 maintenance organization in this state without obtaining a certificate of authority pursuant to  
5 sections 354.400 to 354.636. A foreign corporation may qualify pursuant to sections 354.400  
6 to 354.636, subject to its registration to do business in this state as a foreign corporation pursuant  
7 to chapter 351, RSMo, and compliance with the provisions of sections 354.400 to 354.636.

8 2. Every health maintenance organization doing business in this state on September 28,  
9 1983, shall submit an application for a certificate of authority pursuant to subsection 3 of this  
10 section within one hundred twenty days of September 28, 1983. Each such applicant may  
11 continue to operate until the director acts upon the application. In the event that an application  
12 is not submitted or is denied pursuant to section 354.410, the applicant shall henceforth be  
13 treated as a health maintenance organization whose certificate of authority has been revoked.  
14 Any health maintenance organization licensed by the department of insurance prior to September  
15 28, 1983, and complying with the paid-in capital or guarantee fund requirements of section  
16 354.410 shall be issued a certificate of authority upon filing an amended certificate of authority  
17 and an amended articles of incorporation that conform with sections 354.400 to 354.636. When  
18 the annual statement of a health maintenance organization subject to the provisions of sections  
19 354.400 to 354.636 is filed and all fees due from the health maintenance organization are  
20 tendered, the health maintenance organization's certificate of authority to do business in this state  
21 shall automatically be extended pending formal renewal by the director, or until such time as the  
22 director should refuse to renew the certificate.

23 3. Each application for a certificate of authority shall be verified by an officer or  
24 authorized representative of the applicant, shall be in a form prescribed by the director, and shall  
25 set forth or be accompanied by the following:

26 (1) A copy of the organizational documents of the applicant such as the articles of  
27 incorporation, articles of association, partnership agreement, trust agreement, or other applicable  
28 documents, and all amendments thereto;

29 (2) A copy of the bylaws, rules and regulations, or similar document, if any, regulating  
30 the conduct of the internal affairs of the applicant;

31 (3) A list of the names, addresses, and official positions of the persons who are to be  
32 responsible for the conduct of the affairs of the applicant, including all members of the board of  
33 directors, board of trustees, executive committee, or other governing board or committee, the  
34 principal officers if the applicant is a corporation, and the partners or members if the applicant  
35 is a partnership or association;

36 (4) A copy of any contract made or to be made between any providers and persons listed  
37 in subdivision (3) of this subsection and the applicant;

38 (5) A copy of the form of evidence of coverage to be issued to the enrollees;

39 (6) A copy of the form of the group contract, if any, which is to be issued to employers,  
40 unions, trustees, or other organizations;

41 (7) Financial statements showing the applicant's assets, liabilities, and sources of  
42 financial support. If the applicant's financial affairs are audited by independent certified public  
43 accountants, a copy of the applicant's most recent certified financial statement shall be deemed  
44 to satisfy this requirement unless the director directs that additional or more recent financial  
45 information is required for the proper administration of sections 354.400 to 354.636;

46 (8) A description of the proposed method of marketing the plan, a financial plan which  
47 includes a three-year projection of operating results anticipated, and a statement as to the sources  
48 of working capital as well as any other sources of funding;

49 (9) If the applicant is not domiciled in this state, a power of attorney duly executed by  
50 such applicant appointing the director, the director's successors in office, and duly authorized  
51 deputies, as the true and lawful attorney of such applicant in and for this state upon whom all  
52 lawful process in any legal action or proceeding against the health maintenance organization on  
53 a cause of action arising in this state may be served;

54 (10) A statement reasonably describing the geographic area or areas to be served;

55 (11) A description of the complaints procedures to be utilized as required by section  
56 354.445;

57 (12) A description of the mechanism by which enrollees will be afforded an opportunity  
58 to participate in matters of policy and operation;

59 (13) Evidence demonstrating that the health maintenance organization has provided its  
60 enrollees with adequate access to health care providers; and

61 (14) Such other information as the director may require to make the determinations

62 required in section 354.410.

63           4. Every health maintenance organization shall file with the director notice of its  
64 intention to modify any of the procedures or information described in and required to be filed by  
65 this section. Such changes shall be filed with the director prior to the actual modification. If the  
66 director does not disapprove the modification within [thirty] **forty-five** days of filing, **citing**  
67 **specific reasons for noncompliance**, such modification shall be deemed approved. **If a filing**  
68 **that is deemed approved is a document described in subdivision (4), (5) or (6) of subsection**  
69 **3 of this section, the director shall not disapprove the deemed filing for a period of twelve**  
70 **months thereafter. If at any time during that twelve-month period the director determines**  
71 **that any provision of the deemed filing is contrary to state law, the director shall notify the**  
72 **health maintenance organization of the specific provision that is contrary to state law, and**  
73 **any specific statute to which the provision is contrary to, and request that the health**  
74 **maintenance organization file, within thirty days of receipt of the request, an amendment**  
75 **form that modifies the provision to conform to the state law. Upon approval of the**  
76 **amendment form by the director, the health maintenance organization shall issue a copy**  
77 **of the amendment to each individual and entity to which the deemed filing was previously**  
78 **issued and shall attach a copy of the amendment to the deemed filing when it is**  
79 **subsequently issued. Such amendment shall have the force and effect as if the amendment**  
80 **was in the original filing or policy.**

81           5. A health maintenance organization shall file all contracts of reinsurance. Any  
82 agreement between the organization and an insurer shall be subject to the laws of this state  
83 regarding reinsurance. All reinsurance agreements and any modifications thereto shall be filed  
84 and approved.

85           6. When the director deems it appropriate, the director may exempt any item from the  
86 filing requirements of this section.