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Referred: Health, Education and Social
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6-1615A

BY SEN. KERTTULA

1 IN THE SENATE

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SENATE BILL NO. 335

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IN THE LEGISLATURE OF THE STATE OF ALASKA

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SIXTEENTH LEGISLATURE - SECOND SESSION

5

A BILL

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For an Act entitled: "An Act relating to health maintenance organiza-
tions."

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BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

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* Section 1. AS 21 is amended by adding a new chapter to read:

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CHAPTER 85. HEALTH MAINTENANCE ORGANIZATIONS.

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Sec. 21.85.010. CERTIFICATE REQUIRED. A health maintenance

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organization may not conduct business in this state unless the health

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maintenance organization has a certificate of authority issued by the

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director.

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Sec. 21.85.020. REQUIREMENTS FOR CERTIFICATE OF AUTHORITY. (a)

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An organization is eligible to receive a certificate of authority to

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operate as a health maintenance organization if the director is satis-

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fied that the organization will

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(1) provide health care services, either directly or

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through arrangements with health care providers, to participants on an

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individual prepayment basis;

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(2) be governed by a board elected by participants or on

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which participants will have a meaningful role in policy making proce-

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dures;

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(3) provide participants with a grievance procedure de-

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signed to settle disputes arising between a participant and the orga-

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nization;

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(4) provide participants with an annual financial statement

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that discloses income and expenses, assets and liabilities, and the

1 basis for proposed rate adjustments for health maintenance agreements;
2 and

3 (5) have facilities, personnel, and financing that are
4 reasonably adequate to provide health care services to participants.

5 (b) Application for a certificate of authority under this chap-
6 ter shall be on a form prescribed by the director. The application
7 must include

8 (1) names and addresses of directors, officers, partners,
9 or members;

10 (2) a copy of organizational documents, including amend-
11 ments and bylaws regarding the internal affairs of the applicant;

12 (3) disclosure of the financial interests held by an offi-
13 cer, director, or member in a health care provider associated with the
14 applicant;

15 (4) a description of the organization, facilities, and
16 personnel, including the applicant's most recent financial statement;

17 (5) a description of the geographic areas, the population
18 groups to be served, and the number of the anticipated participants;

19 (6) a copy of each type of agreement to be issued to a
20 participant;

21 (7) a schedule of proposed rates of reimbursement to con-
22 tracting health care providers and a schedule of proposed charges to
23 participants; and

24 (8) other information required by the director.

25 Sec. 21.85.030. ISSUANCE OF CERTIFICATE OF AUTHORITY. Except as
26 provided in this section, the director must issue a certificate of
27 authority to the applicant within 60 days after the application is
28 filed. The director may refuse to issue a certificate of authority if
29 the applicant fails to

- 1 (1) file a completed application;
- 2 (2) demonstrate the intent and ability to provide health
- 3 care services in a manner that assures availability and accessibility;
- 4 (3) demonstrate the financial solvency necessary to meet
- 5 anticipated obligations of participants; or
- 6 (4) establish procedures for offering health care services
- 7 and offering or terminating contracts with participants that are
- 8 reasonable and equitable in comparison with prevailing health insur-
- 9 ance subscription practices.

10 Sec. 21.85.040. GOVERNING BODY. The governing body of a health
11 maintenance organization must consist of persons nominated either by
12 voting members, by participants, or by health care providers. At
13 least one-third of the governing body must consist of consumers who
14 are substantially representative of the participants. This section
15 does not apply to a health maintenance organization that is qualified
16 under 42 U.S.C. 300(e) (Health Maintenance Organization Act of 1976).

17 Sec. 21.85.050. SUSPENSION OR REVOCATION OF CERTIFICATE OF
18 AUTHORITY. (a) A certificate of authority issued under this chapter
19 may be suspended or revoked if the director finds that the health
20 maintenance organization is

- 21 (1) operating significantly in contravention of its basic
- 22 organizational document;
- 23 (2) not providing or arranging for basic health care ser-
- 24 vices;
- 25 (3) no longer financially responsible or may reasonably be
- 26 expected to be unable to meet its obligations to participants;
- 27 (4) advertising its services in an untrue, misrepresenta-
- 28 tive, misleading, deceptive, or unfair manner; or
- 29 (5) otherwise substantially failing to comply with this

1 chapter.

2 (b) The hearing provisions of AS 21.06.180 - 21.06.240 are
3 applicable to the suspension or revocation of a certificate of author-
4 ity of health maintenance organization.

5 (c) If the certificate of authority of a health maintenance
6 organization is suspended, the organization may not, during the period
7 of the suspension, enroll additional participants, except newborn
8 children or other newly acquired dependents of existing participants,
9 and may not engage in advertising or solicitation of new participants.

10 (d) If the certificate of authority of a health maintenance
11 organization is revoked, the organization shall, immediately following
12 the effective date of the order of revocation, wind up its affairs,
13 and the health maintenance organization may not conduct further busi-
14 ness except as may be essential to the orderly conclusion of the
15 affairs of the organization. The director may, by written order,
16 permit further operation of the organization as may be in the best
17 interest of participants.

18 Sec. 21.85.060. PREPAYMENT AGREEMENTS. (a) A health mainte-
19 nance organization may enter into an agreement with a person or group
20 that requires prepayment for health care services. A prepayment
21 agreement is not considered insurance for purposes of this title if
22 the health care services are provided directly by the health mainte-
23 nance organization or by a health care provider that has a contract
24 with the health maintenance organization to render health care ser-
25 vices to participants.

26 (b) A prepayment agreement may not be entered into unless the
27 agreement form has been filed with and approved by the director. A
28 prepayment agreement form may be disapproved by the director if the
29 director determines that the agreement contains inconsistent,

1 ambiguous, or misleading clauses, or provisions inconsistent with this
2 chapter.

3 Sec. 21.85.070. ANNUAL STATEMENT. A health maintenance organi-
4 zation shall, within 120 days after the end of the fiscal year, file
5 with the director a statement showing the financial condition of the
6 organization as of the closing date of the fiscal year. The statement
7 required by this section must be in a form and contain the information
8 required by the director.

9 Sec. 21.85.080. NAME RESTRICTIONS. A health maintenance organi-
10 zation may not refer to itself in its name or advertising with the
11 words "insurance," "casualty," "surety," or "mutual," or, in other
12 words that are descriptive of the insurance, casualty, or surety
13 business.

14 Sec. 21.85.090. DISCRIMINATION. A health maintenance organiza-
15 tion may not unfairly discriminate against a participant regarding the
16 provision of health care services.

17 Sec. 21.85.100. RECOVERY OF HEALTH CARE COSTS. If a health
18 maintenance organization determines that a participant has received
19 health care services that the participant is not entitled to receive
20 under the terms of the health maintenance agreement, the organization
21 may not recover an amount above the actual cost of providing the
22 health care service. This section does not apply if the participant
23 gave or withheld information to the health maintenance organization
24 with the intent to mislead or misinform the organization as to the
25 participant's right to receive the health care services.

26 Sec. 21.85.110. EXAMINATION. The director may examine the books
27 and records of a health maintenance organization licensed in this
28 state in order to determine the financial condition of the organiza-
29 tion. The provisions of AS 21.06.140 - 21.06.170 apply to

1 examinations under this section.

2 Sec. 21.85.120. SURPLUS REQUIREMENTS. A health maintenance
3 organization shall have and maintain a minimum surplus in an amount
4 not less than \$100,000 or five percent of total liabilities, whichever
5 is greater. The director may lower the surplus requirements if the
6 director determines that the

7 (1) organization has an adequate history of generating net
8 income that assures financial viability for the next year;

9 (2) assets of the organization or its contracts with health
10 care providers are reasonably sufficient to assure the performance of
11 the organization; or

12 (3) obligations of the organization are structured towards
13 long-term payment so that a lower surplus requirement is adequate to
14 guarantee payment of the obligations.

15 Sec. 21.85.130. RETURN OF AGREEMENT. A person who enters into a
16 health maintenance agreement may return the agreement to the health
17 maintenance organization or the agent from whom it was purchased
18 within 10 days of the delivery of the agreement to the person if the
19 person is not satisfied for any reason. Upon return of the agreement,
20 the health maintenance organization shall promptly refund the fee paid
21 for the agreement. Notice of the substance of this section must be
22 printed on the face of the agreement.

23 Sec. 21.85.500. DEFINITIONS. In this chapter,

24 (1) "health care provider" has the meaning given in AS 21.-
25 88.900;

26 (2) "health care services" means basic consulting, diagnos-
27 tic, emergency, preventative, and therapeutic services rendered by a
28 health care provider;

29 (3) "health maintenance agreement" means an agreement for

1 health care services between a health maintenance organization
2 licensed in this state and a participant;

3 (4) "health maintenance organization" means an organization
4 that provides health care services to participants on a group or
5 individual prepayment basis;

6 (5) "participant" means a person or group that has entered
7 into a contract with a health maintenance organization to receive
8 health care services.

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