

**STATE of NEW HAMPSHIRE INSURANCE DEPARTMENT**

**Docket No.: Ins 07-079-AP**

**In Re: Small Employer Health Reinsurance Pool**

**Revised Amendments to the Plan of Operation [RSA 420-K]**

**PUBLIC COMMENT PERIOD REOPENED**

WHEREAS, pursuant to the provisions of 2005 Chapter 225, RSA 420-K:2 I., a non-profit entity known as the "New Hampshire small employer health reinsurance pool" (NHSEHRP) was established; and

WHEREAS, the Commissioner approved a Plan of Operation (Plan) for the NHSEHRP on October 25, 2005 pursuant to the provisions of RSA 420-K:2 IV.; and

WHEREAS, the Board of the NHSEHRP placed before the Commissioner amendments to the Plan with a revised health form dated October 7, 2007; and

WHEREAS, pursuant to RSA 420-K:2 IV., the Commissioner provided notice and hearing on the amendments to the Plan with the revised health form; and

WHEREAS, the public hearing on those amendments was held on October 24, 2007, with the record remaining open until the close of business on October 26, 2007; and

WHEREAS, a final order in the matter has not been issued by the Commissioner to date; and

WHEREAS, the Commissioner received correspondence from Board counsel dated October 30, 2007 correcting the hearing record; and

WHEREAS, the Board of the NHSEHRP met on November 1, 2007 to discuss and reassess their amendments to the Plan establishing a quarterly assessment payment schedule, and by letter dated November 1, 2007, notified the Commissioner that it is no longer seeking an amendment to Article XIV, Paragraph A; and

Now, therefore, it is ORDERED, that:

1. Pursuant to Ins 204.21 the record of the October 24, 2007 hearing is reopened and extended beyond the October 26, 2007 close date, to the close of business on November 12, 2007.
2. The amendments to the Plan offered at the October 24, 2007 hearing are hereby further amended to delete the proposed amendment to Article XIV, Paragraph A, for good cause shown, pursuant to Ins 204.02.
3. The revised amendments to the Plan delineated in the November 1, 2007 Board letter shall be made available to all carriers and interested parties on the New Hampshire Insurance Department website ([www.nh.gov/insurance](http://www.nh.gov/insurance)).
4. All interested parties who wish to do so may provide written testimony on these revised amendments to the Plan on or before the close of business on November 15, 2007; and

NEW HAMPSHIRE INSURANCE DEPARTMENT



Dated: November 7, 2007

\_\_\_\_\_  
Roger A. Sevigny, Commissioner

"McCue, Mark S."  
<mmccue@haslaw.com  
>

10/30/2007 03:55 PM

To <David.Sky@ins.nh.gov>

cc <Alexander.Feldvebel@ins.nh.gov>,  
<Beth\_Roberts@harvardpilgrim.org>

bcc

Subject RE: Amended & restated bylaws

David and Alex,

This will confirm the telephone conversation I had with David this afternoon. David's questions below caused me to review the files and records of NHSEHRP more deeply in order to address them. Here are my findings and suggested course of action.

1 and 2. Despite recent oral representations from Pool Administrators to the contrary, I have written confirmation from PAI dating back to my engagement by the board that the Articles of Agreement, although not necessary, were accepted for filing by the NH Secretary of State. I will confirm this with the Secretary of State's office.

The law pertaining to voluntary corporations, RSA 292, is not particularly clear with respect to articles of agreement. They are not legally required for a corporation created by statute, such as NHSEHRP, but the enabling legislation often fails to include important governance items typically found in articles. On the other hand, under RSA 292, the use of articles of agreement contemplates that the corporation was created "voluntarily" by a group of 5 or more incorporators.

My preference is to maintain the articles of agreement, rather than rescind them entirely. Their existence is contemplated by RSA 420-K and they contain important governance information. I would recommend to that board that the articles be revised, however, to refer to the enabling statute for those items covered by the statute, e.g. purpose, rather than paraphrase or restate them differently. I also would eliminate procedural governance matters (e.g. the composition or election of the board) which are more appropriately contained in the Bylaws. These revisions, however, would be subject to the Commissioner's approval.

In the alternative, the Bylaws could be further amended to include the provisions which otherwise would have remained in the articles (e.g. purpose, distribution upon dissolution).

3. The fiscal year should be in the Bylaws. I will recommend to the board that this change be made, and again this will be subject to the approval of the Commissioner.

I apologize for this confusion. I was a bit hasty in my attempt to deal with all of this before the public record closed so that you could avoid another public hearing.

Regards,  
Mark

*Mark S. McCue*

**HinckleyAllenSnyderLLP**

NEW HAMPSHIRE SMALL EMPLOYER HEALTH REINSURANCE POOL

November 1, 2007

Roger A. Sevigny, Commissioner  
State of New Hampshire Insurance Department  
21 South Fruit Street, Suite 14  
Concord, NH 03301

RECEIVED  
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Re: *Revision to Prior Request for Approval of Certain Board Decisions*

Dear Commissioner Sevigny:

On October 2, 2007, I wrote to you on behalf of the Board of Directors (the "Board") of the New Hampshire Small Employer Health Reinsurance Pool ("NHSEHRP" or the "Pool") to request your approval of certain actions taken at the annual meeting of the Pool Members and Board. One of those actions was an amendment to Article XIV, Paragraph A of the NHSEHRP Plan of Operation to establish a quarterly assessment payment schedule commencing at the beginning - rather than the end -- of each quarter (commencing 1/1/08) and offering a discount (based on the value of immediately available funds) to carriers who pre-pay their total annual assessments (subject to a quarterly "true-up").

The Board held a meeting today to discuss the selection of a new assessment administrator for the Pool. One of the bidders is the current assessment administrator for the New Hampshire Health Plan, whose bid was based on the current Pool assessment schedule which coincides with the New Hampshire Health Plan schedule. During the course of this discussion, it became apparent that the proposed change to the NHSEHRP assessment schedule would create a significant administrative burden both to the assessment administrator and to the member carriers, and would result in the withdrawal of a desirable proposal for the NHSEHRP assessment administrator services.

The Board carefully weighed the interest cost savings of the amended assessment schedule against the administrative burdens and loss of a desirable proposal, and decided that it was in the best interests of the Pool to rescind its prior vote to amend the assessment schedule, thus avoiding a disparity in the assessment collection methods of the two pools. This decision passed unanimously.

Therefore, this is to notify you that NHSEHRP no longer is seeking an amendment, or your approval thereof, to Article XIV, Paragraph A of the

Roger A. Sevigny, Commissioner

November 1, 2007

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NHSEHRP Plan of Operation. Enclosed are the revised amendments and Plan of Operation which reflects this decision by the Board.

I apologize for any inconvenience this may cause. Please feel free to contact me if you need additional information or wish to discuss this matter further.

Sincerely,

A handwritten signature in cursive script that reads "Beth Ann Roberts". The signature is written in black ink and includes a small flourish at the end.

Beth Ann Roberts, Chair

# NEW HAMPSHIRE SMALL EMPLOYER HEALTH REINSURANCE POOL

## *AMENDMENTS TO THE PLAN OF OPERATION* September 24, 2007<sup>1</sup>

The following resolutions were adopted at a duly-noticed meeting of the Board of Directors of the New Hampshire Small Employer Health Reinsurance Pool, a quorum being present, on September 24, 2007 (subject to approval by the New Hampshire Insurance Commissioner):

RESOLVED: That the following Amendments be made to the Plan of Operation of the New Hampshire Small Employer Health Reinsurance Pool:

1. Article IV, Paragraph T, is hereby deleted in its entirety and replaced with the following:

*T. Plan of Operation, also referred to as the "Plan," means the plan of operation of the Pool, including operating rules, procedures and policies approved by the Commissioner and adopted by the Pool.*

2. The following revisions are hereby made to Article VII: Sections 1 through 8 of Paragraph A and Paragraphs B, C and F are deleted in their entirety, Paragraph D is relabeled Paragraph B, Paragraph E is relabeled Paragraph C, Paragraph G is relabeled Paragraph D, Paragraph H is relabeled Paragraph E and Paragraph I is relabeled Paragraph F.

3. Paragraph G of Article VII is hereby amended by adding the phrase "the Secretary of the Board, or legal counsel to the Board and the Pool" at the end thereof.

4. Paragraph I of Article VII is hereby amended by adding the following at the end thereof:

*Amendments to the Plan shall be subject to the approval of the Commissioner.*

5. Article XII, Paragraph C, Section 1, subparagraph (f) is hereby amended by adding the following at the end thereof:

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<sup>1</sup> These amendments reflect a revocation by the Board on October 31, 2007 of an amendment to Article XIV, Paragraph A regarding the assessment collection schedule.

*A Notification of Intent to Cede may be withdrawn at any time prior to the end of the 60 day period described in subparagraph (e) above, after which time any outstanding Notification will be treated as a ceding of the group or individuals identified in the Notification.*

6. Article XIV, Paragraph A, is hereby amended by deleting the words “incurred, or” and adding a period at the end of the second paragraph.

7. Article XIV, Paragraph A is further amended by numbering the first two paragraphs “1” and “2” respectively.

8. Article XIV, Paragraph B, is hereby deleted in its entirety and replaced with the following:

*B. Special Assessments*

1. *In addition to the regular Assessment rate the Board may establish a special Assessment rate for interim Assessments needed (i) for organizational and operating expenses and (ii) to pay claims reinsured by the Pool. A writer of Health Insurance may increase the premiums charged by the amount of the special Assessment. Any special Assessment may appear as a separate line item on a policyholder's bill.*

2. *The Board shall only establish an interim Assessment if the Board determines that the Pool's funds are or will become insufficient to pay the Pool's (i) organizational and operating expenses and/or (ii) claims reinsured by the Pool in a timely manner.*

3. *The special Assessment rate shall be subject to the approval of the Commissioner prior to charging any interim Assessment to the Members.*

9. The following additional revisions are made to Article XIV: Paragraph C is deleted in its entirety, Paragraph D is relabeled Paragraph C, Paragraph E is relabeled Paragraph D, and Paragraph F is relabeled Paragraph E.

10. The following new provision is added to the end of Article XIX:

*C. Calculation of Time Periods*

1. *The following rule of construction will apply to the calculation of any time period under the Plan or the Statute. If a time period ends on a day which is a Saturday, Sunday or a holiday listed in RSA 288, then the time period*



New Hampshire Small Employer Health Reinsurance Pool  
Plan of Operation

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# NEW HAMPSHIRE SMALL EMPLOYER HEALTH REINSURANCE POOL

## PLAN OF OPERATION

### Article I - Name

The Pool shall be known as the New Hampshire Small Employer Health Reinsurance Pool, hereinafter referred to as the Pool, a nonprofit entity created pursuant to RSA Chapter 420-K of Title XXXVII (the Statute).

### Article II - Members of Pool

All Health Carriers, writers of Health Insurance, and other insurers issuing or maintaining Health Insurance in this state shall be members of the Pool.

### Article III - Purpose

The purposes of the Pool are to support the goals of RSA 420-G which is to:

- A. Facilitate the portability, availability, and renewability of Health Coverage for all persons principally employed in New Hampshire who wish to obtain Health Coverage as Employees of Small Employers.
- B. To promote competition among Health Carriers on the basis of efficient claims handling, ability to manage health care services, consumer satisfaction, and low administrative costs.
- C. To regulate underwriting and rating practices in the Small Employer market so as to promote access to affordable coverage for higher risk groups.

### Article IV - Definitions

As used in this Plan:

- A. Administrator means the organization selected by the Board for the fair equitable and reasonable administration of the Pool.
- B. Assessment means the liability of a Member to the Pool.
- C. Base Reinsurance Premium Rate means the single base rate for each of the Standard Health Benefit Plans that reasonably approximates gross premiums charged to Small Employers by Small Employer Health Carriers.
- D. Board means the Board of Directors of the Pool.
- E. Case Characteristics means demographic or other relevant characteristics of a Small Employer group that may be considered by the Health Carrier in the determination of Premium Rates for that group.

- F. Commissioner means the Insurance Commissioner of the State of New Hampshire.
- G. Covered Lives shall include all persons who are:
- a. Covered under an individual Health Insurance policy issued or delivered in New Hampshire;
  - b. Covered under a group Health Insurance policy that is issued or delivered in New Hampshire;
  - c. Covered under a group Health Insurance policy evidenced by a certificate of insurance that is issued or delivered in New Hampshire;
  - d. Protected, in part, by a group excess loss insurance policy where the policy or certificate of coverage has been issued or delivered in New Hampshire, and where coverage has been purchased by a group Health Insurance plan subject to the Employee Retirement Income Security Act of 1974, Public Law No. 93-406 (ERISA).
- H. Department means the Department of Insurance.
- I. Director(s) of the Board (hereinafter also referred to as the Director) means a representative of a Member elected to the Board.
- J. Eligible Dependents means a dependent person of an Eligible Employee who meet the requirements for eligibility set forth by the employer, the Health Coverage plan and state law that may be ceded to the Pool.
- K. Eligible Employee means an employee who meets the requirements for eligibility set forth by the employer, the Health Coverage plan and state law that may be ceded to the Pool.
- L. Exclusion Period means the length of time that must expire before a Health Carrier will cover medical treatment expense relating to a Preexisting Condition.
- M. Extra Eligible means an employee that is covered by a benefit plan who shall not be ceded to the Pool. Extra Eligibles include late enrollees and newborn dependents whose mothers are not in the Pool at the date of birth.
- N. Health Carrier means any entity subject to the insurance laws and rules of this state, or subject to the jurisdiction of the Commissioner, that contracts or offers to provide, deliver, arrange for, pay for or reimburse any of the costs of health services; including an insurance company, a health maintenance organization, a nonprofit health services corporation, or any other entity providing Health Coverage.
- O. Health Coverage means any hospital or medical expense incurred policy or certificate, nonprofit health services corporation subscriber contract, or health maintenance organization subscriber contract and any other Health Insurance plan or health benefit plan. For the purposes of this Plan, Health Coverage does not include:

- a. Accident-only or disability income insurance.
  - b. Coverage issued as a supplement to liability insurance.
  - c. Liability insurance, including general liability insurance and automobile liability insurance.
  - d. Workers' compensation or similar insurance.
  - e. Automobile medical-payment insurance.
  - f. Credit only insurance.
  - g. Coverage for on-site medical clinics.
  - h. Short-term, individual, nonrenewable medical, hospital, or major medical policies.
  - i. Other similar insurance coverage, specified in rules, under which benefits for medical care are secondary or incidental to other insurance benefits.
  - j. If offered separately:
    - (1) Limited scope dental or vision benefits.
    - (2) Long-term care, nursing home care, home health care, community-based care, or any combination thereof.
    - (3) Prescription drug benefits.
    - (4) Other similar, limited benefits as are specified in rules.
  - k. If offered as independent, noncoordinated benefits:
    - (1) Specified disease or illness benefits.
    - (2) Hospital or surgical indemnity benefits.
  - l. If offered as a separate insurance policy, medicare supplemental Health Insurance, coverage supplemental to the coverage provided under chapter 55 of Title 10, United States Code, and similar supplemental coverage as specified in regulations.
- P. Health Insurance means Health Insurance coverage issued in accordance with RSA 415, 420-A, or 420-B. Health Insurance shall not include accident only, credit, dental, vision, Medicare supplement, Medicare Risk, Medicare+Choice, Managed Medicaid, long-term care, disability income, coverage issued as a supplement to a liability insurance, workers' compensation or similar insurance, automobile medical payment insurance, policies or certificates of specified disease, hospital confinement indemnity, limited benefit Health Insurance or short-term, nonrenewable individual Health Insurance, coverage provided through the New Hampshire healthy kids association, and coverage provided through the

Federal Employees' Program. Nonprofit health service corporations shall exclude coverage provided through national account policies originating outside of New Hampshire to the extent the nonprofit health service corporation assumes no risk for the provision of such insurance. Health Insurance does include group excess loss insurance.

- Q. Late Enrollee means a Small Employer employee who has met any employer imposed waiting period and is otherwise eligible for health coverage, who declines a small employer's health coverage plan during the initial offering or subsequent open enrollment period, and shall not be allowed on the plan until the next open enrollment period. An eligible employee or eligible dependent shall not be considered a Late Enrollee if:
1. The person was covered under public or private health coverage at the time the person was able to enroll; and
    - a. Has lost public or private health coverage as a result of termination of employment or eligibility, the termination of the other plan's coverage, death of a spouse, or divorce; and
    - b. Requests enrollment within 30 days after termination of such health coverage; or
  2. Is employed by an employer that offers multiple health coverages and the person elects a different plan during an open enrollment period; or
  3. Was ordered by a court to provide health coverage for an ex-spouse or a minor child under a covered employee's plan and request for enrollment is made within 30 days after issuance of such court order.
- R. Member means all Health Carriers, writers of Health Insurance, and other insurers issuing or maintaining Health Insurance in New Hampshire.
- S. Notification of Intent to Cede means notification sent by a Small Employer Health Carrier expressing its intention to cede an entire small group, individual or dependent for whom all information necessary to cede has not yet been compiled.
- T. Plan of Operation, also referred to as the "Plan," means the ~~Plan~~plan of operation of the Pool, including ~~articles, bylaws and~~ operating rules, procedures and policies approved by the Commissioner and adopted by the Pool.
- U. Pool means the New Hampshire Small Employer Health Reinsurance Pool, established pursuant to RSA 420-K.
- V. Preexisting Condition means a condition, whether physical or mental, for which medical advice, diagnosis, care or treatment was recommended or received during the 3 months immediately preceding the effective date of Health Coverage.
- W. Premium Rate means the rates used by a carrier to calculate the premium.

- X. Rating Methodology shall be the method used to establish ceding premium rates from the Base Reinsurance Premium Rates.
- Y. Small Employer Health Carrier (hereinafter also referred to as Carrier) means any Health Carrier which offers or maintains group Health Coverage Plans covering Eligible Employees of one or more Small Employers who may reinsure with the Pool.
- Z. Small Employer means a business or organization which employed on average, one and up to 50 employees, including owners and self-employed persons, on business days during the previous calendar year. An employer's designation as a Small employer, including its group size, is not dependent on whether it becomes part of an association, multi-employer plan, trust or any other entity cited in RSA 420-G:3 and shall not change for any reason during the policy year.

In the case of an employer which was not in existence throughout the preceding calendar year, the determination of whether such employer is a small or large employer shall be based on the average number of employees that it is reasonably expected such employer will employ on business days in the current calendar year.

- AA. Standard Health Benefit Plan shall mean the Health Coverage used by the Pool to adjudicate reinsurance claims.
- BB. Standard Reinsurance Underwriting Form means the standardized health statement that Small Employer Health Carriers may use to make reinsurance ceding decisions.

**Article V - Powers of Pool**

- A. The Pool shall have the general powers and authority granted under the laws of New Hampshire to insurance companies licensed to transact health insurance.
- B. In addition, the Pool shall have the specific authority to:
  1. Enter into contracts as are necessary or proper to carry out the provisions and purposes of this Plan, including the authority, with the approval of the Commissioner, to enter into contracts with programs of other states for the joint performance of common functions, or with persons or other organizations for the performance of administrative functions.
  2. Sue or be sued, including taking any legal actions necessary or proper for recovery of any Assessments for, on behalf of, or against Members.
  3. Take such legal action as necessary to avoid the payment of improper claims against the Pool.
  4. Define the array of Health Coverage products for which reinsurance will be provided, and to issue reinsurance policies, in accordance with the requirements of this Plan.
  5. Establish rules, conditions, and procedures pertaining to the reinsurance of Small Employer Carrier's risks by the Pool.

6. Establish appropriate rates, rate schedules, rate adjustments, rate classifications, and any other actuarial functions appropriate to the operation of the Pool.
7. Assess Members in accordance with the provisions of this Plan.
8. Appoint from among the Members appropriate legal, actuarial, and other committees as necessary to provide technical assistance in the operation of the Pool, policy, and other contract design, and any other function within the authority of the Pool.
9. Borrow money to effectuate the purposes of the Pool. Any notes or other evidence of indebtedness of the Pool not in default shall be legal investments for insurers and may be carried as admitted assets.
10. Develop a Standard Health Benefit Plan.

### **Article VI - Plan of Operation**

The Pool shall perform its functions under this Plan of Operation, and in accordance with the Statute. The Plan shall assure the fair, reasonable and equitable administration of the Pool, and provide for the sharing of Pool gains or losses on an equitable proportionate basis in accordance with the provisions of RSA 420-K:2 VI. The Plan shall become effective upon approval in writing by the Commissioner.

### **Article VII - Board of Directors and Annual Meeting of Members**

- A. The Pool shall exercise its powers through the Board.
  - ~~1. The Board shall be made up of at least five and not more than nine representatives of Members (such representatives referred to hereinafter as Directors or Director). To the extent possible, the composition of the Board shall be as follows:
 
    - ~~a. At least one Director shall represent a Small Employer Health Carrier with less than one hundred million dollars (\$100,000,000) in net Small Employer Health Carrier Insurance premium in this state.~~
    - ~~b. There shall be no more than one Director representing any one Member company.~~
    - ~~c. The Commissioner, or designee, shall be a non-voting ex-officio member of the Board.~~~~
  - ~~2. There shall be a designated alternate, to represent each Director in the event of the Director's unavailability.~~
  - ~~3. Directors shall serve for a term of three (3) years expiring on the date of the third subsequent annual meeting following their election.~~
  - ~~4. Upon election of the Board, the Board shall notify the Commissioner and request written approval of the Board as elected.~~

- ~~5. The Directors shall elect a Chairman and a Vice Chairman/Secretary from among its Board membership and such other officers as it deems appropriate, for such terms as it deems appropriate.~~
- ~~6. The previously elected Directors shall serve until their successors have been duly elected and approved by the Commissioner.~~
- ~~7. Vacancies occurring on the Board between annual meetings shall be filled for the remaining period of the term by the Board with the approval of the Commissioner. Insofar as practicable, each such vacancy shall be filled with a representative of the same Member represented by the previous Director.~~
- ~~8. Directors serve at the pleasure of the Members they represent. A Member may, upon written notice to the Commissioner, replace a Director representing said Member with a different representative acceptable to the Commissioner.~~

~~B. The votes of the Board shall be on a one Director, one vote basis.~~

~~C. A majority of the Directors shall constitute a quorum for the transaction of business. The acts of the majority of the Directors present at a meeting at which a quorum is present shall be the acts of the Board., except as provided in Section I below.~~

~~B.~~ D. An annual meeting of Members and the Board shall be held not later than August, and not later than August in each subsequent year, unless the Board, upon at least a thirty (30) calendar day notice, designates some other date or place.

C. ~~E.~~ At each annual meeting the Board shall:

1. Review this Plan and submit proposed amendments, if any, to the Commissioner for approval.
2. Review reports of the Administrator, including audited financial reports, reports on outstanding contracts and obligations, and all other material matters.
3. Review reports of the committees established by the Board.
4. Determine whether any technical corrections or amendments to the provisions of the statute applicable to the Pool shall be recommended to the Commissioner.
5. Review and give consideration to the performance of the Pool in support of the Pool's purpose.
6. Review the Standard Health Benefit Plans, Rating Methodology and Base Reinsurance Premium Rates.
7. Determine if an Assessment is necessary for the proper administration of the Pool.

8. Review, consider and act on any matters deemed by the Board to be necessary and proper for the administration of the Pool.

~~F. The Board shall hold other meetings upon the request of two (2) or more Directors, at such times and with such frequency as it deems appropriate. These meetings may be held either in person or telephonically.~~

D. G. A written record of the proceedings of each Board meeting shall be made. The original of the record shall be retained by the Administrator, the Secretary of the Board, or legal counsel to the Board and the Pool.

E. H. Directors may be reimbursed from the monies of the Pool for expenses incurred by them as Directors upon approval of such expenses by the Board, but shall not otherwise be compensated by the Pool for their services.

F. I. Amendments to the Plan or suggestions of technical corrections to the Statute shall require the concurrence of a majority of the entire Board. Amendments to the Plan shall be subject to the approval of the Commissioner.

### Article VIII - Committees

Each Director shall be entitled to participate personally or to appoint a person from within their company to any committee set forth in the Plan or otherwise established by the Board. A written record of the proceedings of each committee shall be maintained by a Secretary appointed from the membership of the committee.

#### A. Actuarial Committee

The duties of the Actuarial Committee are to:

1. Recommend to the Board the appropriate Rating Methodology and Base Reinsurance Premium Rates.
2. Recommend changes to the Standard Health Benefit Plan.
3. Review the reinsurance deductible and recommend any upward adjustments.
4. Recommend to the Board reports to be made by Members.
5. Provide reports and other recommendations as directed by the Board.
6. Determine the incurred claim losses of the Pool including amounts for incurred but not reported claims.
7. Recommend Assessments to the Board.

#### B. Operations Committee

The duties of the Operations Committee are to:

1. Periodically review the Plan and/or make recommendations to the Board.
2. Provide administrative interpretation as to the intent of the Plan and to provide administrative direction on issues referred to it by the Board or the Administrator or Members.
3. Identify items for which operating rules are needed and to propose them for adoption by the Board.
4. Receive operating reports from the Administrator.
5. Provide oversight of Administrator functions.
6. Recommend Administrator selection to the Board.

#### C. Legal Committee

The duties of the Legal Committee are to handle the following legal matters at the request of the Board:

1. Interpret the provisions of the statute applicable to the Pool.
2. Review the Plan, amendments to the Plan, and the various Standard Health Benefit Plans proposed by the Board for compliance with the provisions of the statute applicable to the Pool.
3. Prepare proposed amendments to the statute for Board approval.
4. Coordinate with the Administrator, as needed, on routine legal matters relating to the Pool operations, including proposed contracts and operational practices.
5. Prepare contracts and legal documents for the Pool as requested by the Board.
6. Be familiar with and provide assistance to the Board concerning all litigation and other disputes involving the Pool and its operations.
7. Maintain a written record of all questions to the legal committee or legal counsel received and responses provided, and shall provide copies of all such responses to the Board.

#### D. Audit Committee

The duties of the Audit Committee shall include the following items, as well as any other appropriate tasks assigned to it by the Board:

1. Develop a uniform audit program to be utilized to conduct a review of agreed upon procedures between the ceding Carriers and the Pool that indicate compliance with the provisions of this Plan of Operation.

2. Establish standards of acceptability for the selection of independent auditors or consultants
3. Assist the Board in the selection of an independent auditor for the annual audit of the Pool financial statements.
4. Assist the Board in the review of the reports prepared by the independent auditors in conjunction with 1. and 3. above and any other audit-related matters the Board deems necessary.

E. Other Committees:

The Board may establish other committees as needed from time to time.

**Article IX - Administrator**

The Administrator is jointly responsible, along with the Board and the Members, for the fair, equitable and reasonable administration of the Pool.

- A. The Board shall select the Administrator through a competitive bidding process to administer the Pool. The Board shall evaluate bids submitted based on criteria established by the Board.
- B. The Administrator shall perform the following functions, on behalf of, and as directed by the Board:
  1. Establish procedures and install and maintain the systems needed to properly administer the operations of the Pool in accordance with the statute and this Plan.
  2. Establish on behalf of the Pool one or more bank accounts for the transaction of Pool business. These bank accounts will be approved by the Board.
  3. Accept, on behalf of the Pool, eligible risks that are ceded to the Pool by Small Employer Health Carriers.
  4. Collect monthly reinsurance data from the ceding carriers.
  5. Accept automated or semi-automated feeds of information from the ceding carriers.
  6. Collect reinsurance premium for ceded risks and collect all other amounts due to the Pool in a timely basis.
  7. Deposit all cash collected on behalf of the Pool in the established bank account(s) on a timely basis.
  8. Perform reinsurance reimbursement for claims paid on ceded risks consistent with the timeliness established by the Board.
  9. Issue checks or drafts on and/or approve charges against bank accounts of the Pool.

10. Keep all accounting, administrative and financial records of the Pool in accordance with this Plan.
  11. Act as a communications resource for Small Employer Health Carriers in reviewing their administrative operations under this Plan.
  12. Provide the information to calculate the Assessments in accordance with the methodology specified in this Plan, and collect appropriate amounts due.
  13. Invest available cash in marketable securities as specified in this Plan and as approved by the Board.
  14. Perform other necessary functions as directed by the Board.
  15. Arrange for a line of credit on behalf of the Pool for an amount specified and authorized by the Board.
- C. The Administrator, unless otherwise approved by the Board, shall maintain all records pertaining to Pool operation for a period of seven (7) years. The Administrator shall maintain all other records maintained by Pool for a period of seven (7) years following the date such records were created.
- D. The Administrator shall serve under the terms of the contract with the Pool.

#### **Article X – Standard Health Benefit Plan**

The Board shall develop Standard Health Benefit Plans which shall contain benefit and cost sharing levels that reflect the Health Coverages most commonly sold by Small Employer Health Carriers in the state.

#### **Article XI – Methodology for Determining Reinsurance Rates.**

- A. The Board shall approve Base Reinsurance Premium Rates as recommended by the Actuarial Committee for the Standard Health Benefit Plans.
- B. The Base Reinsurance Premium Rates shall be set at levels which reasonably approximate gross premiums charged to Small Employers by Small Employer Health Carriers for Health Coverages with benefits similar to the Standard Health Benefit Plan. The Base Reinsurance Premium Rates shall be subject to the approval of the Commissioner.
- C. The Board shall approve a Rating Methodology as recommended by the Actuarial Committee for determining Base Reinsurance Reinsurance Rates to be charged by the Pool to reinsure Small Employer groups and individuals.
  1. The Rating Methodology shall include a system for classification of Small Employers that reflects the types of Case Characteristics that are commonly used by Small Employer Health Carriers in the state in establishing Premium Rates.

2. The Rating Methodology shall consider the following provisions:
  - a. An entire Small Employer group consisting of two or more employees may be reinsured for a rate that is 150 percent of the applicable Base Reinsurance Premium Rate for the group.
  - b. An Eligible Employee or Dependent may be reinsured for a rate that is 500 percent of the applicable Base Reinsurance Premium Rate for the individual.
3. The Rating Methodology shall include an adjustment for the reinsurance deductible.
4. The Rating Methodology may include an adjustment to account for the varying load requirements between direct insurance and reinsurance.
5. The Rating Methodology may include provisions for trend which shall adjust ceding premium rates for reinsurance periods with varying effective dates.
6. Ceding premium rates shall be guaranteed to the ceding carrier for a period coterminous with the Small Employer's policy year.

## **Article XII - Reinsurance**

- A. Small Employer Health Carriers may reinsure with the Pool the coverage of an Eligible Small Employer Group, an Eligible Employee of an Eligible Small Employer and/or the coverage of any Eligible Dependents.
- B. Eligibility of groups and individuals must be determined and then certified by the Small Employer Health Carrier that such groups and/or individuals meet the minimum eligibility requirements in the statutes and the Carrier's customary marketing and underwriting practices and protocols as applicable.
- C. Reinsurance Ceding Rules and Premium Levels
  1. Each Carrier proposing to cede reinsurance of the coverage provided under a Small Employer's plan for any group or individual is responsible for ascertaining and certifying:
    - a. That the group is an eligible Small Employer, and
    - b. That each ceded individual is an Eligible Employee or an Eligible Dependent.
    - c. That the reinsurance rate level payable to the Pool for that group or individual has been correctly determined in accordance with this Plan.
    - d. That the Standard Health Benefit Plan chosen for reinsurance is consistent with the Health Coverage of the Small Employer Health Coverage.
    - e. Such certification must be made to the Administrator within a period of 60 days following the insurance policy issue or renewal date for an entire small group.

Certification for an Eligible Employee or Eligible Dependent of a Small Employer must be made within a period of 60 days following the commencement of his or her Health Coverage.

- f. Certification may be made either with the Notification of Intent to Cede or with the ceding Carrier's next monthly report that is required by the 20<sup>th</sup> of the month. The monthly report must contain the information specified in Article XV. **A Notification of Intent to Cede may be withdrawn at any time prior to the end of the 60 day period described in subparagraph (e) above, after which time any outstanding Notification will be treated as a ceding of the group or individuals identified in the Notification.**
2. The Pool's liability for reinsurance of a Small Employer groups commences subject to proper notification and certification at one of the following dates:
    - a. The issue date of a Small Employer's plan or the first anniversary date that the group is determined to be a Small Employer.
    - b. The effective date of transfer of the group from a prior Carrier, except that replacement is not available for employees and dependents under replacement plans covering two (2) or more Small Employers, unless the coverage was reinsured by the prior Carrier and the new Carrier informs the Pool of its intention to provide coverage for the group and identified the employees that will continue to be reinsured.
    - c. The renewal date of the Small employer Health Care plan that occurs in 2006.
  3. The Pool's liability for reinsurance of Eligible Employees and/or Eligible Dependents commences subject to proper notification and certification at one of the following dates:
    - a. The issue date of a Small Employer's plan or the first anniversary date that the group is determined to be a Small Employer.
    - b. The effective date of transfer of the group from a prior Carrier, except that replacement is not available for employees and dependents under replacement plans covering two (2) or more Small Employers, unless the coverage was reinsured by the prior Carrier and the new Carrier informs the reinsurance Pool of its intention to provide coverage for the group and identifies the employees that will continue to be reinsured.
    - c. The renewal date of the Small Employer's Health Care plan that occurs in 2006.
    - d. On and after January 1, 2007, at the first plan anniversary after the coverage has been in effect for a period of 3 years, and every third plan anniversary thereafter; provided, that reinsurance shall only be permitted with respect to Eligible Employees and their Eligible dependents of a Small Employer which has no more than 5 (five) Eligible Employees as of the applicable anniversary.

- e. Within 60 days of commencement of insurance, if the Eligible Employee's or Eligible Dependent's effective date does not coincide with the Small Employer group's effective date or renewal date.
4. Availability of reinsurance is subject to the following rules:
    - a. All new entrants reinsured as entire groups, shall also be reinsured automatically upon proper notification to the Administrator and payment of premium at the effective dates of their insurance coverage. Such reinsurance is called whole group reinsurance.

If a Carrier discovers that an insured Eligible Employee or Dependent has been omitted from whole group reinsurance of the entire group then the Administrator must be notified within 60 days of discovery but, in any event, not later than one year from the date the reinsurance for the group took effect.
    - b. The Carrier may reinsure coverage of an employee without reinsuring coverage of any specific dependent of that employee, or may reinsure coverage of a specific dependent without reinsuring coverage of the employee or his/her dependent. Such reinsurance is called individual reinsurance. Reinsurance of newborn dependents shall be allowed only if the mother of any such dependent is reinsured as of the date of birth of such child, and all newborn dependents of reinsured persons shall be automatically reinsured as of their date of birth.
  5. The Pool's liability for reinsurance ceases at the earlier of the following dates:
    - a. The anniversary date on which the ceding carrier has notified the Pool of its intent to terminate reinsurance provided that such notice was received by the Administrator at least 30 days prior to such anniversary date.
    - b. The first anniversary date that the Small Employer is determined to no longer be an eligible Small Employer.
    - c. The first date on which any ceded individual no longer has coverage through the ceding carrier.
  6. Standard Reinsurance Underwriting Form:
    - a. The Board shall establish, subject to the approval of the Insurance Commissioner, the Standard Reinsurance Underwriting Form.
    - b. Small group carriers may use the Standard Reinsurance Underwriting Form for their reinsurance ceding decisions to the Pool.
    - c. The form may be amended from time to time as the Board deems necessary, subject to the approval of the Insurance Commissioner.

- d. No Carrier, Agent or Broker shall disclose to a Small Employer the fact that any or all of the Eligible Employees of such Small Employer have been or will be reinsured with the Pool.

#### D. Level of Coverage

The Pool will reinsure the lesser of the Standard Health Benefit Plan level of coverage or the level of Health Coverage sold by the Carrier. Both levels of coverage are subject to the reinsurance deductible amount.

#### E. Reinstatements

Reinsurance may continue as long as coverage for the Eligible Employee and Dependents remains in effect, but reinsurance will end on the first plan anniversary after a Small Employer ceases to be a Small Employer.

If Carrier reinstates insurance for a group that has previously been reinsured then reinsurance can be reinstated without a new effective date provided that the Administrator is notified in writing of the reinstatement within thirty (30) days of the insurance reinstatement date.

#### F. Determination of Reinsurance Premium

1. Tables of reinsurance rates for ceding Carriers, as determined by the Actuarial Committee, and approved by the Board, will be communicated to Small Employer Health Carriers.
2. The ceding company will determine the reinsurance premium for each individual reinsured.
3. The ceding company will determine the reinsurance premium for each group reinsured. Ceding carriers shall only use the individual reinsurance premium rates when ceding whole groups consisting of only one Eligible Employee, as well as any additions to the group of one during the plan year.
4. Rates are computed for each group or individual being ceded as follows:
  - a. Determine the type of benefit plan (HMO, POS, PPO, Indemnity). Determine which Standard Health Benefit Plan comes closest to matching the benefit plan that has been sold to the group and select the Standard Health Benefit Plan which will be used for reinsurance.
  - b. Determine whether to cede the entire group or one or more individuals. Determine whether to use entire group or individual reinsurance rate tables.
    - (1) If the entire group is to be ceded then it shall include every Eligible Employee and every Eligible Dependent of each Eligible Employee in calculating the Whole Group Reinsurance premium required.

(2) If individual reinsurance is used then any Eligible Employee and any Eligible Dependent of an Eligible Employee may be ceded using the individual reinsurance rate tables.

- c. Determine the age of the life/lives to be ceded.
- d. Look up the appropriate rate in the rate table for each person being ceded
- e. Adjust the rates for effective date of the reinsurance. Based on the reinsurance effective date for the group, apply the effective date adjustment factor for the applicable quarter.
- f. Sum the rates across all the lives.
- g. Apply other applicable Case Characteristics.

#### G. Billing and Payment

1. Monthly, the ceding Carrier will provide the Administrator with a listing of the individuals and/or whole groups reinsured and the premium for each individual and such other information as may be required by the Pool. It is the ceding Carriers responsibility to notify the Administrator of any corrections to previous transactions. When notified, the Administrator will then make any necessary corrections and send the corrected statement to the ceding company.

Payment of reinsurance premium must be received by the Administrator before the related reinsurance transactions will be processed.

2. The reinsurance premiums charged by the Pool for each individual will be determined by the table of rates in effect on the Small Employer's most recent coincident anniversary date.
3. Premiums are determined as of the 1st of the month and are due by the twentieth (20th) of the month.
4. Reinsurance premium amounts are to be paid based on whole month increments only. If a Carrier's reinsured coverage is effective between the 1st and the 15th of the month, the entire month is paid in full. When coverage becomes effective between the 16th and the last day of the month, no premiums will be payable until the 1st month following the effective date. Notwithstanding the requirements of this paragraph the Pools liability will follow the ceding Carriers liability.
5. Conversely, terminations effective between the 1st and the 15th of the month will be allowed refunds for the entire month, and terminations effective between the 16th and the last day of the month will not be allowed a premium refund.

6. Reinsurance premium is due monthly to the Pool regardless of the ceding company's inability to charge back or collect the Small Employer's premium. The Pool has no responsibility for the collection of Small Employer's premiums.

7. Reinsurance claims shall not be netted against reinsurance premium due.

#### H. Reinsurance Claim

##### 1. Statement of Reinsurance

The Pool shall indemnify Carriers for the covered claims incurred with respect to Eligible Employees and Eligible Dependents whose coverage with the Carrier is reinsured with the Pool subject to the following:

No reinsurance shall be provided until five thousand dollars (\$5,000) in benefit payments, as specified by the Board, have been paid by the Carrier for services provided during a calendar year for a reinsured employee or dependent which payments would have been reimbursed through said reinsurance in the absence of said deductible. These deductible amounts shall be periodically reviewed by the Board and may be adjusted for appropriate factors as determined by the Board.

Reinsurance claims will be handled on a "self adjudicated" basis. Coverage provided by Small Employer Health Carriers under plans other than the Standard Health Benefit Plan shall be adjudicated by the reinsuring carrier.

2. "Covered Claims" - For the purposes of this section, "Covered Claims" shall mean only such amounts as are actually paid by the Carriers for benefits provided for individuals reinsured by the Pool, but Covered Claims shall not include:

a. Claim expenses or salaries paid to employees of the Carriers who are not providers of health care services;

b. Court costs, attorney's fees or other legal expenses;

c. Any amount paid by the Carrier for:

(1) Punitive or exemplary damages; or

(2) Compensatory or other damages awarded to the insured, arising out of the conduct of the Carriers in the investigation, trial, or settlement of any claim or failure to pay or delay in payment of any benefits under any policy; or the operation of any managed care, cost containment, or related programs;

d. Any statutory penalty imposed upon a Carrier.

##### 3. General Requirements

- a. The Carriers agree that they will promptly investigate, settle or defend all claims arising under the risks reinsured and that they will forward promptly to the Pool copies of such reports of investigation as may be requested by the Pool.
- b. Carriers will adjudicate all claims on ceded risks.
- c. The Carriers agree to use their normal large case management and psychiatric/alcoholism/substance abuse case management programs to control costs on reinsured basis to the same extent that they would use such programs on their direct business. The failure to follow such procedures will result in the denial or reduction of reinsurance claim payments, as determined by the Board.
- d. The Pool shall have the right, at its own expense, to participate jointly with a Carrier in the investigation, adjustment or defense of any claim.
- e. Carriers will be required to assure that their claim management practices are consistent for reinsured and non-reinsured risks. The failure to follow such procedures will result in the denial or reduction of reinsurance claim payments, as determined by the Board.
- f. The Pool shall have the right to inspect the records of the Carrier in connection with the risks reinsured with the Pool and the Carrier shall submit to the Pool any additional information the Pool may require in connection with claims submitted to it for reimbursement. Carriers shall secure necessary authorizations from insured employees or dependents for this purpose.
- g. All information disclosed to the Pool by the Carrier or to the Carrier by the Pool, in connection with this plan, shall be considered to be privileged and confidential information by both the Carrier and the Pool.
- h. If any payment made by the Pool and the Carrier is reimbursed by another party for the same expenses due to subrogation, coordination of benefits or other reimbursement, the Pool shall be reimbursed to the extent that the Carrier is reimbursed for expenses actually paid by the Pool. The Carrier shall execute and deliver instruments and do whatever is necessary to preserve and secure such reimbursement rights.
- i. Carriers which pay for certain provider services on a basis other than fee-for-service will be allowed reimbursement for those costs on reinsured persons from the Pool through a methodology approved by the Board.
- j. Except as approved by the Board, reinsurance will be provided only for covered claims submitted within two (2) years from the date the expenses on which the claim is based were incurred.

#### 4. Claims Reporting

- a. Within twenty (20) days after the close of each quarter or month, as chosen by the Carrier, the Carrier shall furnish to the Pool the information specified in article XV with respect to reinsured losses submitted to the Pool by the Carrier.
  - b. Carriers shall notify the Pool as soon as reasonably possible of all claims or potential claims for a reinsured employee or dependent where the losses expected to be paid by the Carriers will exceed one hundred thousand dollars (\$100,000) in the aggregate.
  - c. Claims denied based on incomplete or missing information must be resubmitted within sixty (60) days of the date that such claims were denied.
5. Appeals of Claim Decisions
6. Reinsurance Reimbursements
- a. The reinsurance claims will be reimbursed when the accumulated amount due as of the end of any month exceeds fifty thousand dollars (50,000). Regardless of this limitation, all balances due will be paid by the Pool to ceding Carriers no less often than every six (6) months.

All appeals of claim related decisions must be submitted within sixty (60) days of the date of such claim decision.

### **Article XIII - Audit Functions**

- A. Each Member of the Pool shall hire a Certified Public Accountant (CPA) or other party approved by the Board to conduct agreed upon procedures of various items related to Pool reinsurance and assessments. To be acceptable, the auditor must be independent, in accordance with standards established by the Audit Committee. The agreed upon procedures must be performed in accordance with generally accepted auditing standards as adopted by the membership of the American Institute of Certified Public Accountants.
- B. The agreed upon procedures shall be conducted in accordance with a uniform agreed upon procedure program (herein after called "Program") for Members, as developed by the Board. This Program shall clearly specify all items to be examined. It shall include a certification statement form, to be completed by the auditor, to verify the completion of all prescribed agreed upon procedures as dictated by the Program. Also, details regarding the number and types of records reviewed and any errors found shall be submitted in a written report which accompanies the certification statement. A copy of this report and the certification statement shall be submitted to the Board by the auditor.
- C. The Program shall include, but not be limited to, detail testing of representative samples of the following items:
  - 1. Reinsurance claims submitted to the Pool, in particular:
    - a. Eligibility of ceded individuals and their Small Employers for reinsurance by the Pool;

- b. Proper determination of reinsurance claim amounts requested by the Carrier including:
  - (1) Verification that the related claim was paid.
  - (2) Appropriate adjudication against the proper Standard Health Benefit Plan.
  - (3) Proper use of the approved methodology to convert capitated claims to fee for service basis.
  - (4) Properly applied reinsurance deductible.
  - (5) Proper application of any recoveries mad by the Carrier.
- 2. Reimbursements to the Pool have been properly determined considering reimbursement by other parties for the same expenses due to subrogation, coordination of benefits, outside reinsurance or other reimbursement.
- 3. Reinsurance premiums submitted to the Pool, including:
  - a. Eligibility of those lives for whom premium is paid for reinsurance by the Pool;
  - b. Proper determination of reinsurance premium amounts paid.
  - c. Appropriate selection of the Standard Health Benefit Plan.
- 4. Data submitted to the Pool for use in the calculation of Member Assessments. Tie-out covered lives to source data, including any adjustment amounts if applicable.
- 5. The frequency of these agreed upon procedures, but shall be no more frequent than annually, shall be determined by the Audit Committee. The cost of the performance of the agreed upon procedures of a Member shall be borne by that Member.
- D. Random reviews of provider bills or other records shall be conducted as deemed necessary by the Audit Committee to verify the accuracy and appropriateness of reinsurance claim submissions.
- E. The Board shall have the right to conduct such additional reviews and or agreed upon procedures audits of Members as it deems appropriate.
- F. All information disclosed in the course of the performance of the agreed upon procedures of a Member shall be considered privileged and confidential information by the Member, the auditing firm and the Pool.
- G. The Pool shall have an annual audit of its operations conducted by an independent Certified Public Accountant, as approved by the Board. The Board shall file this annual audit with the Commissioner. This audit shall encompass at least the following items:
  - 1. The handling and accounting of assets and money for the Pool;

2. The annual fiscal report of the Pool;
3. The calculation and the collection of any Assessments of Members.
4. The reinsurance premiums due to the Pool and the claim reimbursements made to the Carriers.

#### **Article XIV - Assessments**

All Assessments shall be imposed on and collected from all Members of the Pool. Each covered life shall be included in the calculation of Assessments on an aggregate basis.

##### A. Regular Assessments

- 1.** Following the close of each fiscal year, the Administrator shall determine the net premiums, the Pool expenses of administration and the incurred losses for the year, taking into account investment income and other appropriate gains and losses.
- 2.** Each Member's Assessment for the Pool shall be based on its number of Covered Lives multiplied by the regular Assessment rate. The regular Assessment rate will be established on an annual basis, and will be established no later than November 1 of the current fiscal year and subject to the approval of the Commissioner. The regular Assessment rate shall be based on the audited net loss of the Pool for the prior fiscal year and shall be anticipate to be sufficient to meet the Pool's funding needs ~~incurred, or,~~

##### B. Special Assessments

1. In addition to the regular Assessment rate the Board may establish a special Assessment rate for **interim Assessments needed (i) for organizational and operating expenses and (ii) to pay claims reinsured by the Pool.** A writer of Health Insurance may increase the premiums charged by the amount of the special Assessment. Any special Assessment may appear as a separate line item on a policyholder's bill ~~and is subject to the approval of the Commissioner.~~

##### ~~C. Interim Assessments~~

- 2.** The Board shall only establish an interim Assessment if the Board determines that the Pool's funds are or will become insufficient to pay the Pool's **liabilities (i) organizational and operating expenses and/or (ii) claims reinsured by the Pool** in a timely manner.
- 3. The special Assessment rate shall be subject to the approval of the Commissioner prior to charging any interim Assessment to the Members.**

##### ~~C. D.~~ Excess Assessments

1. If the Assessment exceeds the amount actually needed, the excess shall be held and invested and, with the earnings and interest thereon, be used to offset future net losses

D. ~~E.~~ Assessment Deferral

On application to the Board, the Board may defer, in whole or in part, the Assessment of a Member insurer if, in the opinion of the Board, payment of the Assessment would endanger the ability of the insurer to fulfill its contractual obligations. In the event an Assessment against a Member insurer is deferred in whole or in part, the amount by which such Assessment is deferred may be assessed against the other Members in a manner consistent with the basis for Assessments set forth in this Plan. The Member insurer receiving such deferral shall remain liable to the Pool for the amount deferred. The Board may attach appropriate conditions to any such deferral.

E. ~~F.~~ Late Payments

Assessments shall be paid when billed. If the Assessment is not received by the Administrator within thirty (30) days of the billing date, the Member shall pay interest on the Assessment from the billing date at the annual rate of prime plus 3%. The Board may suspend reinsurance rights if payments are not made in accordance with this article.

**Article XV - Reports of Carriers and Administrator**

A. Information Required by Pool

1. Unless otherwise specified by the Board, the following information shall be required by the Pool for reinsured risks:
  - a. Identification of the Carrier;
  - b. Name, date of birth, sex and the Carrier identification number of the person being reinsured;
  - c. Identification of the reinsured as an employee, spouse or child;
  - d. Employee name (if different) and unique identification number;
  - e. Plan anniversary date;
  - f. Employer's name, address, zip code and SIC/NAICS code;
  - g. Reinsurance plan indicator;
  - h. Effective date of Small Employer coverage;
  - i. Effective date of reinsurance;
  - j. Date of applicable employee's employment;
  - k. Group Size;
  - l. Other information required by the Board.

2. Changes in Reinsurance Coverage require the following information:
  - a. The reinsured's name and identification number;
  - b. The employee's name (if different) and unique identification number;
  - c. Effective date of status change;
  - d. Status code for change as required by the Board;
  - e. Other information required by the Board.
3. Claims Reporting
  - a. the claimant's name and date of birth;
  - b. the claim incurred date and paid date;
  - c. the reinsurance claim amount;
  - d. the claim coding as required by the Board (e.g., CPT and ICD);
  - e. Service type, place of service;
  - f. Submitted charges, covered charges;
  - g. Other information deemed necessary by the Board.

## **Article XVI - Financial Administration**

### **A. Books and Records**

The Administrator shall maintain the books and records of the Pool so that financial statements can be prepared to satisfy the Board. Further, these books shall satisfy any additional requirements as may be deemed necessary to meet the needs of the Board and the outside auditors. Records will be kept for the following:

1. The receipt and disbursement of cash by the Pool shall be recorded as it occurs.
2. Non-cash transactions shall be recorded when the asset or the liability should be realized by the Pool in accordance with generally accepted accounting principles.
3. Assets and liabilities of the Pool, other than cash, shall be accounted for and described in itemized records.
4. The net balance due to/from the Pool shall be calculated for each Member and confirmed with Members as deemed appropriate by the Board or when requested by the respective Member. These balances should be supported by a record of each individual Member's financial transactions with the Pool. These records include:

- a. Assessment, if applicable to the particular Member.
  - b. The amount of reinsurance premium due to the Pool for risks ceded and accepted by the Pool.
  - c. The amount of reimbursement due from the Pool for claims paid by the Carrier.
  - d. Adjustment to the amount due to/from the Pool based upon corrections to the Member submissions.
  - e. Interest charges due from the Member for late payment of amounts due to the Pool.
  - f. Such other records as may be required by the Board.
5. The Pool shall maintain a general ledger whose balances are used to produce the Pool's financial statements in accordance with generally accepted accounting principles. The balances in the general ledger shall agree with the corresponding balances in subsidiary ledgers or journals.

#### B. Handling and Accounting of Assets and Money

Money and marketable securities shall be kept in bank accounts and investment accounts as approved by the Board. The Administrator shall deposit receipts and make disbursements from these accounts.

#### C. Bank Accounts

All bank accounts/checking accounts shall be established in the name of the New Hampshire Small Employer Health Reinsurance Pool, and shall be approved by the Board of Directors. Authorized check signers shall be approved by the Board.

#### D. Lines of Credit

All lines of credit shall be established in the name of the New Hampshire Small Employer Health Reinsurance Pool, and shall be approved by the Board of Directors. Lines of credit shall be used to meet cash shortfalls.

#### E. Investment Policy

All cash shall be invested in available investment vehicles deemed appropriate by the Board.

### **Article XVII - Penalties/Adjustments and Dispute Resolution**

#### A. Penalties/Adjustments

1. Given numerous factual determinations and tasks to be performed by Members relative to their participation in the Pool, it is expected that all Members will exercise the highest degree of good faith and due diligence in all aspects of their relationship with the Pool.

Errors will occur, however, and it is appropriate that the sanctions applicable to such errors be detailed.

2. Errors related to reinsurance:

- a. Ineligible Small Employers/employees/dependents (initial placement of ineligible persons or failure to remove persons becoming ineligible). Reinsurance coverage for the individuals involved shall be terminated as of the first date of ineligibility. Claims paid by the Pool in excess of premiums received are to be returned to the Pool with interest. Premiums paid in excess of claims will be refunded without interest. An administrative charge established by the Board will be assessed in such situations.
  - b. Reinsuring employees/dependents at the incorrect reinsurance premium (failure to use the Rating Methodology proscribed correctly correct Pool rates and/or to apply correct rates to persons reinsured). Reinsurance premiums for the persons involved should be recalculated and immediate payment of additional premiums must be made, plus interest and an administrative charge. Excess payments will be refunded without interest, subject to the limitation on premium refund provision. See Article XVII, A 7.
  - c. Reinsuring incorrect Standard Health Benefit Plan. Premiums will be recalculated on the basis of the correct Standard Health Benefit Plan and all additional premiums due will be paid immediately, with interest and the administrative charge. Excess premiums will be refunded without interest and subject to the limitation on premium refunds provision.
  - d. Incorrect claim payments/submissions. The claim will be recalculated and any amount due to the Pool will be repaid immediately, with interest. Adjustments of claim payments for amounts recovered by the Small Employer Health Carrier under coordination of benefit, subrogation or similar provisions shall not be considered errors for which interest or any administrative charge shall be due.
3. Errors related to Assessments: All Member errors related to the Assessment shall require the immediate payment of additional amounts due plus interest calculated from the date such sum should have been paid, plus an administrative charge as established by the Board.
4. Errors not listed: All additional sums due to the Pool as a result of errors made by Members other than those listed above shall be paid immediately, with interest, on the applicable administrative charge.
5. Gross negligence and intentional misconduct: If the Board determines that the nature or extent of the errors related to the use of the reinsurance mechanism or otherwise by a particular Carrier evidences gross negligence or intentional misconduct, the Board may, after notice and a hearing, terminate some or all current reinsurance for the Carrier and/or suspend the right of the Carrier to use the reinsurance mechanism for an appropriate period of time. The Board will ensure, to the extent possible, that the suspension or termination of reinsurance for the Carrier shall not adversely affect individuals or groups already insured by the Carrier.

6. Interest and Administrative Charges: All interest payments required under this Article shall be calculated from the date the incorrect payment occurred or correct payment should have been made through the date of payment. The rate of interest shall be the prime rate plus 3%. The administrative charge(s) shall be established by the Board annually prior to December 31. Notwithstanding the above, errors reported by Members within ninety (90) days of their occurrence shall not be subject to interest or any administrative charges.
7. Limitation on Premium Refunds: All premium refunds due under this Article shall be limited to a period of twelve (12) months from the date the error was corrected.

#### B. Member Appeal of Disputes to Board

The Administrator will act on behalf of the Board in the attempt to resolve disputes between a Member and the Pool; however, Members may request permission to appear before the Board at any time in connection with any dispute with the Pool.

### **Article XVIII - Indemnification**

- A. Neither participation in the Pool as Members, the establishment of rates, forms or procedures nor any other joint or collective action required by the Statute shall be the basis of any legal action, criminal or civil liability or penalty against the Pool or any of its Members.
- B. Persons or Members made a party to any action, suit, or proceeding because the person or Member serves on the Board or on a committee or was an officer or employee of the Pool shall be held harmless and be indemnified by the Pool against all liability and costs, including the amounts of judgments, settlements, fines or penalties, and expenses and reasonable attorney's fees incurred in connection with the action, suit or proceeding. This indemnification shall not be provided on any matter in which the person or Member is finally adjudged in the action, suit or proceeding to have committed a breach of duty involving gross negligence, dishonesty, willful misfeasance or reckless disregard of the responsibilities of office. Costs and expenses of the indemnification shall be prorated and paid for by all Members. The Commissioner may retain actuarial consultants necessary to carry out his or her responsibilities pursuant to this Plan and such expenses shall be paid by the Pool established in this Plan.

### **Article XIX – General Provisions**

- A. Amendment and Compliance with Applicable Laws
  1. Amendments to this Plan may be suggested by any Member and may be made by as approved by a majority of the Board at any time. Amendments to this Plan shall be subject to the approval of the Commissioner.
  2. Unless otherwise specified by the Board, any provision of the Plan that conflicts with any applicable requirement of federal or state law or regulation shall be deemed amended to comply with such requirement

B. Amounts due to Pool under the Plan

The Pool shall be entitled to recover all costs and expenses including, attorneys' fees that are incurred either directly, or through a third party, to collect any amounts due to the Pool under the Plan.

**C. Calculation of Time Periods**

- 1. The following rule of construction will apply to the calculation of any time period under the Plan or the Statute. If a time period ends on a day which is a Saturday, Sunday or a holiday listed in RSA 288, then the time period will be extended to, and end at, 11:59 p.m. on the next succeeding Business Day. For purposes of this Plan, "Business Day" means a day which is not a Saturday, Sunday or holiday listed in RSA 288.**
- 2. With respect to any time period under the Plan or Statute which is triggered by the commencement or termination of Health Coverage or the issuance or termination of an insurance policy (e.g. Article XII (C)(1)(e) above), the first day of the time period will be the day on which the insurance policy or coverage commenced or terminated, as the case may be, and the time period will end at 11:59 p.m. on the last day of such period.**

**Article XX – Termination**

The Pool shall continue in existence subject to termination in accordance with the requirements of a law or laws of the State of New Hampshire or the United States of America. In case of enactment of a law or laws which in the determination of the Board and the Commissioner shall result in the termination of the Pool, the Pool shall terminate and conclude its affairs in a manner to be determined by the Board with the approval of the Commissioner. Any funds or assets of any nature held by the Pool following termination and the payment of all claims and expenses of the Pool shall be distributed to the Members existing at that time in accordance with the then-existing Assessment formula.