



## BUREAU OF INSURANCE

### HEALTH MAINTENANCE ORGANIZATIONS CHAPTER 43 OF TITLE 38.2 OF THE CODE OF VIRGINIA

#### **REQUIREMENTS FOR ORGANIZING AND LICENSING IN VIRGINIA**

No person shall establish or operate a health maintenance organization (HMO) in this Commonwealth without first obtaining a license from the Bureau of Insurance (Bureau). To be considered for a license, an applicant must submit a completed *Application for Initial License as a Health Maintenance Organization* to the Bureau's Financial Regulation Division pursuant to [Chapter 43 \(§ 38.2-4300 et seq.\)](#) of Title 38.2 of the Code of Virginia (*Health Maintenance Organization*). Prospective applicants should contact the Bureau about their intention to establish an HMO in Virginia. By doing so, the applicant will have the opportunity to submit a more thorough and acceptable application.

The following definitions may prove useful in reviewing these requirements:

"Health care plan" means any arrangement in which any person undertakes to provide, arrange for, pay for, or reimburse any part of the cost of any health care services. A significant part of the arrangement shall consist or arranging for or providing health care services, including emergency services and services rendered by nonparticipating referral providers, as distinguished from mere indemnification against the cost of the services, on a prepaid basis. For purposes of this section, a significant part shall mean at least 90 percent of total costs of health care services.

"Health maintenance organization" means any person who undertakes to provide or arrange for one or more health care plans.

Any person, including a foreign corporation, may apply to the Commission for a license to establish and operate a Health Maintenance Organization pursuant to [§ 38.2-4301 A](#) of the Code of Virginia.

## **LICENSE REQUIREMENTS**

1. Each license application, along with the required attachments, must be accompanied by a nonrefundable application fee of \$500 payable to the Treasurer of Virginia ([§ 38.2-4302 A of the Code of Virginia](#)).
2. If the applicant intends to operate as a **Virginia-domestic business entity**, it must secure the proper certification from the Clerk's Office of the State Corporation Commission (Clerk's Office). If the applicant is a **foreign business entity**, it must secure the proper Certificate of Authority from the Clerk's Office. These certifications are in addition to the license received from the Bureau. Foreign business entities may file with the Clerk's Office during the tentative approval stage of the application. Applicants may contact the Clerk's Office at (804) 371-9733, or the web site at [www.scc.virginia.gov/clk](http://www.scc.virginia.gov/clk) for instructions on filing.

## **BUREAU CONTACT**

Applicants should submit the application and direct all questions regarding the requirements for licensing to the following person:

Daryl Hepler, Supervisor  
Company Licensing and Regulatory Compliance  
State Corporation Commission  
Virginia Bureau of Insurance  
P.O. Box 1157  
Richmond, VA 23218  
Telephone: (804) 371-9999  
Facsimile: (804) 371-9511  
[Daryl.Hepler@scc.virginia.gov](mailto:Daryl.Hepler@scc.virginia.gov)



STATE CORPORATION COMMISSION  
BUREAU OF INSURANCE

**APPLICATION FOR INITIAL LICENSE AS AN  
HEALTH MAINTENANCE ORGANIZATION**  
Chapter 43 of Title 38.2 of the Code of Virginia

(Please read these instructions completely before filing an application.)  
(All citations to the insurance statutes of Virginia are in Title 38.2 of the Code of Virginia.)

**Section I. Initial Review Documents and Disclosure**

In its initial application, an applicant for a license as a health maintenance organization (HMO) must submit or disclose the following:

1. Non-refundable Application Fee of \$500.00
2. Name of Applicant \_\_\_\_\_
3. DBA/Trade, Assumed or Fictitious Name (if applicable) \_\_\_\_\_
4. Street Address of Applicant \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
5. Mailing Address \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
6. Internet Website Address \_\_\_\_\_

7. Organizational Structure (Date of Incorporation/Formation \_\_\_\_\_)  
 \_\_\_ Corporation    \_\_\_ Limited Liability Company    \_\_\_ Partnership  
 \_\_\_ Other: Identify/Explain \_\_\_\_\_
8. State of Domicile \_\_\_\_\_
9. Federal Employer Identification Number \_\_\_\_\_
10. National Association of Insurance Commissioners Number (if applicable) \_\_\_\_\_
11. Contact Person \_\_\_\_\_  
 Title \_\_\_\_\_  
 Telephone \_\_\_\_\_  
 Fax Number \_\_\_\_\_  
 Email \_\_\_\_\_
12. If the applicant is a Virginia-domiciled entity, provide a copy of the applicable certificate received from the Clerk’s Office.
- If the applicant is a foreign-domiciled entity, provide: (a) the state of domicile, and (b) a copy of the Certificate of Incorporation from the home state. If the applicant has filed with the Clerk’s Office, provide a copy of the Certificate of Authority.
13. Provide a copy of the basic organizational documents including, but not limited to, the articles of Incorporation, articles of association, partnership agreement, trust agreement, or other applicable documents, and all amendments to those documents.
14. Submit a copy of the by-law, rules, and regulations or any similar document regulating the conduct of the internal affairs of the applicant.
15. If the applicant is a member of a holding company system, submit an organizational chart which depicts the affiliate relationships among the members. As used herein, “affiliate” means a person that directly or indirectly through one or more intermediaries, controls, is controlled by or is under common control with the member specified. “Control” shall be presumed to exist if any person directly or indirectly owns, controls, holds with the power to vote, or holds proxies representing collectively 10% or more of the voting securities of any other person.

16. List the name, address, and official position of each member of the governing body and any person with authority to manage or establish policy.

<u>Name</u>	<u>Official Position</u>	<u>Address</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

For each individual, provide an NAIC Biographical Affidavit. The Biographical Affidavit must be certified by an independent third party that has conducted a comprehensive review of the applicant’s background and has certified that the Biographical Affidavit has no inaccurate or conflicting information and no material omissions. NAIC Biographical Affidavits must be current and shall not be signed by the affiant more than one year prior to the date the application is filed. The form can be accessed through the NAIC’s website at [www.naic.org/industry\\_ucaa.htm](http://www.naic.org/industry_ucaa.htm).

17. Present a full disclosure of any financial interest between any provider, organization, or corporation owned or controlled by such person and the HMO. The statement should include the extent and nature of the financial arrangements between such persons and the HMO.
18. Present full disclosure of any person owning or having the right to acquire five percent or more of the voting securities or subordinated debt of the applicant.
19. Submit a copy of any contracts made or to be made between any provider, sponsors, or organizers of the HMO or any member of the governing body.
20. Submit a copy of the evidence of coverage form to be issued to subscribers.
21. Submit a copy of any group contract form that is to be issued to employers, unions, trustees, or other organizations. All group contracts shall set forth the right of subscribers to convert their coverages to an individual contract issued by the HMO. In addition, include a copy of any other pertinent forms to be issued to subscribers, enrollees, or members, including but not limited to applications, enrollment forms, handbooks, provider lists, and explanations of service areas.

22. Applicants that are domiciled in Virginia need to provide the following items:
- a. The most recent financial statements that include a balance sheet, income statement, reconciliation of capital and surplus and a cash flow statement. Applicants should use the NAIC Health Organization Annual Statement Blank, if available. The financial statements must be attested to and signed by two principal officers and notarized.

The applicant's capital and surplus shall include minimum net worth in an amount at least equal to the sum of uncovered expenses, but not less than \$600,000, up to a maximum of \$4 million pursuant to [§ 38.2-4302 A 3 f](#). A licensed HMO shall have and maintain at all times the minimum net worth pursuant to [§ 38.2-4302 B](#).

- b. A copy of the most recent audited financial reports certified by an independent certified public accountant.
23. Applicants that are domiciled outside of the Commonwealth of Virginia need to provide the following items:

- a. Annual statements prepared using the NAIC Health Organization blank, for the latest two years preceding the date of application. The most recent year should have original signatures but certified copies may be furnished for prior years. All Annual Statements are to be prepared in accordance with the Health Organization Quarterly and Annual Statement Instructions and the Accounting Practices and Procedures Manual adopted by the NAIC:
  - i. Annual Statements must contain the opinion of a qualified actuary regarding the adequacy of loss reserves and any other actuarial items.
  - ii. The "Management's Discussion and Analysis" should accompany the latest Annual Statement, disclosing information on the insurer's financial position, results of operations, changes in capital and surplus accounts, and cash flow.

The applicant's capital and surplus shall include minimum net worth in an amount at least equal to the sum of uncovered expenses, but not less than \$600,000, up to a maximum of \$4 million pursuant to [§ 38.2-4302 A 3 f](#). A licensed HMO shall have and maintain at all times the minimum net worth pursuant to [§ 38.2-4302 B](#).

- b. A copy of the Annual Statement of any parent or subsidiary insurer not currently licensed in Virginia for the year-end immediately preceding the submission of the application.
- c. Health organization quarterly statements of the applicant, prepared in accordance with accounting practices and procedures adopted by the NAIC. Applications received after May 15th must include a properly executed first quarter statement signed in the original by the appropriate company officers;

applications received after August 15th must include a properly executed and signed second quarter statement; applications received after November 15th must include a properly executed and signed third quarter statement.

- d. Full Report of Examination made by the state of incorporation, certified by the commissioner of insurance of that state. Organizational examinations may be accepted for newly formed insurers. **Three year rule:** The balance sheet date of the report must be no more than three years prior to the date of the most recent annual statement. The report must be relevant to the company's current management and method of operation.
  - e. Copies of audited financial reports for the two complete fiscal years immediately preceding the date of application, certified by an independent certified public accountant. Include copies of any management letters with recommendations prepared by the independent certified public accountants.
  - f. A copy of the most recently filed holding company registration statement with all amendments as filed with the domiciliary state's insurance commissioner, director or superintendent or with such regulatory official of the state of domicile of the principal insurer in the applicant's holding company system, if applicable.
  - g. Latest annual report and/or Form 10K of the applicant company, its parent company, or the company having ultimate control over the applicant, whichever is applicable.
  - h. A description of all material litigation involving the company which is currently pending or was concluded during the last three years, including fines or administrative procedures against the company by any state or federal agency.
  - i. A current Certificate of Compliance executed by the insurance department of the state of incorporation.
  - j. A list of states in which the applicant is not licensed but has an application pending.
  - k. If a license has been refused or denied by any jurisdiction, an explanation along with a copy of the refusal or denial letter/document.
24. Submit a complete description of the HMO and its method of operation including but not limited to:
- a. A detailed description of the HMO's marketing information that addresses: (i) marketing methods, (ii) health care delivery system, (iii) product mix and, (iv) the management team, along with any contract for these services.
  - b. A statement regarding the availability and sources of funding for the HMO. Attach any funding agreements or mechanisms in place or contemplated.

- c. A description of any insurance arrangements including stop loss, medical malpractice, insolvency, general liability, fidelity, reinsurance, and any other insurance coverage or alternative arrangements being considered as protection for the plan and its enrollees. Attach executed copies of all policies.
25. Submit a description of the mechanism by which enrollees will be given an opportunity to participate in matters of policy and operation pursuant to [§ 38.2-4304 B](#).
26. Submit a financial feasibility plan that includes, but is not limited to:
  - a. Detailed enrollment projections.
  - b. The methodology for determining premium rates to be charged during at least the first three years of operations and extending one year beyond the anticipated break-even point certified by an actuary,
  - c. The HMO's quarterly financial statutory projections beginning with the anticipated starting date, including the initial operating results extending at least one year beyond the anticipated break even point (subject to a minimum of three years). The financial projections should include balance sheets, cash flow statements showing capital expenditures and purchase and sale of investments, income statements and statements of anticipated covered and uncovered expenses. The projections should be on a quarterly basis for at least three years and extending one year beyond the anticipated break-even points. The applicant should use the format of the attached schedule of covered and uncovered expenses to present covered and uncovered expenses on a quarterly basis. All underlying assumptions must be documented. Critical assumptions must include, but are not limited to, enrollment levels, premium rates, provider reimbursement, utilization rates, risk-sharing arrangements with providers, general and administrative expenses, excess and other insurance expenses and recoveries, coordination of benefits, costs of long-term financing, and inflation. Use the format of attached schedule to present covered and uncovered expenses on a quarterly basis.
27. Document compliance with the provisions of [Chapter 58 of Title 38.2](#) by submitting items required for the establishment of a Managed Care Health Insurance Plan (MCHIP), which may be found at [MCHIP Application](#). Provider contracts submitted are subject to the provisions of [§ 38.2-5805](#) and [§ 38.2-3407.15](#).
28. Provide a written commitment by the applicant expressing a willingness to surrender voluntarily its Virginia license if the company does not commence direct writings in the Commonwealth of Virginia within six months after licensure. The commitment must be signed by at least one principal corporate officer, such as the president, that is empowered to make such a commitment by the company's bylaws and/or articles of incorporation.



**NOTARIAL ACKNOWLEDGMENT REQUIRED OF ALL APPLICANTS**

Dated and signed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ at \_\_\_\_\_, \_\_\_\_\_ being duly sworn according to law, deposes and says that the answers to the questions and the declarations contained in this application are true and correct.

\_\_\_\_\_  
Signature of the President/CEO  
of the HMO

\_\_\_\_\_  
Full Legal Name of the Applicant  
(Type or Print)

State of \_\_\_\_\_

City/County of \_\_\_\_\_

Personally appeared before me the above named \_\_\_\_\_ personally known to me, who, being duly sworn, deposes and says that he/she executed the above instrument and that the statements and answers contained therein are true and correct to the best of his/her knowledge and belief.

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

(SEAL)

\_\_\_\_\_

Notary Public

My Commission Expires: \_\_\_\_\_

It is the intent of the Bureau to process all applications in a timely manner. When necessary, the Bureau will contact the applicant regarding the need for any additional information in order to continue and complete the review process. Failure by the applicant to respond adequately to requests for such additional information within a reasonable timeframe, or failure to demonstrate compliance with the licensing standards prescribed by law, will be grounds for denial of the application, subject to the applicant's right to demand a hearing before the Commission.

If the Bureau of Insurance determines that an application meets the requirements of [Chapter 43 of Title 38.2](#), the Bureau of Insurance will issue a letter of **tentative approval** directing the applicant to complete the remaining requirements for licensure in **Section II** below.

## **Section II. Tentative Approval**

During the second stage of review, the following documents will need to be submitted along with any other items requested by the licensing examiner, within sixty (60) days of the date of the letter of tentative approval:

1. The applicant will be requested to make a deposit of not less than \$300,000 with the financial institution designated by the Treasurer of Virginia as custodian for deposits as required by [§ 38.2-4310.1](#). The Commission may require an additional deposit in an amount equal to the greater of (i) the sum of all uncovered expenses for the most recent three months reported in accordance with [§ 38.2-4307.1 B](#) or (ii) the value of liabilities representing uncovered health care expenses.
2. *For non-Virginia domiciled applicants that are organized as corporations, limited liability companies, or partnerships:* The applicant must make appropriate filings with the Clerk of the Commission to (i) properly record its existence in accordance with the Code of Virginia, and (ii) designate a resident of Virginia as agent for service of process. For filing instructions and forms, the applicant may contact the Clerk of the Commission at [www.scc.virginia.gov/clk](http://www.scc.virginia.gov/clk) or at (804) 371-9733.
- 3.. *For non-Virginia domiciled applicants that are not organized as corporations, limited liability companies or partnerships:* The applicant must record its existence to the extent required by appropriate governing statutes of Virginia and designate a resident of Virginia as agent for service of process. The applicant must provide evidence to the Bureau that such existence has been properly registered.

The Bureau will issue a license to an applicant once it determines that the applicant has complied with the requirements of Section II and all other licensing standards provided by [§ 38.2-4302](#). [NOTE: Failure to complete the above within the sixty (60) day deadline may result in a denial of the application.]

## INSTRUCTIONS

This is a copy of the form that HMOs file with each Annual Statement and Quarterly Statement pursuant to [§ 38.2-4307.1 C](#) of the Code of Virginia. Applicants should use this format in the financial projections to report covered and uncovered expenses on a quarterly basis. The expenses should be reported on a noncumulative quarterly basis and report total expenses, not just projected expenses allocated to Virginia business. The Commission uses this form to calculate an HMO's minimum net worth requirement in accordance with [§ 38.2-4302 A 3 f](#).

Covered expenses are:

- (i) any expenses of an HMO which are owed or paid to a health care provider under contract and the contract has acceptable language holding enrollees harmless ("hold harmless language") pursuant to [§ 38.2-5805 C 9](#).
- (ii) a non-cash expense - i.e. - depreciation, and any other expense which has had prior approval by the Commission to be reported as covered.

Any expense which is not covered is considered uncovered.

Medical expenses should be reported after any adjustments for reinsurance recoveries.

Administrative Services Only ("ASO") Revenue that exceeds ASO expenses and are included in general administration expenses should be adjusted for on line (14). Therefore, uncovered expenses cannot be reduced by revenue generated on ASO business.

**SUPPLEMENTARY STATEMENT  
COVERED AND UNCOVERED EXPENSES  
FOR THE QUARTER ENDING \_\_\_\_\_  
FOR \_\_\_\_\_  
(NAME OF HMO)**

EXPENSES	COVERED	UNCOVERED	TOTAL
<u>HOSPITAL AND MEDICAL</u>			
(1) HOSPITAL/MEDICAL BENEFITS			
(2) OTHER PROFESSIONAL SERVICES			
(3) OUTSIDE REFERRALS			
(4) EMERGENCY ROOM AND OUT-OF-AREA			
(5) PRESCRIPTION DRUGS			
(6) AGGREGATE WRITE-INS FOR OTHER HOSPITAL AND MEDICAL			
(7) INCENTIVE POOL AND WITHHOLD ADJUSTMENTS			
(8) TOTAL MEDICAL AND HOSPITAL			
(9) NON-HEALTH CLAIMS			
(10) CLAIMS ADJUSTMENT EXPENSES			
(11) GENERAL ADMINISTRATIVE EXPENSES			
(12) INCREASE IN RESERVES FOR ACCIDENT AND HEALTH CONTRACTS			
(13) TOTAL EXPENSES INCURRED (ITEMS 8+9+10+11+12)			
(14) ADD BACK ASO REVENUE THAT EXCEEDS ASO EXPENSES INCLUDED ON LINE (11)			
(15) NET EXPENSES (ITEMS 13+14)			