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Section 1. Short Title

This Act shall be known and may be cited as the Discount Medical Plan Organization Model Act.

Drafting Note: Those states that decide to include discount prescription drug plan organizations within the scope of this Act, as provided in Section 16 of this Act, may want to change the short title of this Act to the "Discount Medical Plan and Prescription Drug Plan Organization Model Act."

Section 2. Purpose

The purpose of this Act is to promote the public interest by establishing standards for discount medical plan organizations to protect consumers from unfair or deceptive marketing, sales or enrollment practices and to facilitate consumer understanding of the role and function of discount medical plan organizations in providing access to medical or ancillary services.

Drafting Note: Those states that decide to include discount prescription drug plan organizations within the scope of this Act, as provided

For purposes of this Act:

A. "Affiliate" means a person that directly, or indirectly through one or more in
controls, or is controlled by, or is under common control with, the person specified.

B. "Ancillary services" includes, but is not limited to, audiology, dental, vision, mental health, substance abuse, chiropractic and podiatry services.

C. "Commissioner" means the Commissioner of Insurance.

Drafting Note: Use the title of the chief insurance regulatory official wherever the term "commissioner" appears.

D. "Control" or "controlled by" or "under common control with" means the possession, direct or

G. "Discount medical plan organization" means an entity that, in exchange for fees, dues, charges or other consideration, provides access for discount medical plan members to providers of medical or ancillary services and the right to receive medical or ancillary services from those providers at a discount. It is the organization that contracts with providers, provider networks or other discount medical plan organizations to offer access to medical or ancillary services at a discount and determines the charge to discount medical plan members.

H.

Drafting Note: States that license health maintenance organizations pursuant to other statutes other than the insurance statutes and regulations, such as the public health laws, will want to reference the applicable statutes instead of, or in addition to, the insurance laws and regulations.

L. "Marketer" means a person or entity that markets, promotes, sells or distributes a discount medical plan, including a private label entity that places its name on and markets or distributes a discount medical plan pursuant to a marketing agreement with a discount medical plan organization.

M. (1) "Medical services" means any maintenance care of, or preventive care for, the human body or care, service or treatment of an illness or dysfunction of, or injury to, the human body.

(2) "Medical services" includes, but is not limited to, physician care, inpatient care, hospital surgical services, emergency services, ambulance services, laboratory services and medical equipment and supplies.

(3) "Medical services" does not include pharmacy services or ancillary services.

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S. "Provider" means any health care professional or facility that has contracted, directly or indirectly, with a discount medical plan organization to provide medical or ancillary services to members.

T. "Provider network" means an entity that negotiates directly or indirectly with a discount medical plan organization on behalf of more than one provider to provide medical or ancillary services to members.

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(1) Shall be in a form prescribed by the commissioner and verified by an officer or authorized representative of the applicant; and

(2) Shall demonstrate, set forth or be accompanied by the following, if applicable:

(a) The applicable fees required under [insert reference to appropriate section in state law];

(b) A copy of the organization documents of the applicant, such];A

medical or ancillary services to members;

(k) A copy of the applicant's most recent financial statements audited by an independent certified public accountant, except that, subject to the approval of the commissioner, an applicant that is an affiliate of a parent entity that is publicly traded and that prepares audited financial statements reflecting the consolidated operations of the parent entity may submit the audited financial statement of the parent entity and a written guaranty that the minimum capital requirements required under Section 6 of this Act will be met by the parent entity instead of the audited financial statement of the applicant;

Drafting Note: States should include Subparagraph (k) only if they require a discount medical plan organization to have a minimum net worth under Section 6 of this Act as a condition of licensure.

(l) A description of the proposed methods of marketin

I. In lieu of suspending or revoking a discount medical plan organization's license under Subsection H, whenever the discount medical plan organization has been found to have violated any provision of this Act, the commissioner may:

(1) Issue and cause to be served upon the organizatirtI43 (1) s oi ong a n:23.049 Tci tD--1.337 (r

(b) The applicant is under investigation for or the subject of any pending action or has been found in violation of a statue or regulation in any jurisdiction within the previous five (5) years; and

(4) Shall include information, as the commissioner may require, that permits the commissioner, after reviewing all of the information submitted pursuant to this subsection, to make a determination that the applicant:

(a) Is financially responsible;

(b) Has adequate expertise or experience to operate a discount medical plan organization; and

(c) Is of good character.

C. After the receipt of an application filed pursuant to Subsection B, the commissioner shall review the application and notify the applicant of any deficiencies in the application.

D. Within ninety (90) days after the date of receipt of a completed application, the commissioner shall:

(1) Issue a certificate of registration if the commissioner is satisfied that the applicant has met the following:

(a) The requirements of Subsection B have been met; and

(b) The applicant has the required minimum capital in accordance with Section 6 of this Act; or

Drafting Note: States should include Subparagraph (b) only if they require a discount medical plan organization to have a minimum net worth under Section 6 of this Act as a condition of registration.

(2) Disapprove the application and state the grounds for disapproval.

E. Prior to issuance of a certificate of registration by the commissioner, each discount medical plan organization shall establish an Internet website in order to conform a Tc 0 Tw 1.115 0 Td31.c 0 Tw 20

(3) The commissioner shall renew the certificate of registration of each holder that meets

(b) The commissioner may rescind or modify the order of suspension prior to the expiration of the suspension period.

(c) The certificate of registration of a discount medical plan organization shall not be reinstated unless requested by the discount medical plan organization. The commissioner shall not grant the request for reinstatement if the commissioner finds that the circumstances for which the suspension occurred still exist or are likely to recur.

H. In lieu of suspending or revoking a discount medical plan organization's certificate of registration under Subsection G, whenever the discount medical plan organization has been found to have violated any provision of this Act, the commissioner may:

(1) Issue and cause to be served upon the organization charged with the violation a copy of the findings and an order requiring the organization to cease and desist from engaging in the act or practice that constitutes the violation;

C. When a marketer or discount medical plan organization sells a discount medical plan in conjunction with any other products, the marketer or discount medical plan organization shall:

(1) Provide the charges for each discount medical plan in writing to the member; or

(2) Reimburse the member for all periodic charges for the discount medical plan and all periodic charges for any other product if the member cancels his or her membership in accordance with Subsection B(1).

D. Any discount medical plan organization that is a health carrier licensed pursuant to [insert reference to state insurance code or other applicable

(ii) That the range of discounts for medical or ancillary services provided under the plan will vary depending on the type of provider and medical or ancillary service received;

(iii) Unless the discount medical plan organization has an active certificate of authority to act as a third party administrator as described in Subsection B(7), that the plan does not make payments to providers for the medical or ancillary services received under the discount medical plan;

Drafting Note: The introductory language in Item (iii) above is intended to clarify that if a discount medical plan organization is a third party administrator, as described in Subsection B(7), then it does not have to provide this general disclosure to plan members. If the discount medical plan organization is not a third party administrator, then it must provide the general disclosure in Item (iii).

(iv) That the plan member is obligated to pay for all medical or ancillary services, but will receive a discount from those providers that have contracted with the discount medical plan organization; and

(v) The toll-free telephone number and Internet website address for the [licensed] [registered] discount medical plan organization for prospective members and members to obtain additional information about and assistance on the discount medical plan and up-to-date lists of providers participating in the discount medical plan.

(2) If the initial contact with a prospective member is by telephone, the disclosures required under Paragraph (1) shall be made orally and included in the initial written

(d) The mode of payment of any processing fees and periodic charges, such as monthly, quarterly, etc., and procedures for changing the mode of payment;

(e)

Drafting Note: Paragraph (1) has two options. Option 1 requires a discount medical plan organization to submit audited financial statements as part of the annual report in order for the commissioner to determine whether the organization is in compliance with the minimum capital requirements required under Section 6 of this Act. Option 2 requires a discount medical plan organization to submit a certification from one of its officers verifying that the discount medical plan organization is in compliance with the minimum capital requirements required under Section 6 of this Act. States should include Paragraph (1) only if they require a discount medical plan organizations to have a minimum net worth under Section 6 of this Act as a condition of licensure.

Option 1.

(1) Audited financial statements prepared in accordance with generally accepted accounting principles certified by an independent certified public accountant, including the organization's balance sheet, income statement and statement of changes in cash flow for the preceding year, except that, subject to the approval of the commissioner, an organization that is an affiliate of a parent entity that is publicly traded and that prepares audited financial statements reflecting the consolidated operations of the parent entity may submit the audited financial statement of the parent entity and a written guaranty that the minimum capital requirements required under Section 6 of this Act will be met by the parent entity instead of the audited financial statement of the organization;

Option 2.

(1) A certification verified by at least one principal officer of the discount medical plan organization that the organization is in compliance with the minimum capital requirements required under Section 6 of this Act;

Drafting Note: States should adopt Paragraphs (2), (3) and (4) below regardless of which option a state chooses to adopt for Paragraph (1) above.

(2) If different from the initial application for a [license] [certificate of registration] or at the time of renewal of a [license] [certificate of registration] or the last annual report, as appropriate, a list of the names and residence addresses of all persons responsible for the conduct of the organization's affairs, together with a disclosure of the extent and nature of any contracts or arrangements with these persons and the discount medical plan organization, including any possible conflicts of interest;

(3) The number of discount medical plan members in the state; and

(4) Any other information relating to the performance of the discount medical plan organization that may be required by the commissioner.

C. Any discount medical plan organization that fails to file an annual report in the form and within the time required by this section shall:

(1) Forfeit:

(a) Up to $500 each day for the first ten (10) days during which the violation continues; and

(b) Up to $1,000 each day after the first ten (10) days during which the violation continues; and

(2) Upon notice by the commissioner, lose its authority to enroll new members or to do business in this state while the violation continues.

Section 16. Discount Prescription Drug Plan Organizations [Optional]

Drafting Note: This section is optional for those states that want to include discount prescription drug plan organizations, as that term is defined in Section 3 of this Act, within the scope of this Act.

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(b) Any person, entity or discount medical plan organization has engaged in any