



# Kansas Department of Insurance

Commissioner Vicki Schmidt

Dear Sir or Madam,

This will acknowledge your recent request for information relative to obtaining a Certificate of Authority to transact business in this state as a Health Maintenance Organization (HMO).

In order for the Department to consider an application for such authority, pursuant to K.S.A. 40-3203, the following information must be filed with the Department:

1. An Application for Certificate of Authority (verified by an officer or authorized representative) which may be found at <https://insurance.ks.gov/documents/company/ah-life/hmo-application-for-cert-of-auth.pdf>.
2. A copy of the basic organizational documents of the organization such as the Articles of Incorporation or Organization, Partnership Agreements, Trust Agreements, Bylaws and other applicable documents.
3. A list of the names, addresses and official capacities of all persons who are to be responsible for the conduct of the organization's affairs, including all members of the governing board of directors, partners, or members. See attached Official List.
4. A Biographical Affidavit form for each of the persons listed in number three above. See NAIC Biographical Affidavit form (UCAA Expansion Form 11 may be found at <https://content.naic.org/industry/ucaa>). In addition, submit an independent third-party Background Investigation Report with respect to each Biographical Affidavit that is submitted. Refer to the NAIC UCAA website listed above for third-party vendors that have agreed to comply with the UCAA Best Practices/Guidelines for background investigations.
5. \*A detailed statement describing the organization, including, for example: enrollment process; plan of operation; quality assurance mechanism including peer review; internal grievance procedures; methods for enrollee participation in organizational affairs; geographic areas to be served, location and hours of operation of staff facilities (if applicable); the type, specialty and number of health care personnel; the record keeping system to be used to provide documentation of utilization; a description of the medical record system to be utilized, and any other applicable information.
6. \*A copy of all contract (group service agreement) forms, certificate and endorsement forms providing benefits to enrollees, also identified with specific form numbers. Keep in mind that all group and non-group forms are subject to most of the requirements of K.S.A. 40-2201, *et seq.* as well as K.S.A. 40-2,100 thru 2,105, and 2,111 thru 2,114.
7. \*The actuarial assumptions, rates and/or rating formulas for all contract forms submitted.

\*NOTE: If the organization intends to operate in Kansas as a Medicare or Medicaid Provider Organization or HMO which contracts with the state pursuant to K.S.A. 40-3210 exclusively, it is not

necessary to file the information noted with an (\*); specifically, 5, 6 and 7.

8. A copy of each type of Provider Agreement, each with a specific form number in the lower left-hand corner of the front page. Hold Harmless provision required.

9. Evidence of adequate insurance coverage (e.g., errors and omissions, directors' and officers' liability, fidelity bond, general liability insurance, etc.) as may be required by K.S.A. 40-3203(b)(11). If the HMO is formed as a medical group or as a staff model under K.S.A. 40-3202(r), then also include professional liability coverage pursuant to K.S.A. 40-3401, *et seq.*

10. Evidence to demonstrate compliance with K.S.A. 40-3225:

(a) Any director, officer or partner of an HMO or Medicare Provider Organization who receives, collects, disburses, or invests funds in connection with the activities of such organization shall be responsible for such funds in a fiduciary relationship to the HMO or Medicare Provider Organization.

(b) An HMO shall maintain in force a fidelity bond or fidelity insurance on such employees and officers, directors, and partners in the amount not less than \$250,000 for each HMO or a maximum of \$5,000,000 in aggregate maintained on behalf of HMOs owned by a common parent corporation, or such sum as may be prescribed by the Commissioner.

11. The following financial information required by K.S.A. 40-3203(b)(7):

(A) Descriptions of financing arrangements for operational deficits and for developmental costs if operational one year or less;

(B) a copy of the most recent unaudited financial statements of the HMO or Medicare Provider Organization.

(C) financial projections in conformity with statutory accounting practices prescribed or otherwise permitted by the department of insurance of the state of domicile for a minimum of three years from the date of application. If the HMO or Medicare Provider Organization is expected to incur a deficit, projections shall be made for each deficit year and for one year thereafter, up to a maximum of five years. ALL financial projections shall include:

(i) statements of revenue and expense for each year;

(ii) a balance sheet for each year; and

(iii) a statement and justification of assumptions

12. An explanation as to how you intend to satisfy the deposit requirements of K.S.A. 40-3227.

Pursuant to K.S.A. 40-3227(h), the deposit requirements imposed by this act shall not apply to HMOs not organized under the laws of this state to the extent an amount equal to or exceeding that required by this act has been deposited with the Commissioner or an organization or trustee acceptable to the department of insurance of its state of domicile for the benefit of Kansas enrollees.

*(Our intent is that the deposit would need to be held in such state of domicile for the protection of all enrollees, wherever located.)* An HMO not domiciled in Kansas may demonstrate compliance with our deposit requirements by submitting a Certificate of Deposit from the depository in the domiciliary state which reflects a deposit in an amount equal to or exceeding that required by K.S.A. 40-3227.

K.S.A. 40-3227(g) states the Commissioner may waive any of the deposit requirements set forth in subsection (f) under specified conditions. Such a waiver will only be considered upon a written request that includes the statutory justification with respect to why such a waiver should be granted.

13. A plan for handling insolvency pursuant to K.S.A. 40-3227(k).

14. A Uniform Consent to Service of Process form (UCAA Expansion Form 12 may be found at <https://content.naic.org/sites/default/files/industry-ucaa-form-12-uniform-consent-service-process.pdf>). Such consent should be executed by the president and secretary of the entity and should be accompanied by a duly certified copy of the order or resolution of the board of directors, trustees or managers authorizing the president and secretary to execute the same.

15. A financial statement of the HMO's ultimate parent company (audited financial statement is preferred or an unaudited financial statement certified by the Chief Financial Officer).

**16. Kansas domestic HMO formation only (additional requirements)**

a. Prior to the submission of an application for an HMO, the proposed Articles of Incorporation should be submitted to our Legal Division for review. If approved, the Articles of Incorporation or Organization will need to be filed with the Kansas Secretary of State's Office. (K.S.A. 40-214, 40-216 and 17-6002 or 17-7673)

b. Submit to our Legal Division a certified copy of the Minutes of the Initial Incorporators' Meeting and a certified copy of the Minutes of the First Directors' Meeting to our Legal Division. (K.S.A. 40-305)

c. Submit to our Legal Division the proposed Bylaws or Operating Agreement for approval. (K.S.A. 40-303, 40-305 and 17-6009 or 17-7673)

d. If the HMO will be formed as a stock company, submit the following to our Legal Division:

i. Application for a Permit to Sell Stock (including a Sample Stock Certificate) and Required Fee (K.S.A. 40-205 and 40-252, Kansas Insurance Department Regulations in Article 12 of Chapter 40)

ii. Application for a License to Sell Stock for each individual that will sell stock and Required Fee (K.S.A. 40-205a)

**NOTE:** Contact Justin McFarland, General Counsel (Phone No. 785-296-7847, [justin.1.mcfarland@ks.gov](mailto:justin.1.mcfarland@ks.gov)) for further guidance and instructions with respect to a. through d. above, and to obtain copies of the referenced applications.

e. Review K.S.A. 40-3301, *et seq.*, for any requirements under the Insurance Holding Company Act that will be applicable after a Certificate of Authority is issued.

Additionally, proposed affiliated transactions that will be subject to review and approval pursuant to K.S.A. 40-3306(b) that are known at the time of application should be submitted with the application in DRAFT form with a DRAFT Form D filing.

f. Please note that an Organizational Examination will be performed near the end of the admission process.

The \$150.00 filing fee required by K.S.A. 40- 3213(a)(1) must be submitted with a letter of transmittal.

Please provide an electronic copy of the entire application to Cathy Abbott ([Cathy.Abbott@ks.gov](mailto:Cathy.Abbott@ks.gov)), Jennifer Zavadil ([Jennifer.Zavadil@ks.gov](mailto:Jennifer.Zavadil@ks.gov)), and Tish Becker ([Tish.Becker@ks.gov](mailto:Tish.Becker@ks.gov)). The electronic application may be emailed or shared via OneDrive or a secure file sharing site. Please include a table of contents and separate folders for each section of the application. If email is preferred, the maximum file size that we may receive is 25MB. Therefore, if the file exceeds 25MG, please send the information in separate emails. If you submit multiple emails, the respective cover emails should identify the nature of the information attached thereto.

If you have any questions regarding the requirements set forth above, please do not hesitate to contact me.

Sincerely,

Tish Becker  
Director of Financial Surveillance  
Kansas Insurance Department  
Vicki Schmidt, Commissioner  
1300 SW Arrowhead Road, Topeka, KS 66604 785-296-7816  
[tish.becker@ks.gov](mailto:tish.becker@ks.gov)

Attachment

Revised March, 2024