**Section 2051.340 Fiduciary and Bond Requirements**

a) This Section outlines requirements for administrators who must establish either a bond or a fiduciary account pursuant to Section 370*l* of the Act. Administrators who administer only DHCSPs need not comply with these requirements because, by definition, they do not handle money for purposes of payment for provider services. Employers and insurers contracting directly with providers or with multiple administrators to implement a WC PPP need not comply with these requirements, as they are exempted by Section 8.1a of the Worker's Compensation Act.

b) Administrators who establish and maintain a fiduciary account pursuant to Section 370*l* of the Act are subject to the following requirements:

1) Monies collected for reimbursement under preferred provider programs that the administrator holds more than 15 days shall be deposited in a special fiduciary account in a financial institution located in this State. The account shall be designated as an Administrator Trust Fund or ATF. All checks drawn on the ATF shall indicate on their face that they are drawn on the ATF of the administrator.

2) An administrator that operates more than one preferred provider program may establish separate fiduciary accounts for each program, or may maintain a consolidated fiduciary account for multiple programs. If a consolidated ATF account is maintained, the administrator's records shall clearly indicate fund deposits and disbursements for each program.

3) No disbursement shall be made from the ATF account other than payment for provider services under the preferred provider program operated by the administrator and administrative fees due the administrator pursuant to a written agreement.

4) For each preferred provider program for which an ATF is maintained, the balance in the ATF shall at all times be the amount of funds deposited plus accrued interest, if any, less authorized disbursements.

5) If the ATF is interest bearing or income producing, the full nature of the account must first be disclosed to the principal, whether insurer or other payor of services under the preferred provider program, on whose behalf the funds are or will be held. At this time the administrator must procure the written consent and authorization from the principal for the investment of money and retention of interest or earnings.

6) An administrator may place ATF funds in interest-bearing or income-producing investments and retain the interest or income, providing the administrator obtains the prior written authorization of the principals on whose behalf the funds are to be held. In addition to savings and checking accounts, an administrator may invest in the following:

A) Direct obligations of the United States of America or U.S. Government agency securities with maturities of not more than one year;

B) Certificates of deposit, with a maturity of not more than one year, issued by the Federal Deposit Insurance Corporation (FDIC) or Federal Savings and Loan Insurance Corporation (FSLIC), so long as any deposit does not exceed the maximum level of insurance protection provided to certificates of deposits held by the institutions;

C) Repurchase agreements with financial institutions or government securities dealers recognized as primary dealers by the Federal Reserve System, provided:

i) The value of the repurchase agreement is collateralized with assets that are allowable investments for ATF funds;

ii) The collateral has a market value at the time the repurchase agreement is entered into at least equal to the value of the repurchase agreement;

iii) The repurchase agreement does not exceed 30 days;

D) Commercial paper, provided the commercial paper is rated at least P-l by Moody's Investors Service, Inc. or at least A-1 by Standard & Poor's Corporation;

E) Money market funds, provided the money market fund invests exclusively in assets that are allowable investments pursuant to subsections (b)(6)(A) through (D) of this Section for ATF funds;

F) Each investment transaction must be made in the name of the administrator's ATF. The administrator must maintain evidence of any such investments. Each investment transaction must flow through the administrator's ATF.

7) Recordkeeping

A) Administrators shall maintain detailed books and records that reflect all transactions involving the receipt and disbursement of funds from the ATF.

B) The detailed preparation, journalizing and posting of the books and records must be maintained on a timely basis and all journal entries for receipts and disbursements shall be supported by evidential matter, which must be referenced in the journal entry so that it may be traced for verification. Administrators shall prepare and maintain monthly financial institution account reconciliations of any ATF established by the administrator. The minimum detail required shall be as follows:

i) The sources, amounts and dates of monies received and deposited by the administrator.

ii) The date and person to whom a disbursement is made. If the amount disbursed does not agree with the amount billed or authorized, the administrator shall prepare a written record as to the reason.

iii) A description of the disbursement in such detail to identify the source document substantiating the purpose of the disbursement.

c) An administrator who posts or causes to be posted a bond of indemnity pursuant to Section 370*l* of the Act shall do so subject to the following requirements:

1) An administrator who operates more than one preferred provider program subject to the Act may maintain a bond of indemnity for any such programs.

2) The bond shall be held by the Director in favor of the beneficiaries and payors of services under the preferred provider program operated by the administrator. The bond shall be executed by a surety company and payable to any party injured under the terms of the bond.

3) The bond shall be in continuous form and shall be in an amount of not less than 10% of the total estimated annual reimbursements under the preferred provider program covered by the bond. The amount of the bond shall be determined in accordance with the methodology submitted by the administrator pursuant to Section 2051.260(c)(5).

4) The bond shall remain in force and effect until the surety is released from liability by the Director or until the bond is cancelled by the surety. The surety may cancel the bond and be released from further liability under the bond upon 30 days advance written notice to the Director. The cancellation shall not affect any liability incurred or accrued under the bond before the termination of the 30-day period. Upon receipt of any notice of cancellation, the Director shall immediately notify the administrator.

(Source: Amended at 37 Ill. Reg. 2895, effective March 4, 2013)