

**MONTANA COMMISSIONER OF SECURITIES
AND INSURANCE
840 HELENA AVENUE
HELENA, MONTANA 59601**

**MONTANA REINSURANCE ASSOCIATION ACT
FREQUENTLY ASKED QUESTIONS (FAQ)**

(1) What is the Montana Reinsurance Program?

In April 2019, the State of Montana enacted the Montana Reinsurance Association Act¹ establishing the Montana Reinsurance Association and Program in order to stabilize the individual health insurance market, maintain competition, and reduce premiums.

The State of Montana subsequently applied to the federal government for a State Innovation Waiver and federal pass-through funding under section 1332 of the Patient Protection and Affordable Care Act. The waiver application was approved for the period January 1, 2020 through December 31, 2024.² The reinsurance program is administered by the Montana Commissioner of Securities and Insurance (“CSI”) and a five-person Board of Directors of the Montana Reinsurance Association.

The reinsurance program will reimburse eligible health insurers for certain high-cost claims in the individual health insurance market using a mix of federal pass-through funding and association member assessments. Under the law, eligible health insurers will be reimbursed for a proportion (coinsurance rate) of the cost of certain high-cost claimants between a minimum lower bound (attachment point) and a maximum upper bound (reinsurance cap).

(2) What insurers are members of the Montana Reinsurance Association?

As a condition of doing business, an insurer that has issued or renewed *disability insurance*, as defined in § 33-1-207, MCA, regardless of license type, in the State of Montana in the past 12 months must be a member of the association. See Mont. Code Ann. § 33-22-1302(1).

Section 33-1-207, MCA, defines “Disability Insurance” as:

- (1) *Disability Insurance, including credit disability insurance, is insurance of human beings:*
 - (a) *against bodily injury, disablement, or death by accident or accidental means or the medical expense or indemnity involved; or*
 - (b) *against disablement or medical expense or indemnity resulting from sickness.*
- (2) *Transaction of disability insurance does not include workers' compensation insurance. Mont. Code. Ann. § 33-1-207.*

¹ Mont. Code. Ann. § 33-22-1301, et. seq.

² Montana’s 1332 waiver application and the terms and conditions of approval can be found at: https://www.cms.gov/CCIIO/Programs-and-Initiatives/State-Innovation-Waivers/Section_1332_State_Innovation_Waivers-#regulations-guidance

(3) What is the annual association member assessment?

The reinsurance program is funded from several sources, one of which is the annual association member assessment. For 2020, and each year thereafter, each member will be assessed 1.2% of its total premium volume covering Montana residents, from the prior calendar year, regardless of type of license. For purposes of the assessment, total premium volume may not include premiums that member insurers collect on any coverage issued for excepted benefits as defined in § 33-22-140, MCA. See Mont. Code Ann. § 33-22-1313(1).

Consistent with the definition of “premium” elsewhere in the Montana Insurance Code, CSI interprets “total premium volume” to include all consideration charged to Montana policyholders for insurance. For example, CSI does not interpret “total premium volume” to include risk adjustment payments, either outgoing or incoming, required under the Patient Protection and Affordable Care Act, because those payments are not part of the consideration charged to Montana policyholders for insurance. Rather, risk adjustment payments are part of insurers’ statutory obligations and not part of the premiums exchanged between insurers and their policyholders.

(4) Are there any exemptions from the requirement to be a member of the association and pay the assessment?

Yes, disability insurers are exempt from the requirement to be association members and are not subject to the assessment in § 33-22-1313, MCA, if the insurers solely issue or administer one or more of the following coverage types under the Montana Insurance Code:

- (a) self-funded multiple employer welfare arrangements licensed under Title 33, chapter 35, MCA;
- (b) disability insurance sold through a fraternal benefit society as described in Title 33, chapter 7, MCA;
- (c) excepted benefits as defined in § 33-22-140, MCA.
- (d) long-term care insurance as described in Title 33, chapter 22, part 11, MCA ; or
- (e) disability income insurance as defined in § 33-1-235, MCA.

See Mont. Code Ann. § 33-22-1302(2).

(5) What is the definition of “Excepted Benefits” that should be excluded from the total premium volume?

Under § **33-22-140(8)**, MCA, *“Excepted Benefits” means:*

- (a) coverage only for accident or disability income insurance, or both;
- (b) coverage issued as a supplement to liability insurance;
- (c) liability insurance, including general liability insurance and automobile liability insurance;
- (d) workers' compensation or similar insurance;
- (e) automobile medical payment insurance;
- (f) credit-only insurance;
- (g) coverage for onsite medical clinics;
- (h) other similar insurance coverage under which benefits for medical care are secondary or incidental to other insurance benefits, as approved by the commissioner;
- (i) if offered separately, any of the following:
 - (i) limited-scope dental or vision benefits;
 - (ii) benefits for long-term care, nursing home care, home health care, community-based

- care, or any combination of these types of care; or
- (iii) other similar, limited benefits as approved by the commissioner;
 - (j) if offered as independent, noncoordinated benefits, any of the following:
 - (i) coverage only for a specified disease or illness; or
 - (ii) hospital indemnity or other fixed indemnity insurance;
 - (k) if offered as a separate insurance policy:
 - (i) medicare supplement coverage;
 - (ii) coverage supplemental to the coverage provided under Title 10, chapter 55, of the United States Code; and
 - (iii) similar supplemental coverage provided under a group health plan.

(6) Where can I find the state-based laws that govern the conduct of the Montana Reinsurance Association?

Title 33, chapter 22, part 13, of the Montana Code Annotated which can be found using the following link: (https://leg.mt.gov/bills/mca/title_0330/chapter_0220/part_0130/sections_index.html).

(7) Is Medicaid “disability insurance” for purposes of the calculation of the assessment?

No.

(8) Is Medicare “disability insurance” for purposes of the calculation of the assessment?

No.

(9) Is Medicare Advantage “disability insurance” for purposes of the calculation of the assessment?

No.