

**§4339. Contractual provisions to demonstrate financial viability**

If a carrier applies for a waiver under section 4332, subsection 2, the carrier may demonstrate the financial viability and condition of the downstream entity through the terms of the contract, including one or more of the following: [PL 1999, c. 609, §20 (NEW).]

**1. Books, accounts and records.** A contractual provision authorizing the carrier to access the downstream entity's books, accounts and records according to terms and conditions on which the carrier and the downstream entity agree;  
[PL 1999, c. 609, §20 (NEW).]

**2. Financial statements.** A contractual provision requiring the downstream entity to provide to the carrier interim unaudited financial statements on a regular and ongoing basis as well as an annual financial statement, accompanied by a certified public accountant's opinion, appropriate to the magnitude of risk involved;  
[PL 1999, c. 609, §20 (NEW).]

**3. Reserves.** A contractual provision authorizing the carrier to receive information regarding the downstream entity's reserves;  
[PL 1999, c. 609, §20 (NEW).]

**4. Letter of credit.** A contractual provision requiring the downstream entity to post a letter of credit or other acceptable financial security;  
[PL 1999, c. 609, §20 (NEW).]

**5. Fees.** A contractual provision under which the carrier withholds fees payable to the downstream entity or to the providers for which it acts;  
[PL 1999, c. 609, §20 (NEW).]

**6. General liability insurance.** A contractual provision requiring the downstream entity to carry general liability insurance and requiring participating providers to carry professional liability insurance in an amount and from an insurer mutually acceptable to the carrier and the downstream entity;  
[PL 1999, c. 609, §20 (NEW).]

**7. Surety bond.** A contractual provision requiring the downstream entity to secure a surety bond to cover the downstream entity's performance under the contract; or  
[PL 1999, c. 609, §20 (NEW).]

**8. Excess of loss insurance.** A contractual provision requiring the downstream entity to secure excess of loss insurance or reinsurance in an amount and from an insurer mutually acceptable to the carrier and the downstream entity.  
[PL 1999, c. 609, §20 (NEW).]

**SECTION HISTORY**

PL 1999, c. 609, §20 (NEW).

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