

**VERMONT DEPARTMENT OF BANKING, INSURANCE, SECURITIES  
AND HEALTH CARE ADMINISTRATION**

**RULE I-98-2**

**MEDICARE PLUS CHOICE SOLVENCY RULE**

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**Section 1. Purpose**

The purpose of this rule is to implement Title 8 V.S.A. § 5102b(1) to promulgate solvency standards for the licensure of provider sponsored organizations for purposes of the Medicare+Choice program.

**Section 2. Authority**

This rule is issued pursuant to the authority vested in the Commissioner under Title 8 V.S.A. § 5102b(1).

**Section 3. Applicability and Scope**

This rule is only applicable to provider sponsored organizations applying for licensure in Vermont that intend to offer solely the Medicare+Choice program.

**Section 4. Definitions**

- A. Health Care Financing Administration ("HCFA"): the agency of the federal Department of Health and Human Services that administers the Medicare program.
- B. Medicare+Choice: means the Medicare health benefits program created by Section 4001 of the Balanced Budget Act of 1997 (Pub.L. 105-33) as defined in 42 USC 1395w-21-28.
- C. Provider sponsored organization: means a public or private entity (a) that is established or organized and operated by a health care provider, or group of affiliated health care providers, (b) that provides a substantial proportion of the

health care items and services under the Medicare+Choice contract directly through the provider or affiliated group of providers, and (c) with respect to which the affiliated providers share, directly or indirectly, substantial financial risk with respect to the provision of such items and services and have at least majority financial interest in the entity. The term "provider sponsored network" shall have the same meaning as provider sponsored organization.

### **Section 5. Solvency Provisions**

The solvency standards promulgated by the Health Care Financing Administration for purposes of the Medicare+Choice program for provider sponsored organizations are hereby adopted for those provider sponsored organizations who seek Vermont licensure in order to offer the Medicare+Choice product. These solvency standards are contained in 63 Fed. Reg. 25377-25379 (1998) (to be codified at 42 CFR 422.380-390), as amended or changed from time to time by the Health Care Financing Administration ("HCFA Solvency Standards"). Because it is the intent that Vermont solvency standards for provider sponsored organizations for the Medicare+Choice program mirror the HCFA Solvency Standards, any amendments or changes made by the Health Care Financing Administration to these solvency standards are automatically included in this rule.

The Commissioner is empowered to act and to exercise discretion in applying the HCFA Solvency Standards in the same manner and to the same extent as the Health Care Financing Administration is so authorized by the HCFA Solvency Standards. The Commissioner shall make an effort to exercise this discretion in a manner consistent with the discretionary decisions made by the Health Care Financing Administration.

### **Section 6. Severability**

Should a court hold any provision of this rule invalid in any circumstance, the invalidity shall not affect any other provision or circumstance.

### **Section 7. Effective Date**

The rule will be effective upon adoption.