9505.5220 CONDITIONS OF PARTICIPATION; VENDOR OTHER THAN HEALTH MAINTENANCE ORGANIZATION.

Subpart 1. **Required participation.** As a condition of participating in the other state health care programs listed in part 9505.5210, subpart 14, a vendor other than a health maintenance organization must:

A. participate as a provider in the department health care programs; and

B. except as provided in subparts 3 and 4, accept on a continuous basis new patients who are recipients, and use the same acceptance criteria applied to new patients who are not recipients.

Subp. 2. **Exclusion from other state health care programs.** A vendor that fails to comply with the requirements of this part is excluded from participating in other state health care programs listed in part 9505.5210, subpart 14, except as provided in items A to C.

A. In geographic areas where provider participation in department health care programs is limited by department managed care contracts, a vendor that fails to comply is not excluded from participating in insurance plans offered to local government employees.

B. A vendor who enrolls as a provider at the request of the department for the sole purpose of ensuring continuity of care for recipients who are temporarily ineligible for the vendor's health plan is not subject to the requirements of this part unless the vendor provides health services on a fee for service basis to patients not covered by department health care programs.

C. An independently owned physical therapy agency or occupational therapy agency, other than a Medicare-certified rehabilitation agency is not subject to the requirements of this part if:

(1) the agency is owned by at least one physical therapist or occupational therapist who is individually Medicare-certified and enrolled as a provider in the department health care programs;

(2) the agency accepts recipients on a continuous basis; and

(3) all health services provided recipients are provided by a therapist who is individually Medicare-certified.

This item does not require an agency to provide services to recipients that the agency does not provide other clients.

Subp. 3. **Limiting acceptance of recipients; 20 percent threshold.** A provider may limit acceptance of new patients who are recipients, only as provided in items A to D.

A. The provider, at least annually, shall determine annual active patient caseload. Annual active patient caseload means:

(1) the total number of patient encounters that result in a billing during the provider's most recent fiscal year; or

(2) if enrolled as a provider for less than a year, the total number of patient encounters that result in a billing during the period between enrollment and the end of the provider's fiscal year.

B. A provider may include, in the determination, patient encounters from all service sites enrolled under the provider's number but shall count only one patient encounter per patient per day regardless of the number of service sites involved in the patient's health care. A provider may count recipients receiving health services on a fee-for-service basis and under a prepaid contract.

C. If at least 20 percent of the provider's annual active patient case load are and continue to be recipients, the provider may refuse to accept new patients who are recipients for the remainder of the provider's fiscal year.

D. The provider shall notify the department in writing at least ten days before limiting acceptance of new patients who are recipients. The notice must include the active patient caseload data upon which the provider relied in calculating the percentage of patients who are recipients. The provider shall provide any other information required by the commissioner to verify compliance with parts 9505.5200 to 9505.5240.

Subp. 4. **Waiver.** A vendor may request a waiver from the participation requirements of this part in writing from the commissioner. The commissioner shall grant a waiver for up to one year and shall include the vendor on the list of participating providers in part 9505.5240 if:

A. the vendor is a provider who is not accepting new patients, regardless of payer source; or

B. the vendor is ineligible to enroll as a provider in the department health care programs because the vendor does not provide a covered health service.

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