

**SUBCHAPTER Q. DISCOUNT HEALTH CARE PROGRAM REGISTRATION AND
RENEWAL REQUIREMENTS
28 TAC §19.1602**

INTRODUCTION. The commissioner of insurance adopts amendments to 28 TAC §19.1602, concerning discount health care program registration and renewal. The amendments are necessary to update department contact information that appears in the section, and to address that fax is no longer a valid method to submit forms. The commissioner adopts §19.602 with nonsubstantive changes to the proposed text published in the January 6, 2023, issue of the *Texas Register* (48 TexReg 23).

REASONED JUSTIFICATION. The department has moved from its previous location in the William P. Hobby Building at 333 Guadalupe Street in Austin, Texas 78701, to the Barbara Jordan State Office Building at 1601 Congress Avenue in Austin, Texas 78701. Because of this, references in §19.1602 to the former location need to be removed or updated. The amendments also update the department's website, phone numbers, and agency division names, and make additional nonsubstantive text changes, and remove the fax number because fax is no longer a valid method of submitting discount health care program operator registration application forms. A description of the adopted amended section follows.

Section 19.1602. Registration Requirement. Amendments to §19.1602 remove outdated mailing addresses and update the department's website, phone number, and agency division names. In addition, an amendment to subsection (a)(2)(H) corrects a citation to the Insurance Code.

There are also nonsubstantive text changes that replace "shall" with "will" or "must," as appropriate; replace "subchapter" and "chapter" with "title," "which" with "that," and "pursuant to" with "under"; and update statutory citations to insert titles of referenced

provisions. Multiple unnecessary "the" instances were also removed, "10 percent" was replaced with "10%," "court appointed" was replaced with "court-appointed," and the word "internet" was removed. All such changes were made to follow current department language preferences.

The text of subsection (c)(1)(B) as proposed is not adopted, and the remaining subparagraphs are redesignated as appropriate to reflect this change. Proposed subsection (c)(1)(B) listed a fax number for submitting discount health care program operator registration application forms, but fax is no longer a valid method for these submissions.

SUMMARY OF COMMENTS. TDI did not receive any comments on the proposed amendments.

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STATUTORY AUTHORITY. The commissioner adopts amended §19.1602 under Insurance Code §7001.003 and §36.001.

Insurance Code §7001.003 specifies that the commissioner may adopt rules in the manner prescribed by Insurance Code Chapter 36, Subchapter A, as necessary to implement Chapter 7001.

Insurance Code §36.001 provides that the commissioner may adopt any rules necessary and appropriate to implement the powers and duties of the department under the Insurance Code and other laws of this state.

TEXT.

§19.1602. Registration Requirement.

(a) Registration Requirement. An applicant for registration to offer a discount health care program in this state is required to submit all of the following to the department:

(1) the initial registration fee of \$1,000 as provided in Insurance Code §7001.006, concerning Fees, and §19.802 of this title (relating to Amount of Fees) that is nonrefundable and nontransferable;

(2) a complete application for registration that contains all the information required by Insurance Code §7001.005, concerning Application for Registration and Renewal of Registration, and this section, including:

(A) the applicant's full legal name and federal employer identification number or social security number; daytime telephone number with extension; toll free telephone number; website address; physical address, including city, state, and ZIP code; mailing address, including the city, state, and ZIP code; a contact person's name, including the title, telephone number, and email address; the applicant's agent for service of process, including the physical address, city, state, and ZIP code;

(B) identification of whether the applicant is a corporation, association, limited partnership, limited liability company, limited liability partnership, sole proprietorship, or other legal entity;

(C) any and all assumed names to be used by the applicant in operating a discount health care program. If a filing is required under the Assumed Business or Professional Name Act under the Texas Business and Commerce Code, or any similar statute, the discount health care program operator applicant for registration must provide the department with a copy of the assumed name certificate reflecting the registration of each assumed name used by the discount health care program operator applicant;

(D) a statement generally describing the applicant, its facilities, personnel, and the health care services or products for which a discount will be made available under its discount health care programs;

(E) a copy of the form of all contracts made or to be made between the applicant and any providers or provider networks regarding the provision of health care services or products to members;

(F) a copy of the applicant's charter, certificate of authority, or registration obtained from the Texas Secretary of State's office;

(G) if the applicant is an entity subject to the bank or farm credit administration, a copy of the documentation issued by a federal or Texas state agency authorizing the entity to do business in Texas;

(H) an original surety bond payable to the department for the use and benefit of members in the principal amount of \$50,000, as required by Insurance Code §562.103(f)(1), concerning Program Operator Duties, and §19.1603 of this title (relating to Financial Responsibility Requirement), except that an insurer that holds a certificate of authority under Texas Insurance Code Title 6, concerning Organization of Insurers and Related Entities, is not required to maintain the surety bond;

(I) lists of marketers, both entities and individuals, separated as follows:

(i) a list of the marketers, both entities and individuals, authorized to sell or distribute the program operator's programs under the program operator's name; and

(ii) a list of the marketers, both entities and individuals, authorized to private label the program operator's programs;

(J) a certification in writing to the department that its programs comply with the requirements of Insurance Code Chapter 7001, concerning Registration

of Discount Health Care Program Operators, and Chapter 562, concerning Unfair Methods of Competition and Unfair or Deceptive Acts or Practices Regarding Discount Health Care Programs;

(K) a list of names, addresses, official positions, and biographical information of:

(i) the individuals responsible for conducting the applicant's affairs;

(ii) each member of the board of directors, board of trustees, executive committee, or other governing board or committee;

(iii) the officers;

(iv) any contracted management company personnel; and

(v) any person owning or having the right to acquire 10% or more of the voting securities of the applicant;

(L) a complete biographical certificate concerning each individual whose biographical information is required under Insurance Code §7001.005(a)(2) and this section, including:

(i) the identification of the individual's relationship to the applicant;

(ii) the name of the applicant;

(iii) the full name; title; social security number; date of birth; mailing address, including the city, state, and ZIP code; telephone number; fax number; and email address of the individual;

(iv) excluding traffic violations and a first DWI offense, a response to the following questions:

(I) whether the individual has any pending misdemeanor or felony charges by indictment, information, or any other instrument filed in Texas or in any other state or by the federal government;

(II) whether the individual has ever been convicted of any misdemeanor or felony offense in Texas, in any other state, or by the federal government;

(III) whether the individual has ever had deferred adjudication on any misdemeanor or felony charge or offense in Texas, in any other state, or by the federal government; and

(IV) whether the person has ever served any period of probation for any misdemeanor or felony offense in Texas, in any other state, or by the federal government;

(v) if the response is positive to any question under clause (iv)(I) - (IV) of this subparagraph, the applicant for registration as a discount health care program operator is required to provide to the department original certified copies of the charging document, indictment, information, or any other charging document, any judgment of conviction, deferred adjudication order, or probation order, and any order terminating probation, community supervision certificate, or parole certificate for each offense. If the court does not maintain the record, the submission of a letter on the court's letterhead will be required. If the arrest did not result in a prosecution, the submission of a records search from the appropriate jurisdiction indicating a final disposition will be required. A statement describing the circumstances leading to the offense and the individual's age at the time of the offense will be required. Letters of recommendation from any person aware of a particular criminal history may be provided;

(vi) a response to the question whether the individual whose biographical information is required under Insurance Code §7001.005(a)(2) and this

section, or any entity in which the individual served as a director, officer, shareholder, manager, member, or partner, has ever been the subject of an administrative or legal action filed by the department, or any other insurance department, financial regulatory agency, or of an action filed on behalf of the State of Texas or any other state or by the federal government based on alleged violations of state or federal insurance, securities, or financial regulatory laws that the individual has not previously reported to the department. If the response is positive, the applicant for registration as a discount health care program operator is required to provide to the department a description of the circumstances regarding the administrative or legal action and a copy of any document sent to the individual to commence the administrative or legal action that described the nature of the action;

(vii) a response to the question whether the individual, whose biographical information is required under Insurance Code §7001.005(a)(2) and this section, is indebted to any discount health care program operator, policyholder, insurance or reinsurance company, insurance agency, general agent, managing general agency, premium finance company or court-appointed liquidator for membership refunds, premiums collected, or commissions retained, or have any claims or judgments filed against the individual for membership refunds, retaining premiums, or commissions. If the response is positive, the applicant for registration as a discount health care program operator is required to provide to the department a description of the circumstances regarding the indebtedness, including the name and contact information of the person or entity to whom the individual is indebted;

(viii) a response to the question whether the individual whose biographical information is required under Insurance Code §7001.005(a)(2) and this section has ever had a discount health care program contract cancelled for cause, such as for misrepresentation or misappropriation. If the response is positive, the applicant for

registration as a discount health care program operator is required to provide to the department a description of the circumstances regarding the cancellation including the name and contact information of the individual or entity that cancelled the contract;

(ix) a copy of a fingerprint receipt from the state authorized fingerprint collection vendor for each individual that uses the electronic fingerprint process;

(x) an acknowledgment from each individual whose biographical information is required under Insurance Code §7001.005(a)(2) and this section that the fingerprints provided will be used to check criminal history records of the Texas Department of Public Safety and the Federal Bureau of Investigation; and

(xi) compliance with the requirements of Chapter 1, Subchapter D, of this title (relating to Effect of Criminal Conduct) relating to fingerprint requirements for a criminal background check under Insurance Code §7001.008, concerning Criminal Background Check.

(b) Registration Application Forms. The discount health care program operator registration application forms are available at www.tdi.texas.gov/forms/form11dhcpo.html and at the Agent and Adjuster Licensing Office of the Texas Department of Insurance's mailing address.

(c) Submission of Registration Application Forms. The following paragraphs apply to the submission of discount health care program operator registration application forms.

(1) Except for the list of marketers required under Insurance Code §7001.005(a)(4) and this section, a discount health care program operator must submit the registration application forms by:

(A) mail, to the Texas Department of Insurance, Agent and Adjuster Licensing Office's mailing address;

(B) email to TDI-DiscountHealth@tdi.texas.gov;

(C) in other formats that are acceptable to the department including an electronic format; or

(D) more current mailing addresses, email addresses, and telephone numbers for the Agent and Adjuster Licensing Office of the Texas Department of Insurance as made available on the department's website.

(2) A discount health care program operator must submit the list of the marketers in the format found on the department's website via email to TDI-DiscountHealth@tdi.texas.gov.

(3) Assistance with applying for registration as a discount health care program operator is available at the department's Agent and Adjuster Licensing Office Customer Service phone line at 512-676-6500, email address at license@tdi.texas.gov, and the department's website.

(d) The registration is valid for one year from the date issued by the department and is required to be renewed annually.

CERTIFICATION. This agency certifies that legal counsel has reviewed the proposal and found it to be within the agency's authority to adopt.

Issued in Austin, Texas, on March 24, 2023.

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Jessica Barta
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Jessica Barta, General Counsel
Texas Department of Insurance

2023-7862

TITLE 28. INSURANCE


Part I. Texas Department of Insurance

Chapter 19. Licensing and Regulation of Insurance of Insurance Professionals

Adopted Sections

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The commissioner adopts the amendments to 28 TAC §19.1602.

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Cassie Brown
Commissioner of Insurance

Commissioner's Order No. 2023-7862