



**STATE OF NEW YORK
INSURANCE DEPARTMENT**
25 BEAVER STREET
NEW YORK, NEW YORK 10004

**Circular Letter No. 26 (2000)
August 3, 2000**

**To: All Public Health Law Article 44 HMOs, Insurance Law Article 43 Corporations, and Insurers
Licensed to Write Accident and Health Insurance in New York State**

Subject: Point-of-Service Products

On May 17, 1999 the Insurance Department issued [Circular Letter No. 13](#) which set forth criteria for determining the premium rate for point-of-service "POS" products in order to address the inappropriateness of blending a community rated component (in-network benefit) with an experience rated component (out-of-network benefit). POS products combine a comprehensive health services in-network benefit with an out-of-network indemnity benefit, and in the large group marketplace are generally issued by an HMO to provide the in-network community rated benefit and an insurer licensed to do health insurance to provide the out-of-network experience rated benefit.

The application of the criteria set forth in Circular Letter 13 (1999), namely identifying where the majority of the services to be provided under a POS product will be performed, would have resulted in an "in-network response" for every POS product and, under the terms of Circular Letter No. 13 (1999), the premium for the entire POS product would have to be rated using the rating methodology currently used by all HMOs, namely community rating.

While there is nothing inherently wrong with a large group community rated POS product the Department does recognize that POS products must compete with other products sold in the large group marketplace which are very similar to a POS product, including an indemnity contract with a preferred provider organization (PPO) component which can be fully experience rated. The perceived marketplace advantages of these products (e.g. fully experience rated) has led certain HMOs to discontinue their large group POS products in favor of an indemnity/PPO experience rated contract issued by an affiliated insurer.

To permit HMOs to better compete in the large group POS marketplace and to address the inappropriateness of using a rating methodology which combines a community rated component with an experience rated component the Department hereby repeals Circular Letter No. 13 (1999) and in its place issues the following guidelines for HMOs and insurers who are writing POS products:

1. The board of directors of an HMO may adopt an experience rated formula for use in rating the in-network component of a large group POS product.
2. Such formula shall be consistent with the formula used by the insurance company in rating the out-of-network component of a POS product.
3. Such formula shall be in keeping with the provisions of Insurance Law Section 4308 (b), 10 NYCRR Part 98.5 and 11 NYCRR Part 52.40; and must be filed by the HMO and approved by the Superintendent pursuant to Section 4308(b) and Part 98.5.
4. If appropriate under the approved formula, each company shall establish a reserve for retrospective refunds based upon underwriting experience or a rate stabilization reserve in accordance with the provisions of 11 NYCRR Part 52.40(g)(2).
5. In rating the POS product the HMO may file for approval an experience rating formula in which both companies agree to base the premium on the group's total POS claims experience (both in and out-of-network) if there is in place a Department approved mechanism (e.g. inter-company transfer agreement) to

reconcile the total POS underwriting results to the underwriting results recorded by each company to ensure that any overall underwriting gain or loss on the POS product is distributed to each company in a fair and equitable manner. Any such inter-company agreement shall also provide for a fair and equitable allocation of any reserve for retrospective refunds or rate stabilization.

All other contracts issued by HMOs, including large group HMO only contracts shall continue to be community rated in accordance with the provisions Section 4308, 11 NYCRR Part 52.42 and 10 NYCRR Part 98.5.

All HMOs who are filing an experience rating formula, in accordance with the provisions of this Letter, should direct same to Supervising Actuary William Millering at the New York City Office of the Health Bureau.

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