

# State of Delaware



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## Department of Insurance

### FORMS AND RATES BULLETIN NO. 22

#### HMO OUT-OF-NETWORK OPTION

Adopted March 30, 1999

Prior hereto the question has risen regarding whether a Delaware licensed Health Maintenance Organization (HMO) may offer an out-of-network health care option as part of its contract choices for its enrollees. The issue is whether so doing converts the HMO to an "insurer," requiring licensing in accordance with that status, and not an HMO regulated by Chapter 64. Such ruling would subject an HMO to all provisions of Title 18, not just those enumerated in 18 *Del. C.* Section 6406.

An HMO is defined and the scope of its permissible activities is set forth in Title 16, Chapter 91, Delaware Code, which generally authorizes HMO's in Delaware. Section 9102 thereof, as part of the definition of the organization, states the HMO is authorized to create a network of physicians who provide services directly through the HMO. But the HMO is not limited to providing health care services in this manner. In addition, "(t)he organization may also provide or arrange for health care services on a prepayment or other financial basis.

The HMO's may provide service on financial basis other than that specified for its basic provided network is presently recognized by Insurance Department Regulation 58, Section 9A.)1.

The Insurance Department has determined that an HMO offering, as an additional option only, the opportunity for the enrollee to choose an out-of-network service provider pursuant to a separate financial arrangement with the HMO, is not presently prohibited by Delaware law. As long as such potential option is strictly subsidiary addition to a contract requiring resort to an HMO network of health service providers, as contemplated by Title 16, Chapter 91, such subsidiary option hereafter will be permitted by the Insurance Department.