§ 4322-a. Fund for standardized individual enrollee direct payment contracts which provide out-of-plan benefits. (a) The superintendent shall establish a fund from which health maintenance organizations may receive reimbursement, to the extent of funds available therefor, for claims paid by such health maintenance organizations for members covered under standardized individual enrollee direct payment contracts which provide out-of-plan benefits issued pursuant to section four thousand three hundred twenty-two of this article. The fund established by the superintendent pursuant to this section shall be known as "the direct payment out-of-plan stop loss fund". Commencing in calendar year two thousand, health maintenance organizations shall be eligible to receive reimbursement from the direct payment out-of-plan stop loss fund for ninety percent of claims paid between twenty thousand and one hundred thousand dollars in a calendar year for any member covered under a contract issued pursuant to section four thousand three hundred twenty-two of this article. For the purposes of this section, claims shall include health care claims paid by a health maintenance organization on behalf of a covered member pursuant to contracts issued pursuant to section four thousand three hundred twenty-two of this article.

(b) The superintendent shall promulgate regulations that set forth procedures for the operation of the direct payment out-of-plan stop loss fund and the distribution of monies therefrom.

(c) Claims shall be reported and funds shall be distributed on a calendar year basis. Claims shall be eligible for reimbursement only for the calendar year in which the claims are paid. Once claims paid on behalf of a member reach or exceed one hundred thousand dollars in a given calendar year, no further claims paid on behalf of such member in that calendar year shall be eligible for reimbursement.

(d) Each health maintenance organization shall submit a request for reimbursement from the stop loss fund on a form prescribed by the superintendent. Such request for reimbursement shall be submitted no later than April first following the end of the calendar year for which the reimbursement request is being made. The superintendent may require health maintenance organizations to submit such claims data in connection with the reimbursement request as he deems necessary to enable him to distribute monies and oversee the operation of the direct

payment out-of-plan stop loss fund. The superintendent may require that such data be submitted on a per member, aggregate and/or categorical basis.

(e) The superintendent shall calculate the total claims reimbursement amount for all health maintenance organizations for the calendar year for which claims are being reported.

(1) In the event that the total amount requested for reimbursement by all health maintenance organizations for a calendar year exceeds funds available for distribution for claims paid by all health maintenance organizations during that same calendar year, the superintendent shall provide for the pro-rata distribution of the available funds. Each health maintenance organization shall be eligible to receive only such proportionate amount of the available funds as the individual health maintenance organization's total eligible claims bears to the total eligible claims paid by all health maintenance organizations.

(2) In the event that (A) funds available for distribution for claims paid by all health maintenance organizations during a calendar year exceeds the total amount requested for reimbursement by all health maintenance organizations during that same calendar year, and (B) the total amount requested for reimbursement by all health maintenance organizations from the direct payment stop loss fund exceeds the amount available for distribution from such fund, then any excess funds shall be reallocated for distribution to the direct payment stop loss fund. Otherwise, such excess funds shall be carried forward and shall not affect the monies appropriated for the direct payment out-of-plan stop loss fund in the next calendar year.

(f) Upon the request of the superintendent, each health maintenance organization shall be required to furnish such data as the superintendent deems necessary to oversee the operation of the direct payment out-of-plan stop loss fund. Such data shall be furnished in a form prescribed by the superintendent.

(g) The superintendent may obtain the services of an organization to administer the direct payment out-of-plan stop loss fund. The superintendent shall establish guidelines for the submission of proposals by organizations for the purposes of administering the fund. The superintendent shall make a determination whether to approve, disapprove or recommend modification to the proposal of an applicant to

administer the fund. An organization approved to administer the fund shall submit reports to the superintendent in such form and at times as may be required by the superintendent in order to facilitate evaluation and ensure orderly operation of the fund, including, but not limited to, an annual report of the affairs and operations of the fund, such report to be delivered to the superintendent and to the chairs of the senate finance committee and assembly ways and means committee. An organization approved to administer the fund shall maintain records in a form prescribed by the superintendent and which shall be available for inspection by or at the request of the superintendent. The superintendent shall determine the amount of compensation to be allocated to an approved organization as payment for fund administration. Compensation shall be payable from the direct payment out-of-plan stop loss fund. An organization approved to administer the fund may be removed by the superintendent and must cooperate in the orderly transition of services to another approved organization or to the superintendent.

(h) If the superintendent deems it appropriate for the proper administration of the direct payment out-of-plan stop loss fund, the administrator of the fund, on behalf of and with the prior approval of the superintendent, shall be authorized to purchase stop loss insurance and/or reinsurance from an insurance company licensed to write such type of insurance in this state. Such stop loss insurance and/or reinsurance may be purchased to the extent of funds available therefor within such funds which are available for purposes of the stop loss fund.