

**NOTICE OF WORKSHOP TO SOLICIT COMMENTS ON
PROPOSED REGULATIONS**

The State of Nevada, Department of Business and Industry, Division of Insurance (“Division”), is proposing the adoption, amendment or repeal of regulations pertaining to chapter 693A of the Nevada Administrative Code (“NAC”). A workshop has been set for **9:30 a.m. on January 28, 2016**, at the following location:

**Nevada Division of Insurance
1818 E. College Parkway, Suite 103
Carson City, Nevada 89706**

Interested persons may also participate through a simultaneous videoconference conducted at:

**Nevada Division of Insurance
Bradley Building
2501 E. Sahara Avenue, 2nd Floor Conference Room
Las Vegas, Nevada 89104**

Acting Commissioner Amy L. Parks will be presiding as Hearing Officer.

The purpose of the workshop is to solicit comments from interested persons on the following general topic(s) that may be addressed in the proposed regulation; and to assist in determining whether the proposed regulation is likely to impose a direct and significant burden upon a small business or directly restricts the formation, operation or expansion of a small business. Please submit any written comments no later than **January 27, 2016**.

LCB File No. R049-14. Network Adequacy.

A regulation relating to insurance; establishing certain requirements relating to the adequacy of a network plan issued by a carrier; authorizing the Commissioner of Insurance to determine whether a network plan is adequate under certain circumstances; requiring a carrier whose network plan is deemed or determined to be adequate to notify the Commissioner of any significant change to its network and take certain actions to correct any deficiency that results; providing for the availability of a network plan to persons outside of the approved service area in certain circumstances; creating a Network Adequacy Advisory Council; and providing other matters properly relating thereto.

A copy of all materials relating to the proposal(s) may be obtained at the workshop or by visiting the Division’s Internet Web site at <http://doi.nv.gov/> or by contacting the Division, 1818 E. College Parkway, Suite 103, Carson City, Nevada 89706, (775) 687-0700. A reasonable fee for copying may be charged. Members of the public who would like additional information about the proposed regulation may contact Glenn Shippey, Actuarial Analyst, at (775) 687-0738, or via e-mail to gshippey@doi.nv.gov.

Notice of the workshop was provided via electronic means to all persons on the agency's e-mail list for noticing of administrative regulations. This *Notice of Workshop to Solicit Comments on Proposed Regulations* was posted to the agency's Internet Web site at <http://doi.nv.gov/>, the Nevada Legislature's Internet Web site at <http://www.leg.state.nv.us>, and at the following locations:

Department of Business and Industry
Division of Insurance
1818 East College Parkway, Suite 103
Carson City, Nevada 89706

Department of Business and Industry
Division of Insurance
2501 East Sahara Avenue, Suite 302
Las Vegas, Nevada 89104

Legislative Building
401 South Carson Street
Carson City, Nevada 89701

Grant Sawyer Building
555 East Washington Avenue
Las Vegas, Nevada 89101

Blasdel Building
209 East Musser Street
Carson City, Nevada 89701

Capitol Building Main Floor
101 North Carson Street
Carson City, Nevada 89701

Nevada Department of Employment,
Training and Rehabilitation
2800 E. Saint Louis Ave.
Las Vegas, NV 89104

Nevada State Library & Archives
100 North Stewart Street
Carson City, Nevada 89701

Carson City Library
900 North Roop Street
Carson City, Nevada 89701

Churchill County Library
553 South Main Street
Fallon, Nevada 89406

Clark County District Library
833 Las Vegas Boulevard North
Las Vegas, Nevada 89101

Douglas County Library
P.O. Box 337
Minden, Nevada 89423

Elko County Library
720 Court Street
Elko, Nevada 89801

Esmeralda County Library
P.O. Box 430
Goldfield, Nevada 89013

Eureka Branch Library
P.O. Box 293
Eureka, Nevada 89316

Humboldt County Library
85 East 5th Street
Winnemucca, Nevada 89445

Lander County Library
P.O. Box 141
Battle Mountain, Nevada 89820

Lincoln County Library
P.O. Box 330
Pioche, Nevada 89043-0330

Pershing County Library
P.O. Box 781
Lovelock, Nevada 89419

Storey County Clerk
P.O. Drawer D
Virginia City, Nevada 89440

Tonopah Public Library
P.O. Box 449
Tonopah, Nevada 89049

Washoe County Library
P.O. Box 2151
Reno, Nevada 89505-2151

White Pine County Library
950 Campton Street
Ely, Nevada 89301

Members of the public who are disabled and require special accommodations or assistance at the workshop are requested to notify the Commissioner's secretary in writing to icommish@doj.nv.gov, or at 1818 E. College Parkway, Suite 103, Carson City, Nevada 89706, or by calling (775) 687-0700, a day prior to the workshop.

DATED this 22nd day of January, 2016.



AMY L. PARKS
Acting Commissioner of Insurance



DEPARTMENT OF BUSINESS AND INDUSTRY
DIVISION OF INSURANCE

1818 East College Pkwy., Suite 103
Carson City, Nevada 89706
(775) 687-0700 • Fax (775) 687-0787
Website: doi.nv.gov
E-mail: insinfo@doi.nv.gov

Notice of Intent to Act Upon Regulation & Workshop Agenda
LCB File No. R049-14, Network Adequacy

Agenda

Thursday, January 28, 2016 • 9:30 A.M.

Location of Hearing:

Offices of the Division of Insurance
1818 E. College Pkwy., 1st Floor Hearing Room
Carson City, NV 89706
(Division Offices located in Suite 103)

Available via Videoconference at:

Offices of the Division of Insurance
2501 E. Sahara Ave., 2nd Floor Conference Room
Las Vegas, NV 89104
(Division Offices located in Suite 302)

1. **Call to Order.**
2. **Public Comment.**
3. **Presentation, Discussion and Adoption of Proposed Regulation. (For Possible Action)**
LCB File No. R049-14, Network Adequacy.

A regulation relating to insurance; establishing certain requirements relating to the adequacy of a network plan issued by a carrier; authorizing the Commissioner of Insurance to determine whether a network plan is adequate under certain circumstances; requiring a carrier whose network plan is deemed or determined to be adequate to notify the Commissioner of any significant change to its network and take certain actions to correct any deficiency that results; providing for the availability of a network plan to persons outside of the approved service area in certain circumstances; creating a Network Adequacy Advisory Council; and providing other matters properly relating thereto.

4. **Public Comment.**
5. **Adjournment.**

Supporting public material for this meeting may be requested from Sue Dummar, Legal Secretary, Nevada Division of Insurance, 1818 E. College Parkway, Carson City, Nevada 89706, by e-mail to sdummar@doi.nv.gov, or by calling (775) 687-0704. In your request, please state that you are requesting meeting materials for LCB File No. **R049-14, Network Adequacy**, and provide the date of the meeting.

Note: Any agenda item may be taken out-of-order; items may be combined for consideration by the public body; and items may be pulled or removed from the agenda at any time. The Hearing Officer, within his/her discretion, may allow for public comment on individual agenda items. Public Comment may be limited to three minutes per speaker.

Members of the public are encouraged to submit written comments for the record.

We are pleased to make reasonable accommodations for attendees with disabilities. Please notify Sheri LeTourneau, Assistant to the Commissioner, at (775) 687-0771, a day prior to the meeting.

NOTICES FOR THIS MEETING HAVE BEEN POSTED IN ACCORDANCE WITH NRS 241 AT THE FOLLOWING LOCATIONS:

Nevada Division of Insurance, 1818 E. College Parkway, Suite 103, Carson City, Nevada 89706

Nevada Division of Insurance, 2501 E. Sahara Avenue, Suite 302, Las Vegas, Nevada 89104

Nevada State Legislative Building, 401 S. Carson Street, Carson City, Nevada 89701

Grant Sawyer State Office Building, 555 E. Washington Avenue, Las Vegas, Nevada 89101

Blasdel State Office Building, 209 E. Musser Street, Carson City, Nevada 89701

Nevada State Capitol, 101 N. Carson Street, Carson City, Nevada 89701

Nevada Department of Employment, Training and Rehabilitation, 2800 E. Saint Louis Avenue, Las Vegas, Nevada 89104

The State of Nevada Website (www.nv.gov)

The Nevada State Legislature Website (www.leg.state.nv.us)

The Nevada Division of Insurance Website (www.doi.nv.gov)

STATE OF NEVADA
DEPARTMENT OF BUSINESS & INDUSTRY
DIVISION OF INSURANCE

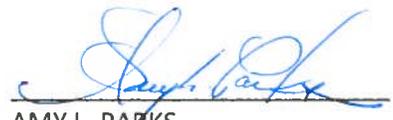
Addendum to Small Business Impact Statement
Pursuant to NRS 233B.0608.4

LCB File No. R049-14

The primary revision to this regulation is the creation of an advisory council pursuant to NRS 679B.160, and the establishment of certain deadlines by which submissions to and decisions by the Commissioner must be made. There is no apparent effect on the Impact.

I, Amy L. Parks, Acting Commissioner of Insurance for the State of Nevada, certify that, to the best of my knowledge or belief, a concerted effort was made to determine the impact of the proposed regulation on small businesses and that the information contained in the statement above is accurate. (NRS 233B.0608.3)

1/22/16
(DATE)


AMY L. PARKS
Acting Commissioner of Insurance

**REVISED PROPOSED REGULATION OF THE
COMMISSIONER OF INSURANCE**

LCB File No. R049-14

Revised by the Division on January 22, 2016

EXPLANATION – Matter in *italics* is new; matter in brackets ~~[omitted material]~~ is material to be omitted.

AUTHORITY: §§1-29, NRS 679B.130 and 687B.490; §30, NRS 679B.130, 695C.130 and 695C.275.

A REGULATION relating to insurance; establishing certain requirements relating to the adequacy of a network plan issued by a carrier; establishing provisions relating to the determination by the Commissioner of Insurance of whether a network plan is adequate; requiring a carrier to notify the Commissioner of any material change to its network and take certain actions to correct any deficiency that results; providing for the availability of a network plan to persons outside of the approved service area in certain circumstances; creating a Network Adequacy Advisory Council; and providing other matters properly relating thereto.

The Legislative Counsel's Digest has been removed due to the proposed changes to the regulation.

Section 1. Chapter 687B of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 29, inclusive, of this regulation.

Sec. 2. *As used in sections 2 to 28, inclusive, of this regulation, unless the context otherwise requires, the words and terms defined in sections 3 to 16, inclusive, of this regulation have the meanings ascribed to them in those sections.*

Sec. 3. *“Access plan” means a plan submitted by a carrier which describes how access to health care will be provided when a network plan fails to meet a specific standard including, but not limited to, any relevant established patterns of care.*

Sec. 4. *“Carrier” means an insurer who makes a network plan available for sale in this*

State pursuant to NRS 687B.490.

Sec. 5. *“Centers for Medicare and Medicaid Services” means the Centers for Medicare and Medicaid Services of the United States Department of Health and Human Services.*

Sec. 6. *“Covered person” means a policyholder, subscriber, enrollee or other person participating in a network plan.*

Sec. 7. *“Essential community provider” has the meaning ascribed to it in 45 C.F.R. § 156.235(c).*

Sec. 8. *“Geographic service area” means a network plan’s geographic area as approved annually by the Commissioner.*

Sec. 9. *“Material change” means any change that results in a deficiency in the adequacy of the network plan.*

Sec. 10. *“Medically necessary emergency services” has the meaning ascribed to it in subsection 3 of NRS 695G.170.*

Sec. 11. *“Network Adequacy Advisory Council” means the council established by the Commissioner pursuant to Section 17.*

Sec. 12. *“Network plan” has the meaning ascribed to it in subsection 2 of NRS 689B.570.*

Sec. 13. *“Provider of health care” has the meaning ascribed to it in NRS 695G.070.*

Sec. 14. *“Qualified health plan” has the meaning ascribed to it in NRS 695I.080.*

Sec. 15. *“Reasonable travel” means travel that satisfies the requirements for distance or time issued by the Commissioner.*

Sec. 16. *“Standard” means a quantifiable metric including, but not limited to, reasonable travel or provider ratios commonly used in the health care industry to measure network adequacy.*

Sec. 17. *1. The Network Adequacy Advisory Council is hereby created pursuant to NRS 679B.160. The purpose of the Council is to develop and submit a recommendation to the Commissioner each year, pursuant to Section 19, as to the network adequacy requirements for the relevant network plan year.*

2. The Council shall consist of nine persons. The members of the Council shall be appointed by the Commissioner and shall serve at the discretion of the Commissioner. Vacancies on the Council shall be filled in the same manner as initial appointments. The Council shall consist of representatives of carriers, health care providers, and consumers.

Sec. 18. *Meetings and Notice. The Council shall conduct at least three meetings each year. The first meeting of the Council shall occur no later than June 15th of each year. The final meeting of the Council shall contain an action item to adopt a recommendation pursuant to Section 19 to submit to the Commissioner no later than September 15th of each year. Notice of each meeting will be posted:*

- a. At least five business days prior to the date of the meeting, not counting the day of the meeting;*
- b. At a minimum, at the offices of the Division of Insurance, the Legislative Building, the Grant Sawyer State Office Building, and on the State's and Division of Insurance's websites; and*
- c. Interested parties may also contact the Division of Insurance to be added to its notification list.*

Sec. 19. *Recommendation of the Council; Failure to Make Recommendation. 1. The recommendation of the Council shall include:*

- (a) The specialties and categories of health care which:
 - (1) Appear on the Network Adequacy Template issued and periodically updated**

by the Centers for Medicare and Medicaid Services;

(2) Are mandated under Nevada State law; and

(b) Standards which are acceptable to the Centers for Medicare and Medicaid Services for qualified health plans.

2. The Council may include in the recommendation other provider types, and the minimum percentage of essential community providers that should be included in a network plan.

3. Failure of the Council to make a recommendation does not prevent the Commissioner from issuing final requirements in his or her discretion.

Sec. 20. *Not later than November 15th of each year, the Commissioner shall issue the requirements that will be used for determining the adequacy of network plans to be submitted for the relevant plan year.*

Sec. 21. *Unless the Commissioner specifies a different submission date, a carrier who applies to the Commissioner for the issuance of a network plan shall, in conjunction with its annual rate filing, submit in a format determined by the Commissioner, sufficient data and documentation to establish that its proposed network plan is adequate.*

Sec. 22. 1. *A carrier shall update its directory of providers of health care at least once each month. Each update to the directory shall indicate each provider of health care which has left the network plan or is no longer accepting new patients. A carrier is deemed to have complied with this subsection if it fails to update its directory as a result of the failure of a provider of health care to provide information to the carrier which the provider of health care is contractually obligated to provide.*

2. If a material change to its network plan occurs, a carrier shall update its directory of providers of health care within 3 business days after the effective date of the material change,

and provide a description of the material change.

3. The directory of providers of health care and each update thereto must be:

- (a) Posted to a publicly available website maintained by the carrier within 3 business days after the update which allows a person who is not enrolled in any plan offered by the carrier to view the directory; and*
- (b) Made available in a printed format upon request.*

Sec. 23. A carrier shall, within 3 business days after the effective date of a material change in its network plan, notify the Commissioner of the material change. Within 10 business days after the effective date of the material change in its network plan, the carrier must provide to the Commissioner a description of the cause of the material change, the impact of the material change on the network plan, and a summary of the steps being taken to cure the deficiency.

Sec. 24. 1. The carrier shall, within 45 days after the effective date of the material change, submit its corrective action plan to the Commissioner for approval to resolve the deficiency.

2. Except as otherwise provided in subsection 3, during the period of the deficiency, the carrier shall, at no greater cost to the covered person:

(a) Ensure that each covered person affected by the material change may obtain the covered service from a provider of health care:

(1) Within the network plan; or

(2) Not within the network plan by entering into an agreement with the nonparticipating provider of health care pursuant to NRS 695G.164; or

(b) Make other arrangements approved by the Commissioner to ensure that each covered person affected by the material change may obtain the covered service.

3. The provisions of subsection 2 do not apply to services received from a

nonparticipating provider of health care without the prior authorization of the carrier unless the services received are medically necessary emergency services.

Sec. 25. If the Commissioner does not approve the corrective action plan and the network plan is still deficient, the Commissioner may:

1. For a qualified health plan, declare the network plan inadequate pursuant to NRS 687B.490.

2. For any other network plan, declare the network plan inadequate pursuant to NRS 687B.490 and require the carrier to submit a statement of network capacity to the Commissioner containing the information described in 42 U.S.C. § 300gg-1(c).

Sec. 26. 1. Unless otherwise determined by the Commissioner, the provisions of sections 21 through 25 of this regulation do not apply to a network plan issued by a carrier licensed pursuant to chapter 680A of NRS, which:

(a) Had a statewide enrollment of 1,000 or fewer covered persons in the immediately preceding calendar year; and

(b) Has an anticipated statewide enrollment of 1,250 or fewer covered persons in the succeeding calendar year.

2. The provisions of this Section do not apply to qualified health plans.

Sec. 27. The provisions of sections 2 to 26, inclusive, of this regulation do not apply to:

1. A plan issued pursuant to NRS 422.273 for the purpose of providing services through a Medicaid managed care program on behalf of the Department of Health and Human Services;

2. A network plan issued for a health benefit plan regulated under chapter 689B of NRS and which is not available for sale to small employers as defined in NRS 689C.095;

3. A grandfathered plan, as defined in NRS 679A.094; or

4. A plan issued pursuant to Medicare, as defined in NAC 687B.2028, or a Medicare

Advantage plan, as defined in NAC 687B.2034.

Sec. 28. NAC 695C.160 and 695C.200 are hereby repealed.

TEXT OF REPEALED SECTIONS

695C.160 Geographic area of service: Definition. (NRS 679B.130, 695C.130, 695C.275)

1. An organization shall clearly define the geographic area it intends to serve which:

(a) In a county having a population of 100,000 or more, must have a radius of not more than 25 miles between the subscriber or individual enrollee and a primary physician and the hospital used by the organization. This subsection does not apply to services rendered pursuant to Medicaid or Nevada Check Up.

(b) In any other county, must be defined by the organization under a plan for the provision of health care services if the organization receives the written approval of the Division for such a geographic area by:

(1) Demonstrating the availability and accessibility of services to its enrollees, including reasonable access to primary physicians, a hospital and to medically necessary services or services in an emergency; and

(2) Submitting a statement concerning the standards within that community regarding the availability and accessibility of other health care services and demonstrating that the organization will meet the community's standards for such services.

2. As used in this section, "Nevada Check Up" has the meaning ascribed to it in NAC

442.688.

695C.200 List of providers: Submission; changes; extension of submission date; excessive reduction. (NRS 679B.130, 695C.070, 695C.275)

1. Each applicant for a certificate of authority shall:

(a) Submit a list of the providers in its health care plan and a description of the type of providers based upon a projected number of enrollees;

(b) Sufficiently describe its list of providers to demonstrate the accessibility and availability of health care to its enrollees; and

(c) Describe a plan for increasing the number of providers based upon increased enrollment.

2. The organization shall notify:

(a) For a health maintenance organization, the Division and the State Board of Health in writing not later than 14 days after the end of each quarter of each calendar year of any changes in its list of providers unless an extension is granted pursuant to this paragraph. On or before the date on which the notification is due, the health maintenance organization may submit a request to the Commissioner for an extension of time in which to provide the notification of not more than 30 days after the date on which the notification is due.

(b) For a provider-sponsored organization, the Division in writing not later than 14 days after the end of each quarter of each calendar year of any changes in its list of providers unless an extension is granted pursuant to this paragraph. On or before the date on which the notification is due, the provider-sponsored organization may submit a request to the Commissioner for an extension of time in which to provide the notification of not more than 30 days after the date on which the notification is due.

(c) An enrollee in writing of the disassociation of his or her primary physician from the

organization not later than 30 working days after such disassociation.

3. Based upon the current list of providers of an organization, an overall reduction of more than 30 percent in the number of primary physicians in a geographic area of service or a material change in the panel of specialists shall be deemed by the Division to jeopardize the ability of the organization to meet its obligations to its enrollees, and the Division will so notify the organization, and for a health maintenance organization, the Division will also notify the State Board of Health. The organization may rebut this presumption by providing written information to the Division within 14 days after the notice is sent to the organization.

4. The provisions of subsection 3 do not apply if the organization:

- (a) Notifies the Division in writing;
- (b) Submits information concerning the number of persons enrolled in the organization and the reasons for any reductions; and
- (c) Obtains the approval of the Division in advance for the reduction.