



HEALTH CARE STABILIZATION FUND



APRIL 2007

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Fiscal Year 2008 Health Care Stabilization Fund surcharge rate changes adopted by the Board of Governors

Health Care Stabilization Fund surcharge rates will remain the same for many health care providers. However, there will be a 5% surcharge rate increase for surgical specialists in Neurology and Registered Nurse Anesthetists. The Board of Governors also increased the 20% additional Missouri modification factor to 25%. These three changes were supported by the recommendation of the independent actuarial review conducted by Towers-Perin Tillinghast of St. Louis, Missouri.

These changes in surcharge rates are included in the Health Care Stabilization Fund FY 2008 Annual Premium Surcharge and Rating Classification System brochure. A copy of the brochure is available from the Fund Internet web site (www.hcsf.org) or by contacting the Fund office.

The following are examples of the rate changes for surgical specialists in Neurology, Registered Nurse Anesthetists, and Kansas resident health care providers who are also licensed and practicing in Missouri

Following surcharge rates are for a health care provider with five or more years of Health Care Stabilization Fund coverage and at the \$800,000/\$2,400,000 coverage limits				
Provider Type	Current Surcharge	% Change	FY08 Surcharge	Increase in Surcharge Cost
Neurosurgeon	\$13,898	5%	\$14,593	\$695
Registered Nurse Anesthetist	990	5%	1,040	50
Surcharge increase samples for Kansas residents who are practicing in Missouri				
Provider Type	Current Surcharge plus 20% Missouri practice factor	FY08 Surcharge plus 25% Missouri practice factor	Increase in Surcharge Cost	
HCSF Class 1- Physicians, no surgery	\$1,254	\$1,306	\$52	
HCSF Class 8- Surgical Specialist, General Surgery	8,042	8,378	336	
HCSF Class 11- Surgical Specialist, Neurology	16,678	18,241 <small>(includes 5% rate Kansas surcharge rate increase)</small>	1,563	

Each of these surcharge rate changes were carefully considered by the Board of Governors. Postponing these changes would have likely resulted in greater future surcharge rate changes for Neurosurgeons, Registered Nurse Anesthetists and Kansas resident health care providers who are

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also practicing in Missouri. If additional information is desired, please contact the Health Care Stabilization Fund. ✪

Employed health care providers who wish to render professional services outside of their place of employment

(This article supplements a similar article in the January 2007 newsletter.)

The Health Care Stabilization Fund Law requires that each health care provider obtain one basic coverage policy in an amount of at least \$200,000/\$600,000 and select one excess level of coverage through the Fund.¹ This results in one basic premium payment and one surcharge payment to the Fund.

This one basic and excess coverage is intended to follow the provider to what ever practice location or scenario in which the provider may be involved. The Fund law allows exclusions from coverage only for the rendering of or the failure to render professional services by any other health care provider who is required to maintain basic professional liability coverage by K.S.A. 40-3402 or relating to the health care provider's sexual acts or activity (see K.S.A. 40-3408(c) for these provisions).

Providers entering into employment agreements may find that their employment agreement limits the practice location, hours or scenario to only that of the employer. This is due to the likely fact that the employer is paying for the professional liability insurance coverage. Some providers feel this inappropriately prevents them from generating income from other sources outside their hours of employment; however, it is their employment agreement that is restricting their other practice opportunities since the basic policy and the Fund does not have such coverage limitations.

It is important to understand that the professional liability coverage can only be limited for the specific reasons referenced in the second paragraph. The Fund law is specific on that point. However, one's employment contract may limit the work setting and, if so, that is an issue between the provider and their employer. The Fund has no jurisdiction in such matters.

However, the Fund law does not prohibit a provider from purchasing duplicate professional liability coverage. You should be aware that this means duplicate premium payments, duplicate basic coverage and duplicate surcharge payments to the Fund. At some point, the Fund will take specific action to resolve the duplicate surcharge payment, since the Fund does not have any practice location restrictions. And, we would advise a provider to do this only with the knowledge of his/her employer. The payment of claims will require that all parties be aware of the duplicate coverage; the employer and the two basic carriers. The Fund will provide only one coverage limit² and there is no provision in the Fund law for "stacking" Fund coverage limits.

Duplicate coverage presents the potential for several problems. First, the provider can expect contact from the Fund to clarify what would appear to be unnecessary duplicate coverage. Second, if a claim were to arise, all basic coverage policy limits should be applicable

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Footnotes for this page

¹K.S.A. 40-3402 (a) " A policy of professional liability insurance approved by the commissioner and issued by an insurer duly authorized to transact business in this state in which the limit of the insurer's liability is not less than \$200,000 per claim, subject to not less than a \$600,000 annual aggregate for all claims during the policy period, shall be maintained in effect by each resident health care provider as a condition to rendering professional services as a health care provider in this state, unless such health care provider is a self-insurer. . . ."

²K.S.A. 40-3403 (l) " On and after July 1,1989, every health care provider shall make an election to be covered by one of the following options provided in this subsection (i) which shall limit the liability of the fund with respect to judgments or settlement relating to injury or death arising out of the rendering of or failure to professional services . . ."

Employees of the Fund

Robert D. Hayes

Executive Director
Retirement planned for September 2007

Rita L. Noll, Chief Attorney
Mary Christopher, Attorney
Jennifer Sherber, Attorney
Wendy Hug, Legal Assistant
Tammy Mentzer, Legal Assistant
Judy Nightingale, Senior Administrative Assistant
Crystal Swoyer, Senior Administrative Assistant
Gary Zook, Coverage Specialist
Lorie Anderson, Coverage Specialist
Laura Ray, Senior Administrative Specialist
Dani Snook, Senior Administrative Assistant
Cami Roberts, Senior Administrative Assistant
Mary Ellen Shisler, Office Assistant
Betsy Hoke, Senior Administrative Assistant

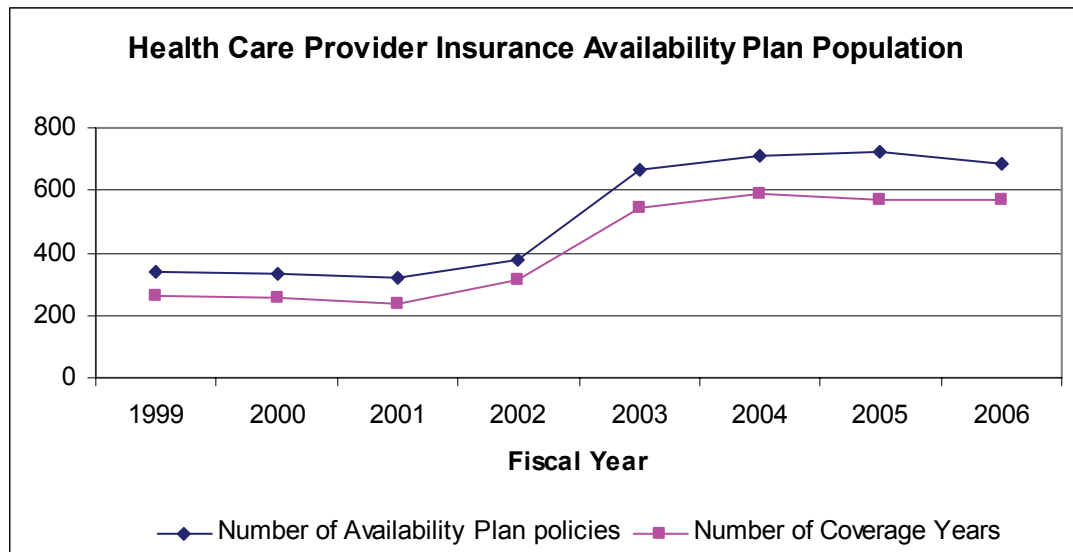
Health care providers insured with the Health Care Provider Insurance Availability Plan

One significant feature that is incorporated in the Health Care Stabilization Fund law is the Health Care Provider Insurance Availability Plan. This coverage availability program provides the required basic professional liability insurance coverage to those health care providers who are unable to obtain that coverage from an insurance company such as those shown in the list of insurers included in the Fund Internet web site (<http://www.hcsf.org/insurers.htm>).

The Health Care Provider Insurance Availability Plan is often referred to as the Availability Plan or JUA (Joint Underwriting Association). KaMMCO through a contract with the Governing Board of the Health Care Provider Insurance Availability Plan is the “servicing insurer” for the basic coverage policies issued through that availability program.

A financial relationship exists between the Health Care Provider Insurance Availability Plan and the Health Care Stabilization Fund. Over simplified, that relationship uses Health Care Stabilization Fund monies to balance its operations when the Availability Plan concludes a fiscal year in the “red”, but the Availability Plan does make transfers to the Fund when its fiscal year operations are in the “black”. The intent of this relationship is to utilize the Health Care Stabilization Fund as a stabilization mechanism for the Health Care Provider Insurance Availability Plan.

The population numbers for the Availability Plan in the recent years have been ranging between 550 and 700. As a percentage of all Kansas health care providers this is not a great number. However, because the Availability Plan basic coverage premium rates and surcharge costs are greater than those paid by health care providers insured by one of the typical insurance companies, it is important for each Availability Plan insured to attempt to find coverage from one of the traditional insurance companies.



Conclusions and suggestions

Health care providers who are currently obtaining their basic coverage from the Health Care Provider Insurance Availability Plan should contact their insurance agent to make certain that their required basic professional liability insurance could not be obtained from one of the traditional insurance companies. Any insurance agent or health care providers needing additional assistance should contact the fund. *

Employed health care providers who wish to render professional services outside of their place of employment

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before Fund coverage becomes available. Furthermore, even if duplicate Fund surcharge payments are submitted to the Fund, the Fund law is not written in a manner that would provide more than one Fund coverage limit. Third, there may be questions regarding which basic coverage policy will be applicable because more than one basic coverage policy was in effect at the time of the alleged injury. Fourth, it is very likely that duplicate basic coverage will complicate the Fund's tail coverage availability.

If you have specific questions regarding these situations, please send us the details in writing and we will provide you our best judgment regarding how to proceed. *

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- ✓ Employed health care providers who wish to render professional services outside of their place of employment
- ✓ Health care providers insured with the Health Care Provider Insurance Availability Plan



Visit the Health Care Stabilization Fund Internet site:
The Fund Board of Governors maintains a web site at:
<http://www.hcsf.org>

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