

12. Election to become risk-assuming carrier or reinsuring carrier.

(a) Required.

(1) Each carrier shall elect to become either a risk-assuming carrier or reinsuring carrier.

(2) The notification of election to become a risk-assuming carrier shall include an appropriate opinion by an independent qualified actuary that the risk-assuming carrier is able to assume and manage the risk of enrolling individuals or groups without the protection of the Pool.

(b) Duration of election; new carriers.

(1) The initial election under this section is binding for 3 years.

(2) After the initial 3 years, and every 5 years thereafter, carriers shall again elect to be either a risk-assuming or reinsuring carrier.

(3) Each subsequent election is binding for 5 years.

(4) The Commissioner may allow a new carrier to make an election under conditions established by the Commissioner.

(c) Change of election.

(1) The Commissioner may allow a carrier to change its election at any time for good cause shown.

(2) In determining whether to approve an application by a carrier to change its election, the Commissioner shall consider:

(i) the applicant's financial condition and the financial condition of any parent or guaranteeing corporation;

(ii) the applicant's history of assuming and managing risk;

(iii) the applicant's commitment to market fairly to all individuals or groups in the State or in the applicant's service area;

(iv) the applicant's ability to assume and manage the risk of enrolling individuals or groups without the protection of the Pool; and

(v) the effect of approval of the application on the financial viability of the Pool.

(3) While the Commissioner is considering an application under this subsection, the carrier may request a hearing as provided under Title 11, Subtitle 5 of the Insurance Article.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 48A, § 706(a)(1) and (3), (b), (c), and (d) (effective subject to Ch. 9, §§ 5 and 7, Acts of 1993, as amended by Ch. 258, § 3, Acts of 1994).