



# Arkansas Insurance Department

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Mike Huckabee  
Governor

Mike Pickens  
Commissioner

SHANNON PRIEST  
SECRETARY OF STATE

STATE OF ARKANSAS

BY \_\_\_\_\_

Docket #: 054.00.97-019

## Divisions

Administration  
1-501-371-2620  
1-501-371-2629 Fax

Accounting  
1-501-371-2605

Consumer Services  
1-501-371-2640  
1-800-852-5494

Data Processing  
1-501-371-2657

Finance  
1-501-371-2665

Human Resources  
1-501-371-2815

Legal  
1-501-371-2820

License  
1-501-371-2750

Life & Health  
1-501-371-2800

Property & Casualty  
1-501-371-2800

Risk Management  
1-501-371-2690

Senior Insurance  
Network  
1-501-371-2782  
1-800-852-5494

Insurance Fraud  
Investigation  
1-501-371-2790  
1-501-371-2799 Fax

October 29, 1997

TO: ALL LICENSED HEALTH MAINTENANCE ORGANIZATIONS ("HMO'S"),  
ALL AGENT AND COMPANY TRADE ASSOCIATIONS, ALL APPROVED  
AGENT EDUCATION COURSE PROVIDERS AND OTHER INTERESTED  
PARTIES

FROM: ARKANSAS INSURANCE DEPARTMENT

SUBJECT: READOPTION OF RULE AND REGULATION 35, "AGENT LICENSE FOR  
HEALTH MAINTENANCE ORGANIZATIONS" REVISED PER ACT 1004 OF  
1997

### NOTICE OF PUBLIC HEARING

Pursuant to Arkansas Code Annotated Section 25-15-203(2), 23-61-108, 23-64-304 as amended by Act 1004 of 1997, 23-76-125, and other applicable laws, NOTICE is hereby given that a Public Hearing will be held on December 3, 1997 at 9:00 a.m. in the First Floor Hearing Room, Arkansas Insurance Department, at 1200 West Third Street (Third & Cross Streets), Little Rock, Arkansas.

1. The Public Hearing will be held to determine whether the Insurance Commissioner should readopt Revised Rule 35, "Agent License For Health Maintenance Organizations", for conformity with the provisions of Act 1004 of 1997. A copy of the proposed Revised Rule 35 is attached for your review.

2. All interested persons are encouraged to attend the Public Hearing and may appear and present (orally or in writing) statements, arguments or opinions on the proposed Rule.

3. Persons wishing to testify should notify the Legal Division as soon as possible; and are requested to submit intended statements in writing. Comments at the Public Hearing on the Proposed Rule, as well as written comments without testimony, are allowed and encouraged.

Please direct your inquiries to the Legal Division at (501) 371-2820 or Fax (501) 371-2629, or to Director Fred Stiffler, Agent License Division, at (501) 371-2750.

Sincerely,

*Jean Langford*  
Jean Langford  
Chief Counsel  
Legal Division

Enclosures: Proposed Revised Rule 35

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SHARON HINEST  
SECRETARY OF STATE  
STATE OF ARKANSAS

BY \_\_\_\_\_

**PROPOSED  
RULE AND REGULATION 35  
AGENT LICENSE FOR HEALTH MAINTENANCE  
ORGANIZATIONS**

**SECTION**

1. Purpose
2. Authority
3. Effective Date
4. Applicability and Scope
5. Definitions
6. License Qualifications
7. Fees
8. Term of License
9. Revocation and Suspension of License
10. Severability

**SECTION 1. PURPOSE**

The purpose of this Rule is to set the standards and guidelines under which agents for Health Maintenance Organizations can be licensed by the State of Arkansas.

**SECTION 2. AUTHORITY**

The authority for this Rule is the power given to the Insurance Commissioner for the State of Arkansas by Ark. Code Ann. §§23-61-108, 23-61-701, et seq., 25-15-201, et seq., and 23-76-120, and Act 1004 of 1997, and other applicable laws.

**SECTION 3. EFFECTIVE DATE**

The Rule shall be effective on \_\_\_\_\_.

**SECTION 4. APPLICABILITY AND SCOPE**

This Rule shall apply to all individuals, limited liability companies, and corporate or partnership (general or limited) agencies engaged in the business of marketing contacts, soliciting enrollments, or offering memberships with a Health Maintenance Organization ("HMO").

**SECTION 5. DEFINITIONS**

- a) "Agent" means any individual person who, limited liability company which, or corporation or partnership (general or limited) which engages in solicitation and enrollment for any Health Maintenance Organization, but shall exclude any salaried officer or employee who has duties that are primarily administrative and who receives no commission for applications taken or enrollments made.
- b. "Applicant" means any person who, or firm or partnership (general or limited) which, limited liability company or corporation which ~~who~~ has applied for a certificate of authority as a Health Maintenance Organization, or ~~who~~ has applied for a license as an HMO agent.

## SECTION. 6. LICENSE QUALIFICATIONS

- a. Every individual person applying for an agent license shall be qualified as follows:
1. Must be of legal age, or have the disabilities of minority removed by a Court of law for general purposes.
  2. Must be a resident of this state or a licensed non-resident.
  3. Must be appointed by a licensed Health Maintenance Organization or an applicant for said Certificate of Authority.
  4. Must be deemed by the Commissioner to be competent, trustworthy, financially responsible and of good personal and business reputation.
  5. Must pass such written disability examination or other appropriate examination as required by the Commissioner. Must complete required hours of pre-licensure education as is required by the Commissioner's Rule and Regulation 31, "Educational Requirements for Insurance Agents".
  6. Must file letter of certificate issued within ninety (90) days, evidencing the resident HMO agent license is current or in good standing from supervisory insurance official from state of domicile, if a nonresident.
- b. Every corporate or partnership agency or limited liability company applying for an agent license shall be qualified as follows:
1. Must be domiciled in this state or a licensed non-resident.
  2. Must file partnership articles or agreement, if a general or limited partnership, resident or nonresident. Must file registration from the Arkansas Secretary of State, if a limited Arkansas partnership.
  3. Must file articles of incorporation duly certified by the proper domiciliary state official, if a resident or nonresident corporation. Must file a certificate of organization from the Arkansas Secretary of State if an Arkansas limited liability company. Must file registration ~~from~~ if required by the Arkansas Secretary of State, if a foreign corporation.
  4. Must be appointed by a licensed Health Maintenance Organization or an applicant for said Certificate of Authority.
  5. Must file letters of certification issued within ninety (90) days evidencing the resident HMO agency licensure and each individual agent from that state is current or in good standing from supervisory insurance official from state of domicile, if a nonresident.

## SECTION 7. FEES

- a. Licensure Fees Payable by APPLICANT ONLY for Resident Agent/Agency License:
1. There shall be a Thirty Dollar (\$30.00) examination fee paid to the Commissioner prior to examination of resident individuals, and a \$30.00 retake fee.

2. There shall be a Thirty-Five Dollar (\$35.00) regulatory fee (ALF fee per Rule 57) for each issuance/annual renewal of each resident and non-resident agent and agency license.

If Commissioner contracts for these services, then the amount and method of payment and due date of fees may be determined by the Vendor, subject to Rule 57 or §23-61-401.

b. Licensure Fees Payable by the HEALTH MAINTENANCE ORGANIZATION on behalf of an Applicant for Agent/Agency License:

1. There shall be a Sixty Dollar (\$60.00) initial/annual fee amount paid to the Commissioner for the initial/annual renewal appointment of an INDIVIDUAL NONRESIDENT agent's license.

2. There shall be a Sixty Dollar (\$60.00) initial/annual fee amount paid to the Commissioner for the initial/renewal appointment of a CORPORATE OR LIMITED LIABILITY COMPANY OR PARTNERSHIP AGENCY license from a NONRESIDENT.

3. There shall be a Twenty Dollar (\$20.00) initial/annual fee amount paid to the Commissioner for the initial/renewal appointment of an INDIVIDUAL RESIDENT agent's license.

4. There shall be a ~~Forty~~ Twenty Dollar (\$~~40~~20.00) initial/annual fee amount paid to the Commissioner for the initial/renewal ~~fee amount paid to the Commissioner for the initial/renewal~~ appointment of a CORPORATE OR LIMITED LIABILITY COMPANY OR PARTNERSHIP AGENCY license from a RESIDENT.

c. There shall be a Ten Dollar (\$10.00) fee paid to the Commissioner to cancel, ~~nonrenew~~ or otherwise terminate an appointment on any RESIDENT or NONRESIDENT AGENT or AGENCY license by either the agent, agency or HMO, per appointment.

d. All fees shall be remitted to the Agent License Division of the Department, and shall be payable to "The State Insurance Department Trust Fund" with a check or money order from the Agent or Agency or HMO as required by and appropriate with the Commissioner's Rule 57, except for payments to Vendors as permitted by the Commissioner.

## SECTION 8. TERM OF LICENSE

Every license and HMO appointment issued under the Rule shall be valid for the calendar year when issued and each HMO appointment must be renewed biennially on even numbered years contemporaneous with life and/or disability insurance agent appointments under Ark. Code Ann. ~~§§23-64-221 (c)~~ 23-64-219 (c) as amended by Act 1004 of 1997. HMO agent licenses will be renewed when the Department receives the appointment forms, Forms I-45, the HMO appointment fees, and any ALF fees due or overdue from the HMO agent or agency. The amount of fees filed for licenses issued in odd-numbered years will vary. In addition, each resident HMO agent who is not otherwise exempt must file certifications and the accompanying Rule 57 fee ~~of \$10~~ for timely compliance with continuing education hours as mandated by the

Commissioner's Rule 50, "Agents' Continuing Education", as amended or hereinafter amended, to be eligible for renewal licensure.

## SECTION 9. REVOCATION AND SUSPENSION OF LICENSE

a. The Commissioner may suspend for not more than thirty-six months pursuant to Ark. Code Ann. §23-64-216, as amended by Act 1004 of 1997 twelve (12) months, or may revoke or refuse to continue any license issued under this Rule, after written notice to the licensee and after a hearing is held under the provisions of Ark. Code Ann. §§23-61-303, et seq., and/or 23-64-216, as amended by Act 1004 of 1997; and the Commissioner finds that any one or more of the following causes exist:

1. Any cause for which issuance of the license could have been refused had it then existed and been known to the Commissioner.

2. Violation of or noncompliance with any provision of the Insurance Code, or for willful violation of any rule, regulation or order of the Commissioner.

3. Obtaining or attempting to obtain any such license through fraud or misrepresentation.

4. Misappropriation of or conversion to the licensee's his own use or benefit any moneys received through the course of business that do not belong to the licensee him.

5. Conviction of or pleading of guilty or nolo contendere to a felony, or any felony involving dishonesty or a breach of trust.

6. If in the conduct of the licensee's his affairs, the licensee has used fraudulent, or dishonest practices, or trade practices prohibited by the insurance code or statutes and regulations of the State.

7. Failure to provide a written response after receipt of an written inquiry from the Commissioner or his representative as to transactions under the license within thirty (30) days after receipt thereof, unless waived in writing by the Commissioner; or failure to notify the Commissioner promptly of any change of address in writing.

8. Having an insurance agent or broker license or HMO agent license or other insurance license or registration suspended or revoked in this State or any other state, providence, district, or territory; or if the licensee no longer meets the qualifications for licensure as described in this Rule and applicable laws.

b. If the Commissioner finds that any one (1) or more grounds exist for the suspension or revocation of any license, the Commissioner may in his discretion, in lieu of or in addition to such suspension or revocation, impose an administrative penalty in the amount of one thousand dollars under Act 1004 of 1997 ~~three hundred dollars (\$300)~~, or if the Commissioner has found willful misconduct or willful violation by the licensee, five thousand dollars (\$5,000) under Act 1004 of 1997 ~~one thousand dollars (\$1,000)~~. The Commissioner may take judicial notice of prior sanction orders issued against the licensee in this or other licensed jurisdictions and enhance or increase the penalties ordered in any current misconduct proceeding as to the licensee, without an abuse of discretion. The Commissioner may in his discretion order the licensee to pay restitution

1 of actual losses to affected persons as specified in §23-64-216 as amended by Act 1004  
2 of 1997, or in an order/consent order against the licensee, in addition to other sanctions  
3 imposed under this Rule.

- 4  
5 c. The Commissioner may not again issue any license under this Rule to any person  
6 whose license has been revoked until after expiration of three (3) years, and upon the  
7 same conditions expressed in Ark. Code Ann. §23-64-217 (b) as amended by Act 1004  
8 of 1997 ~~23-64-219 (e)~~ as for insurance agents and brokers, subject to other applicable  
9 laws.

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11 **SECTION 10. SEVERABILITY**

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13 Any section or provision of this Rule held by a court to be invalid or unconstitutional will not  
14 affect the validity of any other section or provision of this Rule.  
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19 \_\_\_\_\_  
(signature upon adoption)

20 MIKE PICKENS  
21 INSURANCE COMMISSIONER  
22 STATE OF ARKANSAS  
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25 \_\_\_\_\_  
26 DATE  
27  
28  
29

30 CONTACT PERSON: Jean Langford, Chief Counsel, Arkansas Insurance Department, 1200  
31 West Third Street, Little Rock, Arkansas 72201-1904, (501) 371-2820 ~~4123 South University~~  
32 Avenue, Little Rock, Arkansas 72204, (501) 686-2999.