

**Sec. 38a-193-4. Regulatory action level event**

(a) As used in Sections 38a-193-1 to 38a-193-13, inclusive, of the Regulations of Connecticut State Agencies, “Regulatory Action Level Event” means, with respect to a health care center, any of the following events:

(1) The filing of a RBC report by the health care center that indicates that the health care center’s total adjusted capital is greater than or equal to its Authorized Control Level RBC but less than its Regulatory Action Level RBC;

(2) notification by the commissioner to a health care center of an adjusted RBC report that indicates the event in subdivision (1) of this subsection, provided the health care center does not challenge the adjusted RBC report under section 38a-193-7 of the Regulations of Connecticut State Agencies;

(3) if, pursuant to section 38a-193-7 of the Regulations of Connecticut State Agencies, the health care center challenges an adjusted RBC report that indicates the event in subdivision (1) of this subsection, the notification by the commissioner to the health care center that the commissioner has, after a hearing, rejected the health care center’s challenge;

(4) the failure of the health care center to file a RBC report by the filing date, unless the health care center has provided an explanation for the failure that is satisfactory to the commissioner and has cured the failure not later than ten (10) days after the filing date;

(5) the failure of the health care center to submit a RBC plan to the commissioner within the time period set forth in section 38a-193-3(c) of the Regulations of Connecticut State Agencies;

(6) notification by the commissioner to the health care center that the RBC plan or revised RBC plan submitted by the health care center is, in the judgment of the commissioner, unsatisfactory; Notification constitutes a Regulatory Action Level Event with respect to the health care center, provided the health care center has not challenged the determination under section 38a-193-7 of the Regulations of Connecticut State Agencies;

(7) if, pursuant to section 38a-193-7 of the Regulations of Connecticut State Agencies, the health care center challenges a determination by the commissioner under subdivision (6) of this subsection, the notification by the commissioner to the health care center that the commissioner has, after a hearing, rejected the challenge;

(8) notification by the commissioner to the health care center that the health care center has failed to adhere to its RBC plan or revised RBC plan, but only if the failure has a substantial adverse effect on the ability of the health care center to eliminate the Company Action Level Event in accordance with its RBC plan or revised RBC plan and the commissioner has so stated in the notification, provided the health care center has not challenged the determination under section 38a-193-7 of the Regulations of Connecticut State Agencies; or

(9) if, pursuant to section 38a-193-7 of the Regulations of Connecticut State Agencies, the health care center challenges a determination by the commissioner under subdivision (8) of this subsection, the notification by the commissioner to the health care center that the commissioner has, after a hearing, rejected the challenge.

(b) In the event of a Regulatory Action Level Event the commissioner shall:

(1) Require the health care center to prepare and submit a RBC plan or, if applicable, a revised RBC plan;

(2) perform such examination or analysis as the commissioner deems necessary of the assets, liabilities and operations of the health care center including a review of its RBC plan or revised RBC plan; and

(3) subsequent to the examination or analysis, issue an order specifying such corrective actions as the commissioner shall determine are required (a “corrective order”).

(c) In determining corrective actions, the commissioner may take into account factors the commissioner deems relevant with respect to the health care center based upon the commissioner’s examination or analysis of the assets, liabilities and operations of the health care center, including, but not limited to, the results of any sensitivity tests undertaken pursuant to the RBC instructions. The RBC plan or revised RBC plan shall be submitted:

(1) Not later than forty-five (45) days after the occurrence of the Regulatory Action Level Event;

(2) if the health care center challenges an adjusted RBC report pursuant to section 38a-193-7 of the Regulations of Connecticut State Agencies and the challenge is not frivolous in the judgment of the commissioner, not later than forty-five (45) days after the notification to the health care center that the commissioner has, after a hearing, rejected the health care center’s challenge; or

(3) if the health care center challenges a revised RBC plan pursuant to section 38a-193-7 of the Regulations of Connecticut State Agencies and the challenge is not frivolous in the judgment of the commissioner, not later than forty-five (45) days after the notification to the health care center that the commissioner has, after a hearing, rejected the health care center’s challenge.

(d) The commissioner may retain actuaries and investment experts and other consultants as may be necessary in the judgment of the commissioner to review the health care center’s RBC plan or revised RBC plan, examine or analyze the assets, liabilities and operations (including contractual relationships) of the health care center and formulate the corrective order with respect to the health care center. The fees, costs and expenses relating to consultants shall be borne by the affected health care center or such other party as directed by the commissioner.

(Adopted effective January 31, 2000)