

To: HMO Issues (B) Subgroup members and interested regulators

From: Jolie H. Matthews, NAIC Staff

Date: October 15, 2018

Re: NAIC Staff Recommendations for Subgroup Discussion Concerning the Receivership and Insolvency (E) Task Force Referral

During its June 28 meeting, the Health Insurance and Managed Care (B) Committee (“Committee”) decided to accept the referral from the Receivership and Insolvency (E) Task Force (“RITF”) to review relevant health maintenance organization (HMO) NAIC models to determine if revisions need to be made for consistency with the revisions to the *Life and Health Insurance Guaranty Association Model Act* (#520). The revisions to Model #520, which the full NAIC membership adopted Dec. 21, 2017, add HMOs as members of the life and health insurance guaranty association. The Committee directed the Regulatory Framework (B) Task Force (“RFTF”) to conduct this review and report back to the Committee with any recommendations. At the NAIC Summer National Meeting, the RFTF formed a new subgroup, the HMO Issues (B) Subgroup (“Subgroup”), to carry out this work.

To assist the Subgroup in carrying out this work, NAIC staff reviewed several NAIC models having the most potential for being affected by the Model #520 revisions, including the *Health Maintenance Organization Model Act* (#430). At this point in time, Model #430 seems to be the only NAIC model principally affected. Specifically, NAIC staff recommends the Subgroup review the following Model #430 provisions to develop its recommendations to the Committee regarding any potential revisions because of the Model #520 revisions:

- Section 3—Definitions, specifically the definition of “uncovered expenditures” in Section 3HH.
- Section 5—Establishment of Health Maintenance Organizations, specifically the provisions in Option B: Section 5B(16).
- Section 14—Continuation of Benefits.
- Section 18—Deposit Requirements.
- Section 19—Hold Harmless Provision Requirements for Covered Persons.
- Section 20—Uncovered Expenditures Deposit.
- Section 21—Open Enrollment and Replacement Coverage in Event of Insolvency.
- Section 31—Rehabilitation, Liquidation or Conservation of Health Maintenance Organizations.

Also, in its referral, the RITF requested the Committee review the consistency of definitions of HMO (or similar entity), health benefit plan, etc. NAIC staff reviewed the definition of “health maintenance organization,” “health benefit plan” and “health carrier” in a few of the recently adopted NAIC models, such as the *Individual Market Health Insurance Coverage Model Act* (#36), the *Health Benefit Plan Network Access and Adequacy Model Act* (#74) and the *Small Group Market Health Insurance Coverage Model Act* (#106), and found consistency in the definition of these terms with respect to the term “health maintenance organization.”

Lastly, the RITF requested the Committee review the impact of tax exempt status on options for recoupment of assessments (see Model 520, Section 13) with respect to HMOs. NAIC staff does not have any recommendations to provide to the Subgroup on this issue.