



## Office of Director

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August 18, 2015

Senator Jim Hendren  
Representative Charlie Collins  
Co-chairs, Arkansas Health Reform Legislative Task Force  
State Capitol Room 315  
Little Rock, AR 72201

Dear Senator Hendren and Representative Collins,

Please find below DHS responses to your letter dated August 10, 2015 regarding clarification on the process and procedures around retroactive terminations of insurance policies for those unable to be verified for the Private Option.

1. Will you be asking Private Option carriers for recoupment of premiums paid to them in cases other than where an individual was found to be deceased or committed out-right fraud?

*Cases of suspected fraud will be referred to the Medicaid Inspector General for investigation. In addition to enrollee death, DHS has been retroactively terminating Private Option cases for two other reasons: (1) the enrollee moved out of state; and (2) the enrollee requested program termination. These are terminations that are required by a federal or state law or regulation.*

*DHS, AID and the carriers entered into a Memorandum of Understanding (MOU) related to the Private Option. Section 2.11 of the MOU addresses this issue. It states that "DHS Termination of an Issuer Enrollee's Health Care Independence Coverage. Prior to terminating an Issuer Enrollee's Health Care Independence Coverage, to the extent possible, DHS will notify Issuer and provide the reason the coverage is being terminated. In order to assure minimum disruption within the marketplace, disenrollment will be effective as stated in 2.10; retroactive terminations will not be made unless required by a federal or state law or regulation".*

2. Will you also be asking Private Option carriers for recoupment of premiums in cases where carriers may have already paid claims?

*Yes, DHS will recoup premiums in the three instances outlined above: (1) death; (2) moved out of state; and (3) enrollee request for program termination. Carriers may have paid claims in cases where an individual moved out of state or requested program termination.*

*DHS is currently reviewing this policy to determine if changes are warranted and allowable.*

3. Do you have a process in place to determine if a claim was paid by a carrier prior to seeking recoupment?

*No, DHS does not currently have a process in place to determine whether carriers have paid claims before seeking recoupment of premium in the three instances outlined above.*

4. We have been informed by Private Option carriers that they may be seeking recoupment from providers that have provided the service if recoupment is sought in cases where claims were paid for services rendered. Are you aware if any providers have been asked to reimburse insurance companies for services provided to those who have been cancelled because of the redetermination process?

*In the case of retroactive terminations, we are aware that carriers have indicated that they may seek reimbursement from providers for claims paid at a time when enrollees were not currently eligible.*

*In order to mitigate disruption caused by the redetermination process, DHS and AID are working with the carriers to ensure access to services immediately needed, specifically, access and coverage for pharmaceuticals.*

5. If so, is there a state or federal rule or law that prohibits carriers from seeking reimbursement from a provider that has legitimately provided the service?

*Arkansas Insurance Rule 85 and Ark. Code Ann. § 23-63-1801 et seq. governs recoupment. A health insurer cannot recoup after 18 months from the date of submission of a claim unless there is a determination of fraud. Additionally, a carrier may not recoup if the provider verified coverage from the issuer, or its agent, that the individual was a covered individual, and provided service in good faith of that verification.*


6. If not, what is your plan to assure that no provider is asked to reimburse an insurance carrier for a legitimate service performed by a provider when the individual that presented himself or herself had a Private Option insurance card that was not revoked at the time.

*AID and DHS are working to develop a process to address this scenario.*

7. What effort is DHS, the Insurance Department and/or the insurance carriers making to communicate the process and potential liability (if any) to the providers?

*DHS does not have contact information regarding carrier networks. This information is maintained by the issuers. DHS remains committed to working with AID and the issuers to assist during this period.*

Sincerely,



John Selig  
Director

# Arkansas Insurance Department

Asa Hutchinson  
Governor



Allen Kerr  
Commissioner

August 18, 2015

The Honorable Sen. Jim Hendren  
The Honorable Rep. Charlie Collins  
Arkansas Health Reform Legislative Task Force  
State Capitol, Room 315  
Little Rock, AR 72201

Dear Messrs. Chairmen:

Thank you for your letter of August 10, making various inquiries on the process and procedures regarding retroactive terminations of insurance policies for those unable to be verified as eligible for the Health Care Independence Program (HCIP), created by Act 1498 of 2013. Please accept this letter for the purposes of answering the questions identified below:

1. **Will you be asking Private Option carriers for recoupment of premiums paid to them in cases other than where an individual was found to be deceased or committed out-right fraud?**

*Cases of suspected fraud will be referred to the Medicaid Inspector General for investigation. In addition to enrollee death, DHS has been retroactively terminating Private Option cases for two other reasons: (1) the enrollee moved out of state; and (2) the enrollee requested program termination. These are terminations that are required by a federal or state law or regulation.*

*DHS, AID and the carriers entered into a Memorandum of Understanding (MOU) related to the Private Option. Section 2.11 of the MOU addresses this issue. It states that "DHS Termination of an Issuer Enrollee's Health Care Independence Coverage. Prior to terminating an Issuer Enrollee's Health Care Independence Coverage, to the extent possible, DHS will notify Issuer and provide the reason the coverage is being terminated. In order to assure minimum disruption within the marketplace, disenrollment will be effective as stated in 2.10; retroactive terminations will not be made unless required by a federal or state law or regulation".*

2. **Will you also be asking Private Option carriers for recoupment of premiums in cases where carriers may have already paid claims? If so, describe the situation.**

*DHS will recoup premiums in the three instances outlined above: (1) death; (2) moved out of state; and (3) enrollee request for program termination. Carriers may have paid claims in cases where an individual moved out of state or requested program termination.*

*DHS is currently reviewing this policy to determine if changes are warranted and allowable.*

3. **Do you have a process in place to determine if a claim was paid by a carrier prior to seeking recoupment?**

*No. Recoupment of premiums is a functionality solely maintained by DHS.*

4. **We have been informed by Private Option carriers that they may be seeking recoupment from providers that have provided the service if recoupment is sought in cases where claims were paid for services rendered. Are you aware if any providers have been asked to reimburse insurance companies for services provided to those who have been cancelled because of the redetermination process?**

*In the case of retroactive terminations, we are aware that carriers have indicated that they may seek reimbursement from providers for claims paid at a time when enrollees were not currently eligible.*

*In order to mitigate disruption caused by the redetermination process, AID and DHS are working with the carriers to ensure access to services immediately needed, specifically, access and coverage for pharmaceuticals.*

5. **If so, is there a state or federal rule or law that prohibits carriers from seeking reimbursement from a provider that has legitimately provided the service?**

*Arkansas Insurance Rule 85 and Ark. Code Ann. § 23-63-1801 et seq. governs recoupment. A health insurer cannot recoup after 18 months from the date of submission of a claim unless there is a determination of fraud. Additionally, a carrier may not recoup if the provider verified coverage from the issuer, or its agent, that the individual was a covered individual, and provided service in good faith of that verification.*

6. **If not, what is your plan to assure that no provider is asked to reimburse an insurance carrier for a legitimate service performed by a provider when the individual that presented himself or herself had a Private Option insurance card that was not revoked at the time.**

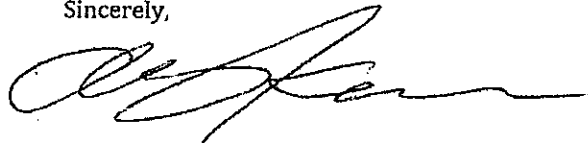
*AID is working with DHS to develop a process to address this scenario. I also bring to your notice that issuers were providing a legitimate service in good faith at the time of service.*

7. **What effort is DHS, the Insurance Department and/or the insurance carriers making to communicate the process and potential liability (if any) to the providers?**

*AID does not maintain contact information for Arkansas providers. This information is maintained by the issuers for each of their networks. AID remains committed to working with DHS and the issuers to assist during this period.*

Thank you, gentlemen, for the opportunity to answer these important questions facing your task force. I, and the men and women of the Arkansas Insurance Department, remain available to you to provide any assistance that you and your committee need to accomplish its very important work.

Sincerely,



Allen Kerr  
Commissioner  
Arkansas Insurance Department

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