

**NOTICE OF INTENT TO ACT UPON TEMPORARY¹ REGULATION
AND
HEARING AGENDA**

Notice of Hearing for the Adoption, Amendment or Repeal of Regulations of
The Department of Business and Industry, Division of Insurance

The State of Nevada, Department of Business and Industry, Division of Insurance (“Division”), (775) 687-0700, will hold a public hearing at **9:30 a.m. on December 14, 2018**, in the 1st Floor Hearing Room at the Division’s offices located at 1818 East College Parkway, Suite 103, Carson City, Nevada 89706. Interested persons may also participate through a simultaneous videoconference conducted in the 4th floor Nevada Room, at the Division’s offices located in the Nevada State Business Center, 3300 W. Sahara Avenue, Suite 275, Las Vegas, Nevada 89102. The purpose of the hearing is to receive comments from all interested persons regarding the adoption, amendment or repeal of the regulation(s) that pertain(s) to chapter(s) 687B of the Nevada Administrative Code (“NAC”).

The following information is provided pursuant to the requirements of Nevada Revised Statute (“NRS”) 233B.0603 and the directives of the Governor:

LCB File No. T005-18. Network Adequacy Plan Year 2020 (Temporary).

A regulation relating to insurance; requiring a network plan to satisfy certain requirements before the Commissioner of Insurance can determine that such a network plan is adequate for sale in this state; and providing other matters properly relating thereto.

- (1) Why is the regulation necessary and what is its purpose?

The regulation is necessary to comply with the requirement that the Commissioner issue the network adequacy standards required of all network plans. See Nevada Revised Statutes (“NRS”) 687B.490 and Nevada Administrative Code (“NAC”) 687B.750 to 687B.784. The purpose of the regulation is to establish adequacy standards for network plans for plan year 2020.

- (2) What are the terms or substance of the proposed regulation?

The regulation was proposed under the authority of NRS 687B.490. The regulation amends NAC 687B providing standards for measuring the adequacy of a network plan to ensure consumers of health plans can reasonably access certain providers.

¹ NRS 233B.063(3) An agency may adopt a temporary regulation between August 1 of an even-numbered year and July 1 of the succeeding odd-numbered year without following the procedure required by this section and NRS 233B.064, but any such regulation expires by limitation on November 1 of the odd-numbered year. A substantively identical permanent regulation may be subsequently adopted.

The Adequacy of Network Plans section of NAC Chapter 687B includes provisions providing the Commissioner of Insurance the authority to establish a Network Adequacy Advisory Council ("Council") for the purpose of providing annual recommendations pertaining to the standards used to measure the adequacy of a network plan.

The Council conducted the first meeting for plan year 2020 on February 27, 2018. The nine-member Council held a total of five public meetings during which they conducted discussions, reviewed data, and received public input related to network adequacy. Recordings of the meetings and supporting documents presented during the meetings are available on the Division's website at www.doi.nv.gov. On September 14, 2018, a Report which included the Council's network adequacy recommendations was submitted to the Commissioner of Insurance. Based on the Commissioner's review of the Report, the Commissioner seeks to promulgate this regulation to enact network adequacy standards.

- (3) What is the anticipated impact of the regulation on the problem(s)?

Once these additional standards for network adequacy are implemented, policyholders should be able to more reasonably access appropriate in-network care for those providers added to the standard. As the network adequacy requirements are updated each year, they should provide a more broad base of "in network" healthcare providers and access thereto. By providing a more broad base of "in network" healthcare providers and access thereto, policyholders should experience lower out-of-pocket costs.

- (4) Do other regulations address the same problem(s)?

The Adequacy of Networks section under Nevada Administrative Code ("NAC") 687B.750 to 687B.784 includes provisions related to the network adequacy standards required for health network plans in the individual and small employer group market. The proposed regulation modifies these standards to incorporate additional providers within these standards.

- (5) Are alternate forms of regulation sufficient to address the problem(s)?

No, there are no alternate forms of regulation sufficient to address the problem, and the network adequacy standards under NAC 687B.768 do not currently address the provider types and standards proposed under this regulation.

- (6) What value does the regulation have to the public?

The regulation provides standards for measuring the adequacy of a network plan to ensure consumers of health plans can reasonably access certain providers.

- (7) What is the anticipated economic benefit of the regulation?

- a. Public
 - 1. Immediate: *Once these additional standards for network adequacy are implemented, policyholders should be able to more reasonably access appropriate in-network care for those providers added to the standard.*
 - 2. Long Term: *As the network adequacy requirements are updated each year, they will generally provide a more broad base of "in network" healthcare providers and access thereto. By providing a more broad base of "in network" healthcare providers and access thereto, policyholders should experience lower out-of-pocket costs.*
- b. Insurance Business
 - 1. Immediate: *None*
 - 2. Long Term: *Carriers will be able to better measure members' needs and use of providers to better plan.*
- c. Small Businesses
 - 1. Immediate: *None*
 - 2. Long Term: *Providers that qualify as small businesses may have more opportunities, options, or negotiating power.*
- d. Small Communities
 - 1. Immediate: *None*
 - 2. Long Term: *If consumers are better able to access services through their insurance, there may be less reliance on other health care options that are more expensive or that clog up the resources in small communities.*
- e. Government Entities
 - 1. Immediate: *None*
 - 2. Long Term: *None*

(8) What is the anticipated adverse impact, if any?

- a. Public
 - 1. Immediate: *As carriers obtain experience data, there may be a learning curve that may impact members' abilities to access care as quickly as hoped.*
 - 2. Long Term: *Although network adequacy requirements will be issued each year, this does not guarantee that every healthcare provider sought by a policyholder will always be an "in-network" provider. As a result, the policyholder may still be responsible for paying some additional amounts out-of-pocket for an "out-of-network" provider.*
- b. Insurance Business
 - 1. Immediate: *The health insurance carriers will be required to demonstrate the adequacy of their network plans based on the network adequacy standards in the regulation. Carriers will likely have to adjust their network*

plans to meet member needs. Carriers may have to add additional healthcare providers to their current network plan designs.

2. *Long Term: Once carriers establish the relevant number and types of healthcare providers necessary to meet the additional network adequacy requirements, the impact on carriers will be better known. Data will be gathered by the Division through its annual review of performance of a carrier's network plan. This data can then be studied to better predict long-term effects of certain network adequacy requirements.*

c. **Small Businesses**

1. *Immediate: No adverse impact is anticipated by this regulation.*
2. *Long Term: No adverse impact is anticipated by this regulation.*

d. **Small Communities**

1. *Immediate: No adverse impact is anticipated by this regulation.*
2. *Long Term: No adverse impact is anticipated by this regulation.*

e. **Government Entities**

1. *Immediate: No adverse impact is anticipated by this regulation.*
2. *Long Term: No adverse impact is anticipated by this regulation.*

(9) **What is the anticipated cost of the regulation, both direct and indirect?**

The Division anticipates no additional costs, either directly or indirectly. NRS 687B.490(6) requires that any expense borne by the Division in determining the adequacy of a network plan be assessed against the insurance carrier applying for the network plan approval.

- a. **Enactment:** *The Division already has in place procedures for certifying the network adequacy of a network plan and does not anticipate a direct or indirect cost to promulgate the regulation. NRS 687B.490(6) requires that any expense borne by the Division in determining the adequacy of a network plan be assessed against the insurance carrier applying for the network plan approval.*

- b. **Enforcement:** *The Division anticipates no additional direct or indirect costs. NRS 687B.490(6) requires that any expense borne by the Division in determining the adequacy of a network plan be assessed against the insurance carrier applying for the network plan approval.*

- c. **Compliance:** *The Division anticipates no additional direct or indirect costs. NRS 687B.490(6) requires that any expense borne by the Division in determining the adequacy of a network plan be assessed against the insurance carrier applying for the network plan approval.*

(10) **Does the regulation establish a new fee or increase an existing fee?**

The regulation does not establish a new fee or increase an existing fee.

- (11) Provide a statement which identifies the methods used by the agency in determining the impact of the proposed regulation on a small business, prepared pursuant to subsection 3 of NRS 233B.0608.

The Division solicited comments from the Chambers of Commerce throughout the state of Nevada via a survey and requested that it be forwarded to members of the Chambers. Further, during the two-year process of promulgating the network adequacy regulation, which involved numerous parties, comments, and meetings, the Division received no comments which suggested that quantifying network adequacy standards in a regulation would impact small businesses.

Additionally, the Network Adequacy Advisory Council's meetings are public and include extensive discussion about network adequacy, and at no time during the 15 public meetings conducted for plan years 2018, 2019, and 2020 were any comments received that the proposed network adequacy standards would negatively impact small businesses.

The Division has also conducted extensive analysis and research of network adequacy standards to determine its reach.

- (12) Provide a description of any regulations of other state or local governmental agencies which the proposed regulation overlaps or duplicates, and a statement explaining why the duplication or overlapping is necessary. If the regulation overlaps or duplicates a federal regulation, state the name of the regulating federal agency.

The Adequacy of Networks section under Nevada Administrative Code ("NAC") 687B.750 to 687B.784 includes provisions related to the network adequacy standards required for health network plans in the individual and small employer group market. The proposed regulation modifies NAC 687B.768 and 687B.772. The network adequacy standards under NAC 687B.768 do not currently address the provider types and standards proposed under this regulation so there will be no duplication or overlap of existing provisions.

In regards to other state, local, or federal regulations, there is no overlapping or duplication of existing regulations.

- (13) If the regulation is required pursuant to federal law, provide a citation and description of the federal law.

The proposed regulation is not required pursuant to federal law.

- (14) If the regulation includes provisions which are more stringent than a federal regulation that regulates the same activity, provide a summary of such provisions.

There are no federal regulations that address the requirements in the regulation for all network plans in the individual and small group markets.

Persons wishing to comment upon the proposed action of the Division may appear at the scheduled public hearing or may address their comments, data, views or arguments, in written form, to the Division, 1818 East College Parkway, Suite 103, Carson City, Nevada 89706. **Written submissions must be received by the Division on or before November 26, 2018.** If no person who is directly affected by the proposed action appears to request time to make an oral presentation, the Division may proceed immediately to act upon any written submissions.

A copy of this notice and the regulation will be on file at the State Library, 100 North Stewart Street, Carson City, Nevada, for inspection by members of the public during business hours. Additional copies of the notice and the regulation will be available at the offices of the Division, 1818 East College Parkway, Suite 103, Carson City, Nevada 89706, and 3300 West Sahara Avenue, Suite 275, Las Vegas, Nevada 89102, and in all counties in which an office of the agency is not maintained, at the main public library, for inspection and copying by members of the public during business hours. This notice and the text of the proposed regulation are also available in the State of Nevada Register of Administrative Regulations, which is prepared and published monthly by the Legislative Counsel Bureau pursuant to NRS 233B.0653, and on the Internet at <http://leg.state.nv.us/register/>. Copies of this notice and the proposed regulation will be mailed to members of the public upon request. A reasonable fee may be charged for copies if it is deemed necessary. This does not apply to a public body subject to the Open Meeting Law.

Upon adoption of any regulation, the agency, if requested to do so by an interested person, either before adoption or within 30 days thereafter, shall issue a concise statement of the principal reasons for and against its adoption, and incorporate therein its reason for overruling the consideration urged against its adoption.

Notice of the hearing was provided via electronic means to all persons on the agency's e-mail list for administrative regulations, and this Notice of Intent to Act Upon Regulation was posted to the agency's Internet Web site at <http://doi.nv.gov/> and was provided to or posted at the following locations:

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

Nevada Division of Insurance
3300 West Sahara Avenue, Suite 275
Las Vegas, Nevada 89102

Legislative Building
401 South Carson Street
Carson City, Nevada 89701

Nevada State Business Center
3300 West Sahara Avenue
Las Vegas, Nevada 89102

Blasdel Building
209 East Musser Street
Carson City, Nevada 89701

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

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

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

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

Las Vegas-Clark County Library District
7060 W. Windmill Lane
Las Vegas, NV 89113

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

Lyon County Library
20 Nevin Way
Yerington, Nevada 89447

Mineral County Public Library
P.O. Box 1390
Hawthorne, Nevada 89415

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/Downtown Reno Library
P.O. Box 2151
Reno, Nevada 89505-2151

White Pine County Library
950 Campton Street
Ely, Nevada 89301

Members of the public who would like additional information about the proposed regulation may contact Susan Bell, Legal Secretary, at (775) 687-0704, or via e-mail to suebell@doi.nv.gov.

Members of the public who are disabled and require special accommodations or assistance at the hearing are requested to notify the Commissioner's secretary, in writing, no later than five (5) working days before the meeting: 1818 E. College Parkway, Suite 103, Carson City, Nevada 89706, or suebell@doi.nv.gov.

DATED this 9th day of November, 2018.


BARBARA D. RICHARDSON
Commissioner of Insurance

HEARING AGENDA

The State of Nevada, Department of Business and Industry, Division of Insurance

December 14, 2018 • 9:30 a.m.

Location of Hearing:

Nevada 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:

Nevada Division of Insurance
3300 W. Sahara Ave., 4th Floor Nevada Room
Las Vegas, NV 89102
(Division Offices located in Suite 275)

1. Open Hearing: T005-18.
2. Presentation, Discussion and Adoption of Proposed Regulation. (For Possible Action)

LCB File No. T005-18. Network Adequacy Plan Year 2020 (Temporary).

A regulation relating to insurance; requiring a network plan to satisfy certain requirements before the Commissioner of Insurance can determine that such a network plan is adequate for sale in this state; and providing other matters properly relating thereto.

3. Public Comment.
4. Close Hearing: T005-18.

Supporting public material for this hearing may be requested from Susan Bell, Legal Secretary, Nevada Division of Insurance, 1818 E. College Parkway, Suite 103, Carson City, Nevada 89706, (775) 687-0704, or suebell@doi.nv.gov.

Note: Any agenda item may be taken out of order; items may be combined for consideration by the public body; items may be pulled or removed from the agenda at any time; and, discussion relating to an item may be delayed or continued 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 the Commissioner's secretary, in writing, no later than five (5) working days before the hearing: 1818 E. College Parkway, Suite 103, Carson City, Nevada 89706, or suebell@doi.nv.gov.

NOTICES FOR THIS HEARING 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, 3300 W. Sahara Avenue, Suite 275, Las Vegas, Nevada 89102
Nevada State Business Center, 3300 W. Sahara Avenue, Las Vegas, Nevada 89102
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 Dept. 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)

**PROPOSED REGULATION OF THE
COMMISSIONER OF INSURANCE**

LCB File No. T___ - __

November 6, 2018

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

AUTHORITY: §§1 and 2, NRS 679B.130 and 687B.490, as amended by section 88 of Assembly Bill No. 83, chapter 376, Statutes of Nevada 2017, at page 2355.

A REGULATION relating to insurance; requiring a network plan to satisfy certain requirements before the Commissioner of Insurance can determine that such a network plan is adequate for sale in this State; and providing other matters properly relating thereto.

Section 1. NAC 687B.768 is hereby amended to read as follows:

1. In order for the Commissioner to determine that a network plan made available for sale in this State is adequate, the network plan must contain, at a minimum:

~~[(a) The standards contained in the most recent Letter to Issuers in the Federally facilitated Marketplaces issued by the Centers for Medicare and Medicaid Services of the United States Department of Health and Human Services. A copy of the letter may be obtained free of charge at the Internet address <https://www.cms.gov/CCHO/resources/regulations-and-guidance/>.]~~

(a) ~~[(b)]~~ Evidence that the network plan provides reasonable access to at least one provider in the specialty area listed in the following table for at least 90 percent of enrollees by complying with the area designations for the maximum time or distance standards in the following table:

Specialty Area	Maximum Time or Distance Standards (Minutes/Miles)			
	Metro	Micro	Rural	Counties with Extreme Access Considerations (CEAC)
Primary Care	15/10	30/20	40/30	70/60
Endocrinology	60/40	100/75	110/90	145/130
Infectious Diseases	60/40	100/75	110/90	145/130
Oncology - Medical/Surgical	45/30	60/45	75/60	110/100
Oncology - Radiation/Radiology	60/40	100/75	110/90	145/130
{Mental Health- (Including Substance- Use Disorder- Treatment)}	{45/30}	{60/45}	{75/60}	{110/100}
<i>Psychiatrist</i>	<i>45/30</i>	<i>60/45</i>	<i>75/60</i>	<i>110/100</i>
<i>Psychologist</i>	<i>45/30</i>	<i>60/45</i>	<i>75/60</i>	<i>110/100</i>
<i>Licensed Clinical Social Works (LCSW)</i>	<i>45/30</i>	<i>60/45</i>	<i>75/60</i>	<i>110/100</i>
Pediatrics	25/15	30/20	40/30	105/90
Rheumatology	60/40	100/75	110/90	145/130
Hospitals	45/30	80/60	75/60	110/100
Outpatient Dialysis	45/30	80/60	90/75	125/110

(b) ~~{(e)}~~ Evidence that the network plan:

- (1) Contracts with at least 30 percent of the essential community providers in the service area of the network plan that are available to participate in the provider

network of the network plan~~[, as calculated using the methodology contained in the most recent Letter to Issuers in the Federally facilitated Marketplaces.];~~

(2) *Offers contracts in good faith to all available ECPs in all counties designated as Counties with Extreme Access Considerations (CEAC) included in the plan's service area;*

(3) Offers contracts in good faith to all available Indian health care providers in the service area of the network plan, including, without limitation, the Indian Health Service, Indian Tribes, tribal organizations and urban Indian organizations, as defined in 25 U.S.C. § 1603, which apply the special terms and conditions necessitated by federal statutes and regulations as referenced in the Model Qualified Health Plan Addendum for Indian Health Care Providers. A copy of the Model Qualified Health Plan Addendum for Indian Health Care Providers may be obtained free of charge at the Internet address

<https://www.qhpcertification.cms.gov/s/ECP%20and%20Network%20Adequacy>;

and

(4) Offers contracts in good faith to at least one essential community provider in each category of essential community provider, *in the following table* ~~[as contained in the most recent Letter to Issuers in the Federally facilitated Marketplaces]~~, in each county in the service area of the network plan, where an essential community provider in that category is available and provides medical or dental services that are covered by the network plan.

<i>Major ECP Category</i>	<i>ECP Provider Types</i>
<i>Family Planning Providers</i>	<i>Title X Family Planning Clinics and Title X “Look-Alike” Family Planning Clinics</i>
<i>Federally Qualified Health Centers (FQHCs)</i>	<i>FQHCs and FQHC “Look-Alike” Clinics, Outpatient health programs/facilities operated by Indian tribes, tribal organizations, programs operated by Urban Indian Organizations</i>
<i>Hospitals</i>	<i>Disproportionate Share Hospitals (DSH) and DSH-eligible Hospitals, Children’s Hospitals, Rural Referral Centers, Sole Community Hospitals, Free-standing Cancer Centers, Critical Access Hospitals</i>
<i>Indian Health Care Providers</i>	<i>IHS providers, Indian Tribes, Tribal organizations, and urban Indian Organizations</i>
<i>Ryan White Providers</i>	<i>Ryan White HIV/AIDS Program Providers</i>
<i>Other ECP Providers</i>	<i>STD Clinics, TB Clinics, Hemophilia Treatment Centers, Black Lung Clinics, Community Mental Health Centers, Rural Health Clinics, and other entities that serve predominantly low-income, medically underserved individuals</i>

~~2. [If the area designations for the maximum time and distance standards required pursuant to paragraph (b) of subsection 1 are changed by the most recent Letter to Issuers in the Federally facilitated Marketplaces, the Commissioner will post on the Internet website maintained by the Division notice of such changes.]~~

~~3.]~~ 2. To offer a contract in good faith pursuant to paragraph ~~[(e)]~~ (b) of subsection 1, a network plan must offer contract terms comparable to the terms that a carrier or other person or entity which issues a network plan would offer to a similarly situated provider which is not an essential community provider, except for terms that would not be

applicable to an essential community provider, including, without limitation, because of the type of services that an essential community provider provides. A network plan must be able to provide verification of such offers if the *Commissioner of Insurance* [~~Centers for Medicare and Medicaid Services of the United States Department of Health and Human Services~~] requests to verify compliance with this policy.

~~[4. Upon the issuance of a new Letter to Issuers in the Federally facilitated Marketplaces, the Commissioner will determine whether the requirements of NAC 687B.750 to 687B.784, inclusive, including, without limitation, the standards required pursuant to subsection 1, conform with any similar standards prescribed in the new Letter to Issuers in the Federally facilitated Marketplaces. If the Commissioner determines that the requirements of NAC 687B.750 to 687B.784, inclusive, do not conform with any similar standards prescribed in the new Letter to Issuers in the Federally facilitated Marketplaces, the Commissioner will hold a public hearing concerning possible amendments to NAC 687B.750 to 687B.784, inclusive, and give notice of that hearing in accordance with NRS 233B.060.]~~

~~[5.]~~ 3. As used in this section:

(a) “Essential community provider” *or “ECP” are defined as providers that serve predominantly low-income, medically underserved individuals, and specifically include health care providers defined in section 340B(a)(4) of the Public Health Service (PHS) Act; entities described in section 1927(c)(1)(D)(i)(IV) of the Social Security Act (SSA), including State-owned family planning service sites, governmental family planning service sites, not-for-profit family planning service sites that do not receive 340B-qualifying funding, including under Title X of the PHS*

Act; or Indian health care providers, unless any of the above providers has lost its status under either section, 340(B) of the PHS Act or 1927 of the Act, as a result of violating Federal law. [~~has the meaning ascribed to it in the most recent Letter to Issuers in the Federally-facilitated Marketplaces.~~]

(b) *“Maximum time or distance standards” [~~has the meaning ascribed to “maximum time and distance standards” in the most recent Letter to Issuers in the Federally-facilitated Marketplaces.~~] are defined as the maximum time or distance an individual should have to travel to see a provider based on the area designation.*

(c) *Area designations for the maximum time or distance standards required pursuant to paragraph (a) of subsection 1 are based upon the population size and density parameters of individual counties within the plan’s service area. The population and density parameters applied to determine county type designations are listed in the following table:*

<i>County Type</i>	<i>Population</i>	<i>Density</i>
<i>Metro</i>	$\geq 1,000,000$	$10 - 999.9/mi^2$
	$500,000 - 999,999$	$10 - 1,499.9/mi^2$
	$200,000 - 499,999$	$10 - 4,999.9/mi^2$
	$50,000 - 199,999$	$100 - 4,999.9/mi^2$
	$10,000 - 49,999$	$1,000 - 4,999.9/mi^2$
<i>Micro</i>	$50,000 - 199,999$	$10 - 49.9/mi^2$
	$10,000 - 49,999$	$50 - 999.9/mi^2$
<i>Rural</i>	$10,000 - 49,999$	$10 - 49.9/mi^2$
	$< 10,000$	$10 - 4,999.9/mi^2$
<i>CEAC</i>	<i>Any</i>	$< 10/mi^2$

Sec. 2. NAC 687B.772 is hereby amended to read as follows:

1. The Council shall consider the standards required pursuant to NAC 687B.768 and any other requirements of NAC 687B.750 to 687B.784, inclusive, and may recommend additional or alternative standards for determining whether a network plan is adequate.

2. The recommendations proposed by the Council to the Commissioner:

(a) Must include quantifiable metrics commonly used in the health care industry to measure the adequacy of a network plan;

(b) Must include, without limitation, recommendations for standards to determine the adequacy of a network plan with regard to the number of providers of health care that [~~÷~~

~~— (1) Practice in a specialty or are facilities that appear on the Essential Community Providers/Network Adequacy Template issued by the Centers for Medicare and Medicaid Services of the United States Department of Health and Human Services and available at the Internet address <https://www.cms.gov/CCHIO/programs-and-initiatives/health-insurance-marketplaces/qhp.html> free of charge, which is hereby adopted by reference; and]~~

~~[(2) Are]~~ *are* necessary to provide the coverage required by law, including, without limitation, the provisions of NRS 689A.0435, 689C.1655, 695C.1717 and 695G.1645;

(c) May propose standards to determine the adequacy of a network plan with regard to types of providers of health care other than those described in paragraph (b); and

(d) May, if a sufficient number of essential community providers, as defined in 45 C.F.R. §156.235(c), are available and willing to enter into an agreement with a carrier to participate in network plans, propose requiring a network plan to include a greater number of such providers than the number of providers of health care of that type that a network plan is required to include pursuant to the standards required pursuant to NAC 687B.768 and any other

requirements of NAC 687B.750 to 687B.784, inclusive.

3. The Council must submit its recommendations to the Commissioner on or before September 15 of each year. On or before October 15 of each year, the Commissioner will determine whether to accept any of the recommendations of the Council and take any action necessary to issue any new requirements for determining the adequacy of a network plan. Any such new requirements will become effective on the second January 1 next ensuing after the adoption of the requirements.

Sec. 3. This regulation becomes effective on January 1, 2020.

**STATE OF NEVADA
DEPARTMENT OF BUSINESS & INDUSTRY
DIVISION OF INSURANCE**

**Determination of Necessity - Small Business Impact Statement
NRS 233B.0608(1)**

NETWORK ADEQUACY STANDARDS PLAN YEAR 2020

EFFECTIVE DATE OF REGULATION:
January 1, 2020

1. BACKGROUND.

The regulation was proposed under the authority of NRS 687B.490. The regulation amends Nevada Administrative Code (“NAC”) 687B, providing standards for measuring the adequacy of a network plan, to ensure that consumers of health plans can reasonably access certain providers.

The Adequacy of Network Plans section of Chapter 687B of the NAC includes provisions which give the Commissioner of Insurance the authority to establish a Network Adequacy Advisory Council (“Council”) for the purpose of providing annual recommendations pertaining to the standards used to measure the adequacy of a network plan.

The Council conducted the first meeting for plan year 2020 on February 27, 2018. The nine-member Council held a total of five (5) public meetings during which they conducted discussions, reviewed data, and received public input related to network adequacy. Recordings of the meetings and supporting documents presented during the meetings are available on the Division’s website at www.doi.nv.gov. On September 14, 2018, a Report which included the Council’s network adequacy recommendations was submitted to the Commissioner of Insurance. Based on the Commissioner’s review of the Report, the Commissioner seeks to promulgate this regulation to enact network adequacy standards.

2. DESCRIPTION OF SOLICITATION SHOWING A CONCERTED EFFORT. NRS 233B.0608(1).

The Division of Insurance drafted a survey requesting respondents self-identify as a statutory small business and provide feedback concerning the effects of the proposed regulation on business. The survey consisted of the following questions:

1. “Do you own or manage a small business (1-50 employees)?”
2. “About how many employees work at your company?”
3. “Does your small business offer a health insurance plan with an in-network benefit to your employees?”
 - a. “What percentage of your employees enroll in this benefit?”
4. “Does your small business plan to offer a health insurance plan with an in-network benefit to your employees for plan year 2020?”
 - a. “What percentage of your employees do you expect to enroll in this benefit for plan year 2020?”

The survey was sent out to the Chambers of Commerce throughout the state of Nevada for distribution to their members. To date the Division has received two (2) responses to the survey from the Chambers. The survey responses did not indicate that the proposed regulation would impact small businesses. The Division will continue to monitor the survey results as well as solicit comments from the small business community during the workshop and hearing process. The Division will update the Small Business Impact Statement during this process to include additional feedback received.

Further, during the two-year process of promulgating the network adequacy regulation, which involved numerous parties, comments, and meetings, the Division received no comments that suggest that quantifying network adequacy standards in a regulation would negatively impact small businesses. Additionally, the Network Adequacy Advisory Council's meetings are public and include extensive discussion over network adequacy and at no time during the 15 public meetings conducted for plan years 2018, 2019, and 2020 were any comments received that the proposed network adequacy standards would negatively impact small businesses. The Division has also conducted extensive analysis and research of network adequacy standards to determine its reach.

3. DOES THE PROPOSED REGULATION IMPOSE A DIRECT AND SIGNIFICANT ECONOMIC BURDEN UPON A SMALL BUSINESS OR DIRECTLY RESTRICT THE FORMATION, OPERATION OR EXPANSION OF A SMALL BUSINESS? NRS 233B.0608(1).

NO YES

4. HOW WAS THAT CONCLUSION REACHED? NRS 233B.0608(3).

The Division of Insurance reached out to the Chambers of Commerce throughout the state of Nevada and received two (2) responses to its survey. Based on analysis done by Division staff, the Division anticipates the impact of the proposed regulation on small business to be minimal to none given that many network plans currently offer the benefits measured. Further, during the two-year process of promulgating the network adequacy regulation, which involved numerous parties, comments, and meetings, the Division received no comments which suggested that quantifying network adequacy standards in a regulation would negatively impact small businesses.

Additionally, the Network Adequacy Advisory Council's meetings are public and include extensive discussion about network adequacy, and at no time during the 15 public meetings conducted for plan years 2018, 2019, and 2020 were any comments received that the proposed network adequacy standards would negatively impact small businesses. The Division has also conducted extensive analysis and research of network adequacy standards to determine its reach.

I, BARBARA D. RICHARDSON, Commissioner of Insurance for the State of Nevada, hereby 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 this statement is accurate. (NRS 233B.0608(3))

11/8/18
(DATE)


BARBARA D. RICHARDSON
Commissioner of Insurance

Small Business Impact Statement
NRS 233B.0608(2)-(4) and 233B.0609

NETWORK ADEQUACY STANDARDS PLAN YEAR 2020

1. **SUMMARY OF COMMENTS RECEIVED FROM SMALL BUSINESSES. NRS 233B.0609(1)(a).**

No direct comments were received from small businesses. The Division received two (2) survey responses from small businesses. The responses did not suggest the regulation would impact small businesses.

Other interested parties may receive a copy of this summary by contacting Susan Bell, Legal Secretary, Nevada Division of Insurance, at (775) 687-0704 or suebell@doi.nv.gov.

2. **HOW WAS THE ANALYSIS CONDUCTED? NRS 233B.0609(1)(b).**

Division personnel deemed subject matter experts analyzed the impact to small businesses based on survey responses and public meetings and discussions.

Upon receipt of any comments from the small business community, the Division personnel responsible for this analysis will review the comments submitted and reconsider the anticipated impact to small businesses.

3. **ESTIMATED ECONOMIC EFFECT ON SMALL BUSINESSES THE REGULATION IS TO REGULATE. NRS 233B.0609(1)(c).**

(a) **BOTH ADVERSE AND BENEFICIAL EFFECTS.**

(1) Adverse: The Division does not anticipate an adverse economic effect on small businesses.

(2) Beneficial: Providers that qualify as small businesses may have more opportunities, options, or negotiating power.

(b) **BOTH DIRECT AND INDIRECT EFFECTS.**

(1) Direct: Providers that qualify as small businesses may have more opportunities, options, or negotiating power when contracting with health insurance networks.

(2) Indirect: Small businesses which utilize these networks may have greater access to certain providers of healthcare.

4. **METHODS CONSIDERED TO REDUCE IMPACT ON SMALL BUSINESSES. NRS 233B.0609(1)(d).**

The Division does not anticipate an impact on small businesses; therefore, no consideration of methods to reduce impact is necessary.

5. **ESTIMATED COST OF ENFORCEMENT. NRS 233B.0609(1)(e).**

The Division anticipates no additional costs. NRS 687B.490(6) requires that any expense borne by the Division in determining the adequacy of a network plan be assessed against the insurance carrier applying for the network plan approval.

6. FEE CHANGES. NRS 233B.0609(1)(f).

No new or additional fees are established.

7. DUPLICATIVE PROVISIONS. NRS 233B.0609(1)(g).

There are no other regulations that overlap or duplicate the regulation.

8. REASONS FOR CONCLUSIONS. NRS 233B.0609(1)(h).

The Division's analysis of network benefits currently offered in Nevada would indicate that the benefits added by the proposed regulation are currently offered by many network plans and, therefore, will have a minimal impact, if any, on the small business community.

I, BARBARA D. RICHARDSON, Commissioner of Insurance for the State of Nevada, hereby certify 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 this statement was prepared properly and the information contained herein is accurate. (NRS 233B.0609(2))

11/8/10
(DATE)



BARBARA D. RICHARDSON
Commissioner of Insurance