

**INSTRUCTIONS TO APPLICATION FOR CERTIFICATION
AS A MEDICARE MANAGED CARE ORGANIZATION
IN NEW YORK STATE**

1. Application Form. Complete form titled NYS MCO Certification Application for Medicare-Only. This form must include the signatures of the individuals who are authorized to submit an application on behalf of the applicant. An original form is required.

Also submit the applicant's proposed

- certificate of incorporation or articles of organization,
- by-laws,
- operating agreement and
- articles of incorporation and by-laws for holding company, as applicable.

2. Corporate structure. Provide a chart reflecting the applicant's parent corporation, holding company or holding company system, affiliates, and subsidiaries.
3. Board of Directors. List the Board of Directors, or if the applicant is incorporated as an LLC, Members or Managers and terms of office.
4. Character and Competence Review. This review involves the evaluation of individuals affiliated with the applicant and also the regulatory history of health care or health related operations owned, operated, managed or controlled by the applicant or its holding company or subsidiary of the applicant's holding company.

A. Review of all owners, officers, board members, member or manager if the applicant is a limited liability company, controlling person, partner or medical director. of record, controlling persons*, all partners of a partnership, and medical director of the applicant is required. The form titled Character and Competency Disclosure Form captures the information needed to initiate the character and competency review of these individuals.

B. The regulatory compliance history of any health care operation that is owned, directly or indirectly, operated, or managed or controlled* by by the applicant, the applicant's holding company or holding company system, including subsidiaries of the applicant required. The regulatory compliance history for these entities must be obtained.

*Controlling person for the purpose of this section means any person who has the ability, directly or indirectly, to direct or cause the direction of the management or policies of a corporation, partnership or other entity. Control shall be presumed to exist if any person directly or indirectly owns, controls or holds the power to vote 10 percent or more of the voting securities or voting rights of any other person, or is a corporate member of a not-for-profit corporation.

C. Applicants are to request a regulatory compliance statement from out-of-state regulators with regard to: (1) any health care operation for which an officer, member of the board, or member or manager of an LLC, controlling person, owner, partner,

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or medical director of the applicant has served as an officer, member of the board, or member or manager of an LLC, controlling person, owner, partner, or medical director of a health care or health-related operation (2) all regulated health care operations owned or operated by the applicant, its holding company or holding company system.

5. Internal organizational structure. A description of the applicant's organizational structure including a brief description of the function of each department. Include an organizational chart which depicts all departments pertaining to the management of the MCO and reflects lines of authority. At a minimum, the chart must show the following departments – financial, marketing, provider services, quality assurance, utilization review, member service, claims processing, MIS.
6. Proposed Service area. A listing of the counties in which the applicant proposes to serve Medicare enrollees, and projected enrollment for 36 months.
7. Financial Statements
 - A. Include a revenue and expense statement for each month for the first 36 months of operation. Appendix 1 Statement of Revenues and Expenses indicates the format for this information. The sample format is for the first 12 months of operation; statements encompassing the 13th through 24th months and 25th through 36th months of operation should also be included. The statements should combine commercial business with Medicare and Medicaid business.
 - B. The source of initial capitalization should be included. If the source is a subordinated loan (a Section 1307 loan), the proposed loan document should be included. Sample wording for such loan is included in Appendix 2. In considering the adequacy of the proposed capital, the HMO's proposed service areas and anticipated market penetration will be considered. At a minimum, the initial capital should be sufficient to comply with the Health Department's Regulation Part 98.11 and to fund the cumulative operating loss sustained through the time break-even point is reached, as well as additional amounts to cover unanticipated losses.
 - C. Documentation of accounts and assets required for initial capitalization, reserves and deposits.
 - D. Attach any proposed agreements with insurers or other parties for the purpose of sharing financial risks.
 - E. Provide any legal document relating to the leasing of computer hardware and software, other equipment and real estate or contracts with consultants for computer software and hardware.

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G. If an Expense Allocation Agreement will be used, submit a copy of the proposed contract.

Submit one original and 5 copies of the application, including all attachments and appendices to:

Director, Bureau of Managed Care Certification and Surveillance
NYS Department of Health
Rm 1911 Corning Tower
Empire State Plaza
Albany, NY 12237-0062

[REFER TO MEDICARE-ONLY APPLICATION INSTRUCTIONS, AND, AS APPLICABLE, SUBMIT MEDICAID ADVANTAGE QUALIFICATION PROPOSAL]

APPLICANT NAME (NAME OF MCO)		
STREET ADDRESS		
CITY	STATE	ZIP CODE
TELEPHONE NUMBER	(AREA CODE)	
()		
EXECUTIVE DIRECTOR OF MCO (LAST NAME, MIDDLE, INITIAL)		
TELEPHONE NUMBER	(AREA CODE)	
()		
STREET ADDRESS [IF DIFFERENT FROM ABOVE]		
CITY	STATE	ZIP CODE
CHAIRMAN OF THE BOARD OF MCO (LAST NAME, MIDDLE, INITIAL)		
TELEPHONE NUMBER	(AREA CODE)	
()		
STREET ADDRESS [IF DIFFERENT FROM ABOVE]		
CITY	STATE	ZIP CODE

APPLICATION TYPE: HMO PHSP **FEDERAL Employer ID** _____

TAX STATUS:

- Not for Profit
- Privately Held For Profit
- Publicly Traded For Profit

PROPOSED PRODUCT(S):

- Medicare Advantage
- Medicaid Advantage

Signature of Executive Director of MCO

Date:

Signature of Board Chairman of MCO

Date:

Signature and Title of Individual Executing Application
(If different from Executive Director)

Date:

FOR NYS DOH USE ONLY

DATE RECEIVED

SAMPLE SECTION 1307 LOAN AGREEMENT

AGREEMENT, made this ____ day of _____200__, by and between _____, a New York health maintenance organization, having its principal offices at _____, or any successor thereof (hereinafter referred to as the "Borrower") and _____, a New York corporation having its principal place of business at _____, (hereinafter referred to as the "Lender").

WITNESSETH:

WHEREAS, Borrower desires to borrow the sum of _____ Dollars and the Lender is willing to lend said sum to Borrower upon the terms and conditions hereinafter set forth; and

WHEREAS, Section 1109(a) of the New York Insurance Law requires that a subordinated loan entered into by an Article 44 Public Health Law health maintenance organization be subject to all of the provisions of Insurance Law Section 1307; and

WHEREAS, the parties hereto desire to set forth the terms and conditions for the loan from Lender to Borrower, which terms and conditions are intended by the parties hereto to conform to the requirements of New York Insurance Law Section 1307.

NOW, THEREFORE, in consideration of the premises and the mutual covenants and other good and valuable considerations hereafter contained, Lender and Borrower agree as follows:

1. Lender agrees to loan to Borrower and Borrower agrees to borrow from the Lender, the sum of _____ Dollars (the "Loan"). Borrower hereby acknowledges receipt of the Loan.
2. The rate of interest on the Loan shall be the lesser of ___% per annum or the rate permitted under Section 5-501 of the New York General Obligations Law , as further defined in Section 4.2 of the Regulations of the Department of Banking of the State of New York, as amended.
3. The Loan, or any part thereof, shall be repaid by Borrower on demand of the Lender; provided, however, that such repayment and any interest payable on the Loan shall only be made out of free and divisible surplus of the Borrower, subject to the prior written approval of the Superintendent of Insurance of the State of New York (hereinafter referred to as the "Superintendent"), whenever in the judgment of the Superintendent the financial condition of the Borrower warrants.
4. The funds borrowed pursuant to this Agreement shall not form a part of Borrower's legal liabilities under the New York Insurance Law and shall not be a basis of a set-off, but, until the loan is repaid in full, all financial statements published and filed with the Superintendent or Commissioner of Health by Borrower shall show, as a footnote thereto, the amount of the Loan remaining unpaid.
5. In the event of liquidation of Borrower, repayment of the then outstanding balance of the Loan and any accrued interest then due and owing shall be paid to the Lender out of any assets remaining after

the payment of all policy obligations and all other liabilities of Borrower, but before distribution of assets to any other person or entity.

6. The Promissory Note is non-negotiable and may not be assigned, except it or its proceeds may be assigned, in whole or in part, by Lender upon notice to Borrower and with the prior written consent of the Superintendent.
7. This Agreement, and all of the covenants and conditions hereinabove contained, shall be binding upon and inure to the benefits of Lender and Borrower and their respective permitted successors or assigns, and on request of the Lender, Borrower shall furnish to lender such note, loan, certificate or other evidence of this indebtedness as Lender may request.
8. This agreement represents the entire understanding between the parties with respect to the subject matter, and may not be modified, amended or changed except in a writing signed by both parties and approved in writing and in advance by the Superintendent.
9. Any notices required to be given pursuant to the terms and provisions hereof shall be in writing and shall be sent by registered or certified mail, return receipt requested, to the parties at the addresses set forth above. Such notice shall be effective two (2) days after the delivery to any branch of the United States Post Office properly addressed and postage prepaid.

10. This Agreement, and the rights and obligations of the parties hereunder, shall be construed in accordance with the provisions of Section 1307 of the New York Insurance Law.
11. IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the day and year first above written.

[INSERT NAME OF HMO]

By: _____

Printed Name

Title

[INSERT NAME OF LENDER]

By: _____

Printed Name

Title