

Kansas Administrative Regulations

Kansas Department of Insurance

Article 1.—General

40-1-41. Insurance companies; managing general agents; management agreements or contracts; definitions; requirements; prohibitions.

(a) This regulation shall:

(1) Apply to managing general agents as defined by K.S.A. 1992 Supp. 40-2,130; and

(2) not apply to administrators holding a certificate of registration pursuant to K.S.A. 40-3810, as amended.

(b) Definitions.

(1) "Payments" means amount paid to any person, organization or corporation pursuant to a management contract or agreement in excess of reimbursement of actual expenses.

(2) "Reimbursement" means amounts paid to any person, organization or corporation pursuant to a management contract or agreement to cover the costs or actual expenses incurred in procuring or otherwise managing the business of any insurer.

(c) Any management agreement or contract which provides for payments, other than reimbursement for actual expenses, in excess of the guidelines contained in subsections (c) through (g) of this regulation shall be deemed by the commissioner of insurance to be in violation of K.S.A. 1992 Supp. 40-2,132, as operating to the financial detriment of the insurer in such a manner as to endanger the financial stability of the insurer or otherwise be hazardous to policyholders and creditors of the insurer.

(d) No payment shall exceed reimbursement plus a percentage of the reimbursement equal to the percentage profit experienced by the company over the previous five years.

(e) Profit shall be calculated as follows:

(1) For property/casualty insurers—net income divided by premium earned;

(2) for life/health/accident insurers—net income divided by premium and annuity consideration, annuity and other fund deposits, and consideration for supplementary contracts; and

(3) for health maintenance organizations—net income divided by premium.

(f) For insurers with fewer than five years experience, the payments shall not exceed 15 percent of the actual expenses reimbursed.

(g) In no case shall the payments exceed 20 percent of the actual expenses reimbursed.

(h) No management agreement or contract shall allow for reimbursement based on a percentage of premium.

(Authorized by K.S.A. 40-103, K.S.A. 1992 Supp. 40-2,136; implementing K.S.A. 1992 Supp. 40-2,136; effective Nov. 29, 1993.)

***** Authenticated Kansas Administrative Regulation *****