§ 4309. Limitation on expenses. (a) No corporation subject to the provisions of this article shall, during any one year, disburse more than the percentages hereafter prescribed of the aggregate amount of the premiums received during such year as expenditures for expenses, which, for the purposes of this article, shall include all expenses paid or incurred by the corporation which do not constitute benefit payments made to or on behalf of persons covered under contracts issued by such corporations:

(1) For hospital service corporations: fifteen per centum reduced by one per centum for each five million dollars or fraction thereof above one million dollars of premiums received to ten per centum.

(2) All other corporations: twenty per centum reduced by one per centum for each five million dollars or fraction thereof above one million dollars of premiums received to fifteen per centum except that for any corporation which derives more than fifty per centum of its premiums received from the sale of contracts which provide hospital service benefits: seventeen and one-half per centum reduced by one per centum for each five million dollars or fraction thereof above one million dollars of premiums received to twelve and one-half per centum.

(3) Upon written application, the superintendent may waive the limitations in paragraph one or two of this subsection for any corporation which has not attained the level of enrollment which it needs to attain a break-even position. The break-even position is attained when the amount of annual losses and expenses incurred by the corporation is equal to the amount of premiums earned during this period. Such corporation shall be subject to such limitations in the calendar year following the year in which it attains a break-even position.

(b) If any such corporation shall in any calendar year make or incur expenses as hereinabove defined in excess of its expense limit the superintendent may, upon written application of such corporation and a showing that such corporation has taken steps in accordance with a plan submitted by the corporation and approved by the superintendent which will enable it to comply with the provisions of this section during the next calendar year, suspend the expense limit for such corporation for the calendar year in which the excess was incurred but the superintendent shall not suspend the expense limit for any such

corporation for more than two calendar years in succession.