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NEW MEXICO OFFICE OF
SUPERINTENDENT
OF INSURANCE

SUPERINTENDENT OF INSURANCE

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Bulletin 2017-016

December 19, 2017

(Updating Bulletin 2017-014)

TO: SERVICE CONTRACT PROVIDERS AND ISSUERS OF SERVICE CONTRACT REIMBURSEMENT INSURANCE POLICIES

RE: REIMBURSEMENT INSURANCE POLICY REQUIREMENTS AND RELATED NOTIFICATIONS TO SERVICE CONTRACT HOLDERS

THE FOLLOWING BULLETIN is issued pursuant to Section 59A-2-8 NMSA 1978 and Sections 1 through 10 of 13.1.2 NMAC.

This Bulletin interprets the New Mexico Service Contract Regulation Act as necessitating certain language clarifications in reimbursement insurance policies that service contract providers purchase to satisfy the financial security requirements imposed on them in Section 59A-58-6 NMSA 1978, as well as notifications to holders of service contracts advising them of to whom to submit claims if the service contract provider does not perform its duties.

Prior to revisions to New Mexico's Service Contract Regulation Act that went into effect June 16, 2017, deposits were required of all service contract providers in order to satisfy the financial security requirements of Section 59A-58-6 NMSA 1978. The recent revisions to the Act allow reimbursement insurance policies to be used in lieu of a deposit.

The Service Contract Regulation Act defines a reimbursement insurance policy as "a policy of insurance issued to a provider to either provide reimbursement to the provider under the terms of the insured service contracts issued or sold by the provider or, in the event of the provider's non-performance, to pay on behalf of the provider all covered contractual obligations incurred by the provider under the terms of the insured service contracts issued or sold by the provider." Section 6 of the Act states that the purpose of reimbursement insurance policies and other allowable types of security is "to ensure the faithful performance of a provider's obligations to the provider's service contract holders." For these reasons, all reimbursement insurance policies used

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to satisfy a service contract provider's financial security requirements under the Act must contain a provision to pay on behalf of the provider all covered contractual obligations incurred by the provider under the terms of the insured service contracts issued or sold by the provider.

In order to ensure that contract holders are aware of the existence of a reimbursement insurance policy and know whom to contact if the service contract provider fails to perform, any service contract that is insured by a reimbursement insurance policy must contain a notification stating that "This service contract is insured by *[insert name of the issuer of the reimbursement insurance policy]*. If the service contract provider fails to pay you or otherwise provide you with the covered service within 60 days of your submission of a valid claim, you may submit your claim to *[insert name of the issuer of the reimbursement insurance policy]* at *[insert phone number and mailing address of the issuer of the reimbursement insurance policy]*. If you have any concerns regarding the handling of your claim, you may contact the Office of Superintendent of Insurance at 1-855-427-5674.

Reimbursement insurance policies are routinely issued on a continuous renewal basis. The Superintendent recognizes the need to be informed if a reimbursement insurance policy is cancelled or non-renewed or if the insurer's surplus falls below the amount required by the Act. For that reason, all reimbursement insurance policies must contain a provision that requires insurers to notify the Superintendent prior to the cancellation or nonrenewal of the reimbursement insurance policy and also to notify the Superintendent within 15 days after the insurer's surplus as regards policyholders, as reported on the insurer's Annual or Quarterly Statement with the National Association of Insurance Commissioners, drops below 15 million dollars (\$15,000,000).

Any questions on this Bulletin may be directed to Alan Seeley, Chief Actuary, at alan.seeley@state.nm.us or at 505-827-4307.

DONE AND ORDERED this 19th day of December, 2017.



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