

LETTER OPINION
95-L-86

March 29, 1995

Honorable Glenn Pomeroy
Commissioner
North Dakota Department of
Insurance
600 East Boulevard, 5th Floor
Bismarck, ND 58505-0320

Dear Commissioner Pomeroy:

Thank you for your March 1, 1995, letter asking whether the entity which administers the insurance plans of the Comprehensive Health Association of North Dakota (CHAND) must be an insurance company which is a member of the association.

N.D.C.C. ch. 26.1-08 establishes the Comprehensive Health Association of North Dakota (CHAND). Membership of CHAND consists of those insurance companies, licensed or authorized to do business in North Dakota, that have an annual premium volume of accident and health insurance contracts of at least \$100,000.00. N.D.C.C. ? 26.1-08-03(1). CHAND's purpose is to provide accident and health insurance plans for medically uninsurable residents of North Dakota. See N.D.C.C. ? 26.1-08-12(1)(c).

N.D.C.C. ? 26.1-08-10 addresses the administration of CHAND's plans. Subsection 2 of that section specifically states that CHAND shall select one lead carrier to issue its plans. Subsection 3 states that the lead carrier shall perform all administrative and claims payment functions required by section 26.1-08-10. Thus, subsection 3 of N.D.C.C. ? 26.1-08-10 plainly provides that the lead carrier must perform the administrative functions outlined in that section. Because the "lead carrier" must be an insurance company which is a member of CHAND, see N.D.C.C. ? 26.1-08-01(7), only an insurance company can perform the administrative functions outlined in N.D.C.C. ? 26.1-08-10.

The requirement that the lead carrier perform all administrative and claims payment functions required by

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N.D.C.C. ? 26.1-08-10 does not conflict with CHAND's authority to enter into contracts with other entities or persons for the performance of administrative functions under N.D.C.C. ? 26.1-08-03(6)(c). The administrative functions that must be performed by the lead carrier are those required by N.D.C.C. ? 26.1-08-10 (administering the plans). Other administrative functions may be performed by other entities or individuals through contracts with CHAND. For example, CHAND could contract with other entities or individuals to conduct audits or undertake studies, see N.D.C.C. ? 26.1-08-02(4), (5), or to disseminate information to state residents, see N.D.C.C. ? 26.1-08-11.

In conclusion, it is my opinion that an insurance company which is a member of CHAND and selected as the lead carrier must perform all administrative and claims payment functions outlined in N.D.C.C. ? 26.1-08-10. It is my further opinion that, pursuant to N.D.C.C. ? 26.1-08-03(6)(c), CHAND may enter into contracts with entities or individuals who are not licensed insurance companies to perform its other administrative functions.

Sincerely,

Heidi Heitkamp
ATTORNEY GENERAL

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