

(2) (I) EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, THE SURPLUS THAT A MANAGED CARE ORGANIZATION IS REQUIRED TO HAVE SHALL BE PAID IN FULL.

(II) A MANAGED CARE ORGANIZATION SHALL HAVE AN INITIAL SURPLUS THAT EXCEEDS THE LIABILITIES OF THE MANAGED CARE ORGANIZATION BY AT LEAST \$1,500,000.

(B) (1) IN CONSULTATION WITH THE SECRETARY, THE INSURANCE COMMISSIONER MAY ADJUST THE INITIAL SURPLUS REQUIREMENT FOR A MANAGED CARE ORGANIZATION THAT IS NOT LICENSED AS A HEALTH MAINTENANCE ORGANIZATION. IN DETERMINING WHETHER TO MAKE AN ADJUSTMENT UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE COMMISSIONER SHALL CONSIDER:

(I) THE PROPOSED CAPITATION LEVEL THAT WOULD BE RECEIVED BY THE MANAGED CARE ORGANIZATION UNDER A CONTRACT WITH THE DEPARTMENT UNDER THIS SUBTITLE;

(II) THE PROPOSED RANGE OF BENEFITS TO BE PROVIDED UNDER A CONTRACT WITH THE DEPARTMENT UNDER THIS SUBTITLE;

(III) THE EXISTENCE OF ANY COMMITMENT BY THE SECRETARY TO DESIGNATE FUNDS OVER AND ABOVE THE PROPOSED CAPITATION WHERE THE DESIGNATED FUNDS:

1. ARE EQUIVALENT TO THE DIFFERENCE BETWEEN THE REQUIREMENTS OF § 19-710 OF THIS SUBTITLE AND ANY LOWER REQUIREMENTS DETERMINED BY THE COMMISSIONER UNDER THIS SUBPARAGRAPH; AND

2. WOULD BE AVAILABLE IN CASE OF THE IMPAIRMENT OR INSOLVENCY OF THE MANAGED CARE ORGANIZATION; AND

(IV) THE AVAILABILITY OF THE MONEY HELD IN TRUST BY THE SECRETARY TO PAY CLAIMS IN CASE OF IMPAIRMENT OR INSOLVENCY OF THE MANAGED CARE ORGANIZATION.

(2) NOTWITHSTANDING SUBSECTION (C)(2)(II) OF THIS SECTION, AN MANAGED CARE ORGANIZATION SHALL HAVE INITIAL SURPLUS THAT EXCEEDS LIABILITIES BY AT LEAST \$1,250,000. IF A MANAGED CARE ORGANIZATION HAS INITIAL SURPLUS THAT IS AT LEAST \$1,250,000 BUT LESS THAN \$1,500,000, PRIOR TO APPROVAL, THE DEPARTMENT SHALL DESIGNATE FUNDS UNDER PARAGRAPH (1)(II) OF THIS SUBSECTION SUFFICIENT TO PROVIDE AN INITIAL SURPLUS OF AT LEAST \$1,500,000.

(C) (1) (I) EACH MANAGED CARE ORGANIZATIONS SHALL MAINTAIN A SURPLUS THAT EXCEEDS THE LIABILITIES OF THE MANAGED CARE ORGANIZATION IN THE AMOUNT THAT IS AT LEAST EQUAL TO THE GREATER OF \$750,000 OR 5 PERCENT OF THE SUBSCRIPTION CHARGES EARNED DURING THE PRIOR CALENDAR YEAR AS RECORDED IN THE ANNUAL REPORT FILED BY THE MANAGED CARE ORGANIZATION WITH THE COMMISSIONER.

(II) NO MANAGED CARE ORGANIZATION SHALL BE REQUIRED TO MAINTAIN A SURPLUS IN EXCESS OF A VALUE OF \$3,000,000.