

(D) (1) PRIOR TO MARCH 1 OF EACH YEAR, THE BOARD SHALL DETERMINE AND REPORT TO THE COMMISSIONER THE POOL NET LOSS FOR THE PREVIOUS CALENDAR YEAR, INCLUDING ADMINISTRATIVE EXPENSES AND INCURRED LOSSES FOR THE YEAR, TAKING INTO ACCOUNT INVESTMENT INCOME AND OTHER APPROPRIATE GAINS AND LOSSES.

(2) ANY NET LOSS FOR THE YEAR SHALL BE RECOUPED BY ASSESSMENTS OF REINSURING CARRIERS.

(I) THE BOARD SHALL ESTABLISH, AS PART OF THE PLAN OF OPERATION, A FORMULA BY WHICH TO MAKE ASSESSMENTS AGAINST REINSURING CARRIERS. THE ASSESSMENT FORMULA SHALL BE BASED ON:

1. EACH REINSURING CARRIER'S SHARE OF THE TOTAL PREMIUMS EARNED IN THE PRECEDING CALENDAR YEAR FROM HEALTH BENEFIT PLANS DELIVERED OR ISSUED FOR DELIVERY TO SMALL EMPLOYERS IN THIS STATE BY REINSURING CARRIERS; AND

2. EACH REINSURING CARRIER'S SHARE OF THE PREMIUMS EARNED IN THE PRECEDING CALENDAR YEAR FROM NEWLY ISSUED HEALTH BENEFIT PLANS DELIVERED OR ISSUED FOR DELIVERY DURING SUCH CALENDAR YEAR TO SMALL EMPLOYERS IN THIS STATE BY REINSURING CARRIERS.

(II) THE FORMULA ESTABLISHED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH MAY NOT RESULT IN ANY REINSURING CARRIER HAVING AN ASSESSMENT SHARE THAT IS LESS THAN 50% NOR MORE THAN 150% OF AN AMOUNT WHICH IS BASED ON THE PROPORTION OF THE REINSURING CARRIER'S TOTAL PREMIUMS EARNED IN THE PRECEDING CALENDAR YEAR FROM HEALTH BENEFIT PLANS DELIVERED OR ISSUED FOR DELIVERY TO SMALL EMPLOYERS IN THIS STATE TO TOTAL PREMIUMS EARNED IN THE PRECEDING CALENDAR YEAR FROM HEALTH BENEFIT PLANS DELIVERED OR ISSUED FOR DELIVERY TO SMALL EMPLOYERS IN THIS STATE BY ALL REINSURING CARRIERS.

(III) THE BOARD MAY, WITH THE APPROVAL OF THE COMMISSIONER, CHANGE THE ASSESSMENT FORMULA ESTABLISHED PURSUANT TO SUBPARAGRAPH (I) OF THIS PARAGRAPH FROM TIME TO TIME AS APPROPRIATE. THE BOARD MAY PROVIDE FOR THE SHARES OF THE ASSESSMENT BASE ATTRIBUTABLE TO PREMIUMS FROM ALL HEALTH BENEFIT PLANS AND TO PREMIUMS FROM NEWLY ISSUED HEALTH BENEFIT PLANS TO VARY DURING A TRANSITION PERIOD.

(IV) SUBJECT TO THE APPROVAL OF THE COMMISSIONER, THE BOARD SHALL MAKE AN ADJUSTMENT TO THE ASSESSMENT FORMULA FOR REINSURING CARRIERS THAT ARE APPROVED HEALTH MAINTENANCE ORGANIZATIONS WHICH ARE FEDERALLY QUALIFIED UNDER 42 U.S.C. SEC. 300, ET SEQ., TO THE EXTENT, IF ANY, THAT RESTRICTIONS ARE PLACED ON THEM THAT ARE NOT IMPOSED ON OTHER SMALL EMPLOYER CARRIERS.

(V) PREMIUMS AND BENEFITS PAID BY A REINSURING CARRIER THAT ARE LESS THAN AN AMOUNT DETERMINED BY THE BOARD TO JUSTIFY THE COST OF COLLECTION SHALL NOT BE CONSIDERED FOR PURPOSES OF DETERMINING ASSESSMENTS.