

SENATE BILL 430

Introduced by Nathe, et al.

2/18	Introduced
2/18	First Reading
2/18	Referred to Business & Industry
2/22	Hearing
4/10	Tabled in Committee

1 *Senate* BILL NO. *430*  
 2 INTRODUCED BY *NATHR* *Mundy*  
 3 BY REQUEST OF THE DEPARTMENT OF  
 4 HEALTH AND ENVIRONMENTAL SCIENCES

5  
 6 A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND THE MONTANA  
 7 HEALTH MAINTENANCE ORGANIZATION ACT TO REMOVE THE  
 8 REQUIREMENT FOR CERTIFICATION BY THE DEPARTMENT OF HEALTH  
 9 AND ENVIRONMENTAL SCIENCES BEFORE THE COMMISSIONER OF  
 10 INSURANCE MAY GRANT A CERTIFICATE OF AUTHORITY TO A HEALTH  
 11 MAINTENANCE ORGANIZATION; AMENDING SECTIONS 33-31-102,  
 12 33-31-103, 33-31-201, 33-31-202, 33-31-212, 33-31-401,  
 13 33-31-402, 33-31-404, AND 33-31-405, MCA; REPEALING SECTION  
 14 33-31-104, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

15  
 16 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

17 **Section 1.** Section 33-31-102, MCA, is amended to read:

18 "33-31-102. Definitions. As used in this chapter,  
 19 unless the context requires otherwise, the following  
 20 definitions apply:

- 21 (1) "Basic health care services" means:
- 22 (a) consultative, diagnostic, therapeutic, and referral
- 23 services by a provider;
- 24 (b) inpatient hospital and provider care;
- 25 (c) outpatient medical services;

- 1 (d) medical treatment and referral services;
- 2 (e) accident and sickness services by a provider to
- 3 each newborn infant of an enrollee pursuant to
- 4 33-31-301(3)(e);
- 5 (f) care and treatment of mental illness, alcoholism,
- 6 and drug addiction;
- 7 (g) diagnostic laboratory and diagnostic and
- 8 therapeutic radiologic services;
- 9 (h) preventive health services, including:
- 10 (i) immunizations;
- 11 (ii) well-child care from birth;
- 12 (iii) periodic health evaluations for adults;
- 13 (iv) voluntary family planning services;
- 14 (v) infertility services; and
- 15 (vi) children's eye and ear examinations conducted to
- 16 determine the need for vision and hearing correction; and
- 17 (i) treatment for phenylketonuria. "Treatment" means
- 18 licensed professional medical services under the supervision
- 19 of a physician and a dietary formula product to achieve and
- 20 maintain normalized blood levels of phenylalanine and
- 21 adequate nutritional status.
- 22 (2) "Commissioner" means the commissioner of insurance
- 23 of the state of Montana.
- 24 ~~(3) "Department of health" means the department of~~
- 25 ~~health and environmental sciences provided for in 2-15-2101.~~



~~{4}~~--"Director"--means the director of the department of health and environmental sciences provided for in 2-15-2101;

~~{5}~~{3} "Enrollee" means a person:

(a) who enrolls in or contracts with a health maintenance organization;

(b) on whose behalf a contract is made with a health maintenance organization to receive health care services; or

(c) on whose behalf the health maintenance organization contracts to receive health care services.

~~{6}~~{4} "Evidence of coverage" means a certificate, agreement, policy, or contract issued to an enrollee setting forth the coverage to which the enrollee is entitled.

~~{7}~~{5} "Health care services" means:

(a) the services included in furnishing medical or dental care to a person;

(b) the services included in hospitalizing a person;

(c) the services incident to furnishing medical or dental care or hospitalization; or

(d) the services included in furnishing to a person other services for the purpose of preventing, alleviating, curing, or healing illness, injury, or physical disability.

~~{8}~~{6} "Health care services agreement" means an agreement for health care services between a health maintenance organization and an enrollee.

~~{9}~~{7} "Health maintenance organization" means a person

who provides or arranges for basic health care services to enrollees on a prepaid or other financial basis, either directly through provider employees or through contractual or other arrangements with a provider or a group of providers.

~~{10}~~{8} "Insurance producer" means an individual, partnership, or corporation appointed or authorized by a health maintenance organization to solicit applications for health care services agreements on its behalf.

~~{11}~~{9} "Person" means:

(a) an individual;

(b) a group of individuals;

(c) an insurer, as defined in 33-1-201;

(d) a health service corporation, as defined in 33-30-101;

(e) a corporation, partnership, facility, association, or trust; or

(f) an institution of a governmental unit of any state licensed by that state to provide health care, including but not limited to a physician, hospital, hospital-related facility, or long-term care facility.

~~{12}~~{10} "Plan" means a health maintenance organization operated by an insurer or health service corporation as an integral part of the corporation and not as a subsidiary.

~~{13}~~{11} "Provider" means a physician, hospital,

1 hospital-related facility, long-term care facility, dentist,  
 2 osteopath, chiropractor, optometrist, podiatrist,  
 3 psychologist, licensed social worker, registered pharmacist,  
 4 or nurse specialist as specifically listed in 37-8-202 who  
 5 treats any illness or injury within the scope and  
 6 limitations of his practice or any other person who is  
 7 licensed or otherwise authorized in this state to furnish  
 8 health care services.

9 ~~{14}~~(12) "Uncovered expenditures" mean the costs of  
 10 health care services that are covered by a health  
 11 maintenance organization and for which an enrollee is liable  
 12 if the health maintenance organization becomes insolvent."

13 **Section 2.** Section 33-31-103, MCA, is amended to read:

14 "33-31-103. Rules. ~~{1}~~ The commissioner may, after  
 15 notice and hearing, make reasonable rules necessary to  
 16 effectuate this chapter.

17 ~~{2}--The-department-of-health-may-make-reasonable--rules  
 18 necessary-to-effectuate-this-chapter--"~~

19 **Section 3.** Section 33-31-201, MCA, is amended to read:

20 "33-31-201. Establishment of health maintenance  
 21 organizations. (1) Notwithstanding any law of this state to  
 22 the contrary, a person may apply to the commissioner for and  
 23 obtain a certificate of authority to establish and operate a  
 24 health maintenance organization in compliance with this  
 25 chapter. A person may not establish or operate a health

1 maintenance organization in this state except as authorized  
 2 by a subsisting certificate of authority issued to it by the  
 3 commissioner. A foreign person may qualify for a certificate  
 4 of authority if it first obtains from the secretary of state  
 5 a certificate of authority to transact business in this  
 6 state as a foreign corporation under 35-1-1001.

7 (2) Each health maintenance organization operating in  
 8 this state as of October 1, 1987, shall submit an  
 9 application for a certificate of authority under subsection  
 10 (3) within 30 days after the effective date of rules adopted  
 11 by the commissioner ~~and-the-department-of-health~~ as provided  
 12 in 33-31-103. Each such applicant may continue to operate in  
 13 this state until the commissioner acts upon the application.  
 14 If an application is denied under 33-31-202, the applicant  
 15 must be treated as a health maintenance organization whose  
 16 certificate of authority has been revoked.

17 (3) Each application of a health maintenance  
 18 organization, whether separately licensed or not, for a  
 19 certificate of authority must:

20 (a) be verified by an officer or authorized  
 21 representative of the applicant;

22 (b) be in a form prescribed by the commissioner;

23 (c) contain:

24 (i) the applicant's name;

25 (ii) the location of the applicant's home office or

1 principal office in the United States (if a foreign person);  
 2 (iii) the date of organization or incorporation;  
 3 (iv) the form of organization (including whether the  
 4 providers affiliated with the health maintenance  
 5 organization will be salaried employees or group or  
 6 individual contractors);  
 7 (v) the state or country of domicile; and  
 8 (vi) any additional information the commissioner may  
 9 reasonably require; and  
 10 (d) set forth the following information or be  
 11 accompanied by the following documents, as applicable:  
 12 (i) a copy of the applicant's organizational documents,  
 13 such as its corporate charters or articles of incorporation,  
 14 articles of association, partnership agreement, trust  
 15 agreement, or other applicable documents, and all amendments  
 16 thereto, certified by the public officer with whom the  
 17 originals were filed in the state or country of domicile;  
 18 (ii) a copy of the bylaws, rules, and regulations, or  
 19 similar document, if any, regulating the conduct of the  
 20 applicant's internal affairs, certified by its secretary or  
 21 other officer having custody thereof;  
 22 (iii) a list of the names, addresses, and official  
 23 positions of the persons responsible for the conduct of the  
 24 applicant's affairs, including all members of the board of  
 25 directors, board of trustees, executive committee, or other

1 governing board or committee; the principal officers in the  
 2 case of a corporation; and the partners or members in the  
 3 case of a partnership or association;  
 4 (iv) a copy of any contract made or to be made between:  
 5 (A) any provider and the applicant; or  
 6 (B) any person listed in subsection (3)(d)(iii) and the  
 7 applicant. The applicant may file a list of providers  
 8 executing a standard contract and a copy of the contract  
 9 instead of copies of each executed contract.  
 10 (v) the extent to which any of the following will be  
 11 included in provider contracts and the form of any  
 12 provisions that:  
 13 (A) limit a provider's ability to seek reimbursement  
 14 for basic health care services or health care services from  
 15 an enrollee;  
 16 (B) permit or require a provider to assume a financial  
 17 risk in the health maintenance organization, including any  
 18 provisions for assessing the provider, adjusting capitation  
 19 or fee-for-service rates, or sharing in the earnings or  
 20 losses; and  
 21 (C) govern amending or terminating an agreement with a  
 22 provider;  
 23 (vi) a financial statement showing the applicant's  
 24 assets, liabilities, and sources of financial support. If  
 25 the applicant's financial affairs are audited by independent

1 certified public accountants, a copy of the applicant's most  
 2 recent certified financial statement satisfies this  
 3 requirement unless the commissioner directs that additional  
 4 or more recent financial information is required for the  
 5 proper administration of this chapter.

6 (vii) a description of the proposed method of marketing,  
 7 a financial plan that includes a projection of operating  
 8 results anticipated until the organization has had net  
 9 income for at least 1 year, and a statement as to the  
 10 sources of working capital as well as any other source of  
 11 funding;

12 (viii) a power of attorney executed by the applicant, on  
 13 a form prescribed by the commissioner, appointing the  
 14 commissioner, his successors in office, and his authorized  
 15 deputies as the applicant's attorney to receive service of  
 16 legal process issued against it in this state;

17 (ix) a statement reasonably describing the geographic  
 18 service area or areas to be served, by county, including:

19 (A) a chart showing the number of primary and specialty  
 20 care providers, with locations and service areas by county;

21 (B) the method of handling emergency care, with the  
 22 location of each emergency care facility; and

23 (C) the method of handling out-of-area services;

24 (x) a description of the way in which the health  
 25 maintenance organization provides services to enrollees in

1 each geographic service area, including the extent to which  
 2 a provider under contract with the health maintenance  
 3 organization provides primary care to those enrollees;

4 (xi) a description of the complaint procedures to be  
 5 used as required under 33-31-303;

6 ~~(xii) a description of the procedures and programs to be  
 7 implemented--to meet the quality of health care requirements  
 8 in 33-31-202;~~

9 ~~(xiii)~~(xii) a description of the mechanism by which  
 10 enrollees will be afforded an opportunity to participate in  
 11 matters of policy and operation under 33-31-222;

12 ~~(xiv)~~(xiii) a summary of the way in which administrative  
 13 services will be provided, including the size and  
 14 qualifications of the administrative staff and the projected  
 15 cost of administration in relation to premium income. If the  
 16 health maintenance organization delegates management  
 17 authority for a major corporate function to a person outside  
 18 the organization, the health maintenance organization shall  
 19 include a copy of the contract in its application for a  
 20 certificate of authority. Contracts for delegated management  
 21 authority must be filed with the commissioner in accordance  
 22 with the filing provisions of 33-31-301(2); however, nothing  
 23 in this subsection deprives the health maintenance  
 24 organization of its right to confidentiality of any  
 25 proprietary information, and the commissioner may not

1 disclose that proprietary information to any other person.  
 2 All contracts must include:  
 3 (A) the services to be provided;  
 4 (B) the standards of performance for the manager;  
 5 (C) the method of payment, including any provisions for  
 6 the administrator to participate in the profits or losses of  
 7 the plan;  
 8 (D) the duration of the contract; and  
 9 (E) any provisions for modifying, terminating, or  
 10 renewing the contract;  
 11 ~~{xv}~~{xiv} a summary of all financial guaranties by  
 12 providers, sponsors, affiliates, or parents within a holding  
 13 company system or any other guaranties that are intended to  
 14 ensure the financial success of the plan, including hold  
 15 harmless agreements by providers, insolvency insurance,  
 16 reinsurance, or other guaranties;  
 17 ~~{xvi}~~{xv} a summary of benefits to be offered enrollees,  
 18 including any limitations and exclusions and the  
 19 renewability of all contracts to be written;  
 20 ~~{xviii}~~{xvi} evidence that it can meet the requirement of  
 21 33-31-216(10); and  
 22 ~~{xviii}~~{xvii} any other information that the  
 23 commissioner may reasonably require to make the  
 24 determinations required in 33-31-202.  
 25 (4) Each health maintenance organization shall file

1 each substantial change, alteration, or amendment to the  
 2 information submitted under subsection (3) with the  
 3 commissioner at least 30 days prior to its effective date,  
 4 including changes in articles of incorporation and bylaws,  
 5 organization type, geographic service area, provider  
 6 contracts, provider availability, plan administration,  
 7 financial projections and guaranties, and any other change  
 8 that might affect the financial solvency of the plan. The  
 9 commissioner may, after notice and hearing, disapprove any  
 10 proposed change, alteration, or amendment to the business  
 11 plan. The commissioner may make reasonable rules exempting  
 12 from the filing requirements of this subsection those items  
 13 he considers unnecessary.

14 (5) An applicant or a health maintenance organization  
 15 holding a certificate of authority shall file with the  
 16 commissioner all contracts of reinsurance and any  
 17 modifications thereto. An agreement between a health  
 18 maintenance organization and an insurer is subject to Title  
 19 33, chapter 2, part 12. A reinsurance agreement must remain  
 20 in full force and effect for at least 90 days following  
 21 written notice of cancellation by either party by certified  
 22 mail to the commissioner.

23 (6) Each health maintenance organization shall  
 24 maintain, at its administrative office, and make available  
 25 to the commissioner upon request executed copies of all

1 provider contracts.

2 (7) The commissioner may make reasonable rules  
3 exempting an insurer or health service corporation operating  
4 a health maintenance organization as a plan from the filing  
5 requirements of this section if information requested in the  
6 application has been submitted to the commissioner under  
7 other laws and rules administered by the commissioner."

8 **Section 4.** Section 33-31-202, MCA, is amended to read:

9 **\*33-31-202. Issuance of certificate of authority. (1)**  
10 ~~Upon receipt of an application for issuance of a certificate~~  
11 ~~of authority, the commissioner shall transmit copies of the~~  
12 ~~application and accompanying documents to the department of~~  
13 ~~health. The department of health shall determine whether the~~  
14 ~~applicant for a certificate of authority, with respect to~~  
15 ~~health care services to be furnished, has:~~

16 ~~(a) demonstrated the willingness and potential ability~~  
17 ~~to assure that it will provide health care services in a~~  
18 ~~manner assuring availability and accessibility of adequate~~  
19 ~~personnel and facilities and enhancing availability,~~  
20 ~~accessibility, and continuity of service;~~

21 ~~(b) arrangements, established in accordance with the~~  
22 ~~rules made by the department of health, for an ongoing~~  
23 ~~quality assurance program concerning health care~~  
24 ~~availability, accessibility, and continuity of service; and~~

25 ~~(c) a procedure, established in accordance with rules~~

1 ~~of the department of health, to develop, compile, evaluate,~~  
2 ~~and report statistics relating to the cost of its~~  
3 ~~operations, the pattern of utilization of its services, the~~  
4 ~~availability and accessibility of its services, and any~~  
5 ~~other matters as may be reasonably required by the~~  
6 ~~department of health;~~

7 ~~(2) Within 60 days of receipt of the application from a~~  
8 ~~health maintenance organization for issuance of a~~  
9 ~~certificate of authority, the department of health shall~~  
10 ~~certify to the commissioner that the proposed health~~  
11 ~~maintenance organization meets the requirements of~~  
12 ~~subsection (1) or shall, after notice and hearing, notify~~  
13 ~~the commissioner that the health maintenance organization~~  
14 ~~does not meet those requirements and specify in what~~  
15 ~~respects it is deficient. The director may extend by not~~  
16 ~~more than an additional 30 days the period within which he~~  
17 ~~may certify to the commissioner that the proposed health~~  
18 ~~maintenance organization meets or does not meet the~~  
19 ~~requirements of subsection (1) by giving notice of the~~  
20 ~~extension to the commissioner and the health maintenance~~  
21 ~~organization before the expiration of the initial 60-day~~  
22 ~~period.~~

23 ~~(3)(1)~~ The commissioner shall issue or deny a  
24 certificate of authority to any person filing an application  
25 pursuant to 33-31-201 within 180 days of receipt of the



1 ~~certification--from--the--department--of--health~~ after the  
 2 commissioner receives the application. The commissioner  
 3 shall grant a certificate of authority upon payment of the  
 4 application fee prescribed in 33-31-212 if the commissioner  
 5 is satisfied that each of the following conditions is met:

6 (a) The persons responsible for the conduct of the  
 7 applicant's affairs are competent and trustworthy.

8 ~~(b)--The--department--of--health--certifies--in--accordance~~  
 9 ~~with---subsection---(2);---that---the---health---maintenance~~  
 10 ~~organization's--proposed--plan--of--operation---meets---the~~  
 11 ~~requirements-of-subsection-(1);~~

12 ~~(c)(b)~~ The health maintenance organization will  
 13 effectively provide or arrange for the provision of basic  
 14 health care services on a prepaid basis, through insurance  
 15 or otherwise, except to the extent of reasonable  
 16 requirements for copayments.

17 ~~(d)(c)~~ The health maintenance organization is  
 18 financially responsible and can reasonably be expected to  
 19 meet its obligations to enrollees and prospective enrollees.  
 20 In making this determination, the commissioner may in his  
 21 discretion consider:

22 (i) the financial soundness of the arrangements for  
 23 health care services and the schedule of charges used in  
 24 connection therewith;

25 (ii) the adequacy of working capital;

1 (iii) any agreement with an insurer, a health service  
 2 corporation, a government, or any other organization for  
 3 ensuring the payment of the cost of health care services or  
 4 the provision for automatic applicability of an alternative  
 5 coverage in the event of discontinuance of the health  
 6 maintenance organization;

7 (iv) any agreement with providers for the provision of  
 8 health care services;

9 (v) any deposit of cash or securities submitted in  
 10 accordance with 33-31-216; and

11 (vi) any additional information as the commissioner may  
 12 reasonably require.

13 ~~(e)(d)~~ The enrollees will be afforded an opportunity to  
 14 participate in matters of policy and operation pursuant to  
 15 33-31-222.

16 ~~(f)(e)~~ Nothing in the proposed method of operation, as  
 17 shown by the information submitted pursuant to 33-31-201 or  
 18 by independent investigation, violates any provision of this  
 19 chapter or rules adopted by the commissioner ~~or--the~~  
 20 ~~department-of-health.~~

21 ~~(g)--Any--deficiencies--identified--by--the--department--of~~  
 22 ~~health--have--been--corrected--~~

23 ~~(4)(2)~~ The commissioner may in his discretion deny a  
 24 certificate of authority only if he ~~complies~~ with the  
 25 requirements of 33-31-404."

1 **Section 5.** Section 33-31-212, MCA, is amended to read:

2 "33-31-212. Fees. (1) Each health maintenance  
3 organization shall pay to the commissioner the following  
4 fees:

5 (a) for filing an application for a certificate of  
6 authority or amendment thereto, \$300;

7 (b) for filing an amendment to the organization  
8 documents that requires approval, \$25;

9 (c) for filing each annual statement, \$25;

10 (d) for annual continuation of certificate of  
11 authority, \$300.

12 (2) All fees, miscellaneous charges, fines, penalties,  
13 and those amounts received pursuant to 33-31-211(3) and  
14 33-31-405 collected by the commissioner pursuant to this  
15 chapter and the rules adopted thereunder must be deposited  
16 in the general fund.

17 ~~†3†--The-director-may-assess-fees-necessary-and-adequate  
18 to-cover-the-expenses-of-the-director's-functions-under-this  
19 chapter--"~~

20 **Section 6.** Section 33-31-401, MCA, is amended to read:

21 "33-31-401. Examination. (1) The commissioner may  
22 examine the affairs of a health maintenance organization as  
23 often as is reasonably necessary to protect the interests of  
24 the people of this state. The commissioner shall make an  
25 examination at least once every 3 years.

1 ~~†2†--The---department---of---health---may---examine---the  
2 availability, accessibility, and continuity of the health  
3 care services provided by any health maintenance  
4 organization and the providers with whom the health  
5 maintenance organization has contracts, agreements, or other  
6 arrangements as often as is reasonably necessary to protect  
7 the interests of the people of this state. The department of  
8 health shall make such an examination at least once every 3  
9 years--~~

10 ~~†3†(2)~~ Each authorized health maintenance organization  
11 and provider shall submit its relevant books and records for  
12 the examinations and in every way facilitate the  
13 examinations. For the purpose of examination, the  
14 commissioner ~~and the department of health~~ may administer  
15 oaths to and examine the officers and insurance producers of  
16 the health maintenance organization and the principals of  
17 the providers concerning their business.

18 ~~†4†--†a†-†i†(3)~~ (a) Upon presentation of a detailed  
19 account of the charges and expenses of examinations by the  
20 commissioner, the health maintenance organization being  
21 examined shall pay to the examiner as necessarily incurred  
22 on account of the examination the actual travel expenses, a  
23 reasonable living-expense allowance, and a per diem, all at  
24 reasonable rates customary therefor and as established or  
25 adopted by the commissioner. The commissioner may present an

1 account periodically during the course of the examination or  
2 at the termination of the examination as the commissioner  
3 considers proper. A person may not pay and an examiner may  
4 not accept any additional emolument on account of any  
5 examination.

6 ~~(i)~~(b) If a health maintenance organization fails to  
7 pay the charges and expenses as referred to in subsection  
8 ~~(4)~~(a)~~(i)~~(3) (a), the commissioner shall pay them out of the  
9 funds of the commissioner in the same manner as other  
10 disbursements of funds. The amount so paid must be a lien  
11 upon all of the person's assets and property in this state  
12 and may be recovered by suit by the attorney general on  
13 behalf of the state of Montana and restored to the  
14 appropriate fund.

15 ~~(b) The expenses of examination conducted by the~~  
16 ~~director under this section must be assessed against the~~  
17 ~~health maintenance organization and remitted to the~~  
18 ~~director.~~

19 ~~(5)~~(4) In lieu of an examination, the commissioner or  
20 the director may accept the report of an examination made by  
21 the commissioner or the director of another state."

22 **Section 7.** Section 33-31-402, MCA, is amended to read:

23 "33-31-402. Suspension or revocation of certificate of  
24 authority. (1) The commissioner may in his discretion  
25 suspend or revoke any certificate of authority issued to a

1 health maintenance organization under this chapter if he  
2 finds that any of the following conditions exist:

3 (a) The health maintenance organization is operating in  
4 contravention of its basic organizational document or in a  
5 manner contrary to that described in any other information  
6 submitted under 33-31-201 and provided that such operation  
7 adversely affects the health maintenance organization's  
8 ability to provide benefits and operate under the  
9 application approved by the commissioner, unless amendments  
10 to such submissions have been filed with and approved by the  
11 commissioner.

12 (b) The health maintenance organization issues  
13 evidences of coverage or uses a schedule of charges for  
14 health care services that do not comply with the  
15 requirements of 33-31-301.

16 (c) The health maintenance organization does not  
17 provide or arrange for basic health care services.

18 ~~(d) The director, after notice and hearing, certifies~~  
19 ~~to the commissioner that:~~

20 ~~(i) the health maintenance organization does not meet~~  
21 ~~the requirements of 33-31-202(i); or~~

22 ~~(ii) the health maintenance organization is unable to~~  
23 ~~fulfill its obligations to furnish health care services;~~

24 ~~(e)~~(d) The health maintenance organization is no longer  
25 financially responsible and may reasonably be expected to be

1 unable to meet its obligations to enrollees or prospective  
2 enrollees.

3 ~~(f)~~(e) The health maintenance organization has failed  
4 to implement a mechanism affording the enrollees an  
5 opportunity to participate in matters of policy and  
6 operation under 33-31-222.

7 ~~(g)~~(f) The health maintenance organization has failed  
8 to implement the complaint system required by 33-31-303 to  
9 resolve valid complaints in a reasonable manner.

10 ~~(h)~~(g) The health maintenance organization, or any  
11 person on its behalf, has advertised or merchandised its  
12 services in an untrue, misrepresentative, misleading,  
13 deceptive, or unfair manner.

14 ~~(i)~~(h) The continued operation of the health  
15 maintenance organization would be hazardous to its  
16 enrollees.

17 ~~(j)~~(i) The health maintenance organization has  
18 otherwise failed to substantially comply with this chapter.

19 (2) The commissioner may in his discretion suspend or  
20 revoke a certificate of authority only if he complies with  
21 the requirements of 33-31-404.

22 (3) When the certificate of authority of a health  
23 maintenance organization is suspended, the health  
24 maintenance organization may not, during the period of such  
25 suspension, enroll any additional enrollees except newborn

1 infants or other newly acquired dependents of existing  
2 enrollees and may not engage in any advertising or  
3 solicitation.

4 (4) If the commissioner revokes the certificate of  
5 authority of a health maintenance organization, the health  
6 maintenance organization shall proceed, immediately  
7 following the effective date of the order of revocation, to  
8 wind up its affairs and may not transact further business  
9 except as may be essential to the orderly conclusion of its  
10 affairs. It may not engage in further advertising or  
11 solicitation following the effective date of the order of  
12 revocation. The commissioner may by written order permit  
13 further operation of the health maintenance organization if  
14 he finds further operation to be in the best interest of  
15 enrollees to the extent that enrollees will be afforded the  
16 greatest practical opportunity to obtain continuing health  
17 care coverage."

18 **Section 8.** Section 33-31-404, MCA, is amended to read:

19 **"33-31-404. Administrative procedures.** (1) When the  
20 commissioner has cause to believe that grounds for the  
21 denial of an application for a certificate of authority  
22 exist or that grounds for the suspension or revocation of a  
23 certificate of authority exist, he shall give written notice  
24 to the health maintenance organization and ~~the department of~~  
25 ~~health~~ specifically stating the grounds for denial,

1 suspension, or revocation and fixing a time of at least 30  
2 days after the notice for a hearing on the matter.

3 ~~(2) The director or his designated representative may~~  
4 ~~attend the hearing and may participate in the proceeding.~~  
5 ~~The recommendations and findings of the director with~~  
6 ~~respect to matters relating to the availability,~~  
7 ~~accessibility, and continuity of health care services~~  
8 ~~provided in connection with any decision regarding denial,~~  
9 ~~suspension, or revocation of a certificate of authority must~~  
10 ~~be conclusive and binding upon the commissioner. After the~~  
11 ~~hearing, or upon the failure of the health maintenance~~  
12 ~~organization to appear at the hearing, the commissioner~~  
13 ~~shall make written findings and act as he considers~~  
14 ~~advisable. The commissioner shall mail the written findings~~  
15 ~~to the health maintenance organization and submit a copy to~~  
16 ~~the director. The action of the commissioner and the~~  
17 ~~recommendations and findings of the director are~~ is ~~subject~~  
18 ~~to review by the district court having jurisdiction. The~~  
19 ~~court may, in disposing of the issue before it, modify,~~  
20 ~~affirm, or reverse the order of the commissioner in whole or~~  
21 ~~in part.~~

22 (3) Where notice and hearing are required with regard  
23 to actions taken by the commissioner under this chapter, the  
24 requirements of 33-1-314 through 33-1-316 and Title 33,  
25 chapter 1, part 7, apply, except that the formal rules of

1 pleading and evidence must be observed. To the extent that  
2 33-1-314 through 33-1-316 and Title 33, chapter 1, part 7,  
3 do not address the notice and hearing requirements of this  
4 chapter, the provisions of Title 2, chapter 4, parts 6 and  
5 7, apply.

6 ~~(4) Where notice and hearing are required with regard~~  
7 ~~to actions taken by the director under this chapter, the~~  
8 ~~provisions of Title 2, chapter 4, parts 6 and 7, apply."~~

9 **Section 9.** Section 33-31-405, MCA, is amended to read:

10 "33-31-405. Penalties and enforcement. (1) The  
11 commissioner may, in addition to suspension or revocation of  
12 a certificate of authority under 33-31-402, after notice and  
13 hearing, impose an administrative penalty in an amount not  
14 less than \$500 or more than \$10,000 if he gives reasonable  
15 notice in writing of the intent to levy the penalty and the  
16 health maintenance organization has a reasonable time within  
17 which to remedy the defect in its operations that gave rise  
18 to the penalty citation.

19 (2) If the commissioner ~~or the director~~ has cause to  
20 believe that a violation of this chapter has occurred or is  
21 threatened, the commissioner ~~or the director~~ may:

22 (a) give notice to the health maintenance organization  
23 and to the representatives or other persons who appear to be  
24 involved in the suspected violation;

25 (b) arrange a conference with the alleged violators or

1 their authorized representatives to attempt to ascertain the  
2 facts relating to the suspected violation; and

3 (c) if it appears that a violation has occurred or is  
4 threatened, arrive at an adequate and effective means of  
5 correcting or preventing the violation.

6 (3) (a) The commissioner may issue an order directing a  
7 health maintenance organization or its representative to  
8 cease and desist from engaging in an act or practice in  
9 violation of this chapter.

10 (b) Within 15 days after service of the cease and  
11 desist order, the respondent may request a hearing to  
12 determine whether acts or practices in violation of this  
13 chapter have occurred. The hearing must be conducted  
14 pursuant to Title 2, chapter 4, part 6, and judicial review  
15 must be available as provided by Title 2, chapter 4, part 7.

16 (4) If a health maintenance organization violates a  
17 provision of this chapter and the commissioner elects not to  
18 issue a cease and desist order or if the respondent does not  
19 comply with a cease and desist order issued pursuant to  
20 subsection (3), the commissioner may institute a proceeding  
21 to obtain injunctive or other appropriate relief in the  
22 district court of Lewis and Clark County."

23 NEW SECTION. **Section 10.** Repealer. Section 33-31-104,  
24 MCA, is repealed.

25 NEW SECTION. **Section 11.** Effective date. [This act] is

1 effective on passage and approval.

-End-