

§ 58-56-26. Responsibilities of the insurer.

(a) If an insurer uses the services of a TPA, the insurer is responsible for determining the benefits, premium rates, underwriting criteria, and claims payment procedures applicable to the coverage and for securing reinsurance, if any. The rules pertaining to these matters must be provided, in writing, by the insurer to the TPA. The responsibilities of the TPA as to any of these matters shall be set forth in the agreement between the TPA and the insurer.

(b) It is the sole responsibility of the insurer to provide for competent administration of its programs.

(c) In cases where a TPA administers benefits for more than 100 certificate holders on behalf of an insurer, the insurer shall, at least semiannually, conduct a review of the operations of the TPA. At least one semiannual review shall be an audit of the operations of the TPA. The insurer may conduct that audit either on-site or virtually. On July 1, 2010, and annually thereafter, every insurer shall file with the Commissioner a certification of completion of the audits as required by this subsection and performed during the previous calendar year, in the format, content, and manner as specified by the Commissioner. The insurer shall maintain in its corporate records documentation of the audits conducted to support its certification of audits for a period of five years or, if a domestic insurer, until the completion of the next quinquennial examination.

(d) The Commissioner may adopt rules necessary to implement, administer, and enforce the provisions of this section.

(e) Notwithstanding any provision of this Article to the contrary, all requirements relating to the coverage of prescription drugs and pharmacy services under this Chapter that apply applicable to health benefit plans are applicable to a third-party administrator in the same way they are applicable to an insurer. (1991, c. 627, s. 1; 2009-382, ss. 12, 13; 2023-133, s. 8; 2025-37, ss. 5.2(c), 7.2(c).)