

§ 122C-125.2. (Effective until contingency met – see note) LME/MCO solvency ranges; formula; corrective action plan.

(a) Beginning on September 1, 2018, the Department shall calculate on a quarterly basis a solvency range for each LME/MCO as a sum of the following figures to produce upper and lower range values:

- (1) Incurred but not reported claims figure. – The incurred but not reported claims figure shall be calculated by multiplying an LME/MCO's service spending for the preceding 12 months by six and eight-tenths percent (6.8%). If an LME/MCO experiences extenuating circumstances supported by actuarial documentation, then the Department may utilize a percentage other than six and eight-tenths (6.8%) for that LME/MCO.
- (2) Net operating liabilities figure. – The net operating liabilities figure shall be calculated by subtracting noncash current accounts receivable from the nonclaims current liabilities, as reported on the LME/MCO's most recent balance sheet. If the noncash accounts receivable are greater than the nonclaim liabilities, then the value for the net operating liabilities figure is zero.
- (3) Catastrophic or extraordinary events range. – The catastrophic or extraordinary events range shall be calculated as the range between a lower figure and an upper figure. The lower figure shall be calculated by multiplying an LME/MCO's service expenditures from the preceding 12 months by four and fifteen-hundredths percent (4.15%). The upper figure shall be calculated by multiplying an LME/MCO's service expenditures from the preceding 12 months by eight and three-tenths percent (8.3%).
- (4) Required intergovernmental transfers figure. – The required intergovernmental transfers figure is the amount of funds needed by an LME/MCO to make any intergovernmental transfers required by law over the subsequent 24 months.
- (5) Projected operating loss figure. – The projected operating loss figure is the projected net loss for an LME/MCO over the subsequent 24 months. In projecting the net loss for an LME/MCO, the Department shall use the net loss of the LME/MCO in the preceding 12 months adjusted for any changes in single-stream funding, intergovernmental transfers, or other factors known to the Department that will impact the LME/MCO's net loss over the subsequent 24 months. If a net profit is projected for an LME/MCO, then this figure is zero.
- (6) Reinvestment plan figure. – The reinvestment plan figure is the amount required for all qualifying expenditures contained in an LME/MCO's reinvestment plans over the subsequent 36 months. To qualify as an expenditure under this subdivision, the expenditure must be related to one of the following:
 - a. An initiative that supports specific goals or health status outcomes of the State in relation to the State's behavioral health needs.
 - b. An initiative that meets a State behavioral health need, as defined in law or by the Department.
 - c. Funding for infrastructure that supports the effective and efficient operation of the LME/MCO.
 - d. Funding for a facility within the LME/MCO catchment area that is necessary to meet to the needs of the population served by the LME/MCO.

- e. New or expanded initiatives and programmatic improvements to the State behavioral health system.
- f. Working capital to be utilized to fund changes in rates, operations, or programs.
- g. Assistance to public school units within the LME/MCO catchment area for student behavioral health needs.

(b) Upon calculation of the solvency range for each LME/MCO required by subsection (a) of this section, the Department shall compare the cash balance of each LME/MCO to its solvency range. For purposes of this subsection, the cash balance shall consist of the total of the LME/MCO's cash and investment balances, including its Medicaid Risk Reserve, as reported on the LME/MCO's most recent balance sheet.

Upon comparison of an LME/MCO's cash balance to its solvency range, the Department shall take one of the following actions:

- (1) If an LME/MCO's cash balance is five percent (5%) or more below the lower solvency range figure or five percent (5%) or more above the upper solvency range figure, then the Department shall notify the LME/MCO and the Fiscal Research Division of the General Assembly of the comparison results. Within 30 days from providing notice to the LME/MCO, the Department shall develop, in collaboration with the LME/MCO, a corrective action plan for the LME/MCO. The corrective action plan must include specific actions, which may include changes to the LME/MCO's reinvestment plan, utilization management, and capitation or provider rates, to bring the LME/MCO's cash balance within the solvency range, as well as a time line for implementation of these actions.
- (2) If an LME/MCO's cash balance is neither five percent (5%) or more below the lower solvency range figure nor five percent (5%) or more above the upper solvency range figure, then the Department shall notify the LME/MCO and the Fiscal Research Division of the General Assembly of the LME/MCO's solvency range for the quarter and the Department's comparison of the LME/MCO's cash balance to this solvency range. No further action shall be required.

(c) Beginning on October 15, 2018, the Department shall submit a quarterly report to the Joint Legislative Oversight Committee on Medicaid and NC Health Choice, the Joint Legislative Oversight Committee on Health and Human Services, and the Fiscal Research Division detailing the solvency ranges and comparisons required under subsection (b) of this section for each LME/MCO. The Department shall include in its report a copy of any new corrective action plans developed as a result of those comparisons, as well as any status updates on previously reported corrective action plans.

(d) For any calculation required by this section that is based upon the preceding 12 months, the Department is authorized to make adjustments to that calculation that take into account any changes in an LME/MCO's catchment area that occurred during that 12-month period. (2018-5, s. 11F.10(b); 2020-49, s. 5.)

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- (4) Required intergovernmental transfers figure. – The required intergovernmental transfers figure is the amount of funds needed by an LME/MCO to make any intergovernmental transfers required by law over the subsequent 24 months.
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 - b. An initiative that meets a State behavioral health need, as defined in law or by the Department.
 - c. Funding for infrastructure that supports the effective and efficient operation of the LME/MCO.
 - d. Funding for a facility within the LME/MCO catchment area that is necessary to meet to the needs of the population served by the LME/MCO.
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 - g. Assistance to public school units within the LME/MCO catchment area for student behavioral health needs.

(b) Upon calculation of the solvency range for each LME/MCO required by subsection (a) of this section, the Department shall compare the cash balance of each LME/MCO to its

solvency range. For purposes of this subsection, the cash balance shall consist of the total of the LME/MCO's cash and investment balances, including its Medicaid Risk Reserve, as reported on the LME/MCO's most recent balance sheet.

Upon comparison of an LME/MCO's cash balance to its solvency range, the Department shall take one of the following actions:

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- (2) If an LME/MCO's cash balance is neither five percent (5%) or more below the lower solvency range figure nor five percent (5%) or more above the upper solvency range figure, then the Department shall notify the LME/MCO and the Fiscal Research Division of the General Assembly of the LME/MCO's solvency range for the quarter and the Department's comparison of the LME/MCO's cash balance to this solvency range. No further action shall be required.

(c) Beginning on October 15, 2018, the Department shall submit a quarterly report to the Joint Legislative Oversight Committee on Medicaid, the Joint Legislative Oversight Committee on Health and Human Services, and the Fiscal Research Division detailing the solvency ranges and comparisons required under subsection (b) of this section for each LME/MCO. The Department shall include in its report a copy of any new corrective action plans developed as a result of those comparisons, as well as any status updates on previously reported corrective action plans.

(d) For any calculation required by this section that is based upon the preceding 12 months, the Department is authorized to make adjustments to that calculation that take into account any changes in an LME/MCO's catchment area that occurred during that 12-month period. (2018-5, s. 11F.10(b); 2020-49, s. 5; 2022-74, ss. 9D.15(z), 9D.15(bb).)