



Bulletin No. B-3.01

RECOUPMENT OF LIFE AND HEALTH INSURANCE PROTECTION ASSOCIATION ASSESSMENTS FOR THE COLORADO HEALTH INSURANCE COOPERATIVE, INC. INSOLVENCY

I. Background and Purpose

The purpose of this bulletin is to provide clarification regarding the recoupment, as required by § 10-20-113, C.R.S., of the assessments being imposed by the Life and Health Insurance Protection Association ("LHIPA") for the Colorado Health Insurance Cooperative, Inc. ("Colorado HealthOP") insolvency.

Bulletins are the Division's interpretations of existing insurance law or general statements of Division policy. Bulletins themselves establish neither binding norms nor finally determine issues or rights.

II. Applicability and Scope

This bulletin applies to all entities regulated by the Division that are members of the Life and Health Insurance Protection Association and that received assessments for the Colorado HealthOP insolvency.

III. Division Position

A. Definitions.

As used in this bulletin, unless the context otherwise requires:

1. "Called assessment" or "called" when used in the context of assessments means, for the purposes of this bulletin, that a notice has been issued by the LHIPA to member insurers requiring that an authorized assessment be paid by the date set in the notice. An authorized assessment becomes a called assessment when notice is mailed by the LHIPA to member insurers.
2. "Covered policy" means, for the purposes of this bulletin, a policy or contract, or a portion of a policy or contract, for which coverage is provided under § 10-20-104, C.R.S.
3. "Member insurer" means, for the purposes of this bulletin, any insurer licensed or who holds a certificate of authority in this state to write any kind of insurance for which coverage is provided pursuant to § 10-20-104, C.R.S., and includes any insurer whose license or certificate of authority in this state may have been suspended, revoked, not renewed, or voluntarily withdrawn; but "member insurer" does not include:
 - a. A nonprofit hospital or medical service organization;

- b. A health maintenance organization;
- c. A fraternal benefit society;
- d. A mandatory state pooling plan;
- e. A stipulated premium insurance company;
- f. A local mutual burial association;
- g. A mutual assessment company or any entity that operates on an assessment basis;
- h. An interinsurance exchange;
- i. A health care coverage cooperative; and
- j. Any entity similar to those specified in a. through i. above.

B. General Provisions.

Section 10-20-113(1)(d)(I), C.R.S., provides that “each member insurer writing health insurance is required to recoup over a reasonable length of time a sum reasonably calculated to recoup the assessments paid by the member insurer under this article by way of a surcharge on premiums charged for health insurance policies to which this article applies. Amounts recouped shall not be considered premiums for any other purpose, including the computation of gross premium tax or agent’s commission.”

Section 10-20-113(1)(d)(II), C.R.S., provides that “the amount of the surcharge shall be filed as part of an insurer’s rate filing pursuant to section 10-16-107(1). Such surcharge must be shown in the rate filing as a separate component of the rate and shall include supporting documentation.”

At this time, the final amount that each member insurer will be assessed for the Colorado HealthOP insolvency is unknown. Additionally, the member insurers that receive assessments may receive credits or refunds from the LHIPA as the estate of Colorado HealthOP is settled. As a result of both of these factors, the amount that will actually be paid, and therefore must be recouped pursuant to the current statutory structure, is unclear.

It is the Division’s position that member insurers may wait until the total amount of called assessments is known, including any additional assessments refunds or credits, before member insurers are required to recoup the assessments from their health insurance membership.

Alternatively, member insurer may include a surcharge in its next rate filing, in accordance with §§ 10-16-107(1) and 10-20-113(1)(d)(II), C.R.S., in order to recover a sum reasonably calculated to recoup the assessments paid by the member insurer for the Colorado HealthOP insolvency.

Each member insurer may decide to define a “reasonable length of time” from the date of the assessment. Member insurers are able to choose their own individual recoupment periods depending on their own individual financial and other circumstances.

IV. Additional Division Resources

For More Information

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V. History

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