



HMO Withdrawal Guidelines

When a Plan Is Required

Any authorized HMO must file with the Commissioner of Insurance a plan of orderly withdrawal before the HMO undertakes total or substantial withdrawal from a line of insurance. The HMO undertakes total withdrawal from a line of insurance when it takes any action on its own initiative that will result in the HMO's ceasing to write a line of insurance. An HMO will not be held to have acted on its own initiative in effecting a total withdrawal from a line of insurance when it acts pursuant to a Commissioner's disciplinary or administrative directive or Order, or when the HMO acts pursuant to a directive of a supervisor, conservator, or receiver. If any out-of-state directive or Order is not provided to the Commissioner within 30 days of the issuance of any such directive or Order, the HMO will be held to have acted on its own initiative.

The HMO undertakes substantial withdrawal from a line of insurance when it takes any action on its own initiative that will result in reducing the HMO's total annual premium volume in Texas for the current calendar year for a line of insurance by 75% or more of the total annual premium volume in Texas for the immediately preceding calendar year for such line of insurance. An HMO will not be held to have acted on its own initiative in effecting a substantial withdrawal from a line of insurance when it acts pursuant to a Commissioner's disciplinary or administrative directive or Order, or when the HMO acts pursuant to a directive of a supervisor, conservator, or receiver. If any out-of-state directive or Order is not provided to the Commissioner within 30 days of the issuance of any such directive or Order, the HMO will be held to have acted on its own initiative.

Exceptions

An HMO is not required to file a plan of orderly withdrawal, but shall instead notify the department, when:

- (1) the HMO is transferring business from the HMO to a company within the same holding company system, as defined in the Insurance Holding Company System Regulatory Act, the Texas Insurance Code, Article 21.49-1, §2, and admitted to do business in this state or to an affiliated HMO; or
- (2) the line of insurance from which the HMO is withdrawing is Medicare, a Medicare+Choice plan or a Medicaid contract as provided in §7.1803(a).

If an HMO comes within an exception, such notification must be sent to the department simultaneously with any notification required to be provided to any other state or federal agency. The notification will be accepted for information only and shall affirm that any appropriate state or federal agency has been notified of the company's intent to withdraw, and shall include the effective date of non-renewal, the names of the Texas counties affected, and the number of insureds or enrollees affected.

A withdrawal plan must be filed with the department and approved by the department prior to any non-renewal notices being sent to policyholders.

Lines of Coverage

- small employer coverage;
- large employer coverage;
- health care services for Medicaid delivered under a contract with the Texas Health and Human Services Commission;
- health care services for Medicare or a Medicare+Choice plan delivered under a contract with the federal Centers for Medicare and Medicaid Service;
- CHIP coverage;
- individual coverage;
- association coverage;
- limited service group coverage;
- limited service individual coverage;
- single service group coverage; and
- single service individual coverage.

Nothing in this section authorizes or allows an insurer or HMO to cancel or non-renew any coverage that would violate any law or provisions contained in a contract or evidence of coverage or a policy or certificate of insurance itself.

Contents of the Withdrawal Plan

A withdrawing HMO shall file a plan of orderly withdrawal with the Commissioner that is constructed to protect the interests of the people of this state. The plan must be signed by at least one officer of the HMO, and, for each line of insurance being withdrawn or having total annual premium reduced by 75% or more, must contain the following:

- (1) identification, in accordance with the line of insurance designations in §7.1803 of this title, of the line or lines of insurance being totally withdrawn or affected by having total annual premium volume reduced by 75% or more;
- (2) identification by form number of the evidences of coverage affected by withdrawal;
- (3) the dates the HMO intends to begin and complete its withdrawal;
- (4) an explanation of the reasons for the withdrawal;

- (5) provisions for notifying all of the affected Texas enrollees and contractholders of the dates of the beginning and completion of the total or substantial withdrawal and how the withdrawal will affect them, including, but not limited to:
 - (A) a copy of the notice and an explanation of the manner in which the notice will be provided to enrollees or contractholders;
 - (B) either an affirmation that such notice will be provided within 30 days of the approval of the withdrawal plan or a request to provide the notice at some other specified date or time, and such request must be approved by the Commissioner; and
 - (C) identification of any provisions of the Texas Insurance Code or the Texas Administrative Code under which notice is mandated;
- (6) provisions for meeting all of the HMO's contractual obligations, including, but not limited to, notification to all affected agents of the HMO of the dates the HMO intends to begin and complete the withdrawal;
- (7) provisions for providing service to the HMO's Texas enrollees and providers;
- (8) information on Texas business, including:
 - (A) for HMO's filing total withdrawal plans, the total annual premium volume and the number of affected contractholders and enrollees in Texas for each line to be withdrawn;
 - (B) for HMO's filing substantial withdrawal plans, the total annual premium volume and the number of affected enrollees and contractholders in Texas before substantial withdrawal is effected and the estimated total annual premium volume and number of enrollees and contractholders in Texas after substantial withdrawal is effected for each line to be substantially withdrawn;
 - (C) an estimate of what percentage of the Texas HMO market the withdrawal constitutes, as measured by enrollee;
 - (D) an estimate of what percentage of the HMO's service area or service areas the withdrawal constitutes and the counties affected by the withdrawal; and
 - (E) any information necessary to assist the Commissioner in determining whether a market availability problem is created by the total or substantial withdrawal, the extent of the problem, and what market assistance may be needed to alleviate the problem;
- (9) provisions for identifying enrollees of special circumstance;
- (10) identification of any third party contracts which may provide for the continuity of care to enrollees of special circumstance;
- (11) number of and estimated amount of all losses outstanding in Texas, including claims incurred but not reported;
- (12) a plan to handle the losses specified in paragraph (11) of this subsection, including, but not limited to:
 - (A) identification of what assets will be available for paying outstanding incurred but not reported claims, claims in the course of settlement, and associated loss adjustment expenses;

- (B) identification of who specifically will administer the run-off of the business, if any; and
 - (C) an actuarial opinion certifying that adequate reserves are available to pay outstanding claims;
- (13) provisions for meeting any applicable statutory obligations;
- (14) for HMO's filing total withdrawal plans, an affirmation that no new business will be solicited by the HMO in this state during or following the withdrawal period unless the HMO first complies with §7.1808 of this title;
- (15) a list of any other products the HMO will continue to sell in Texas in each service area; and
- (16) for HMO's filing total withdrawal plans, quarterly financial projections from the beginning of the withdrawal to the completion of the withdrawal. The quarterly financial projections shall include:
- (A) a balance sheet;
 - (B) an income statement;
 - (C) a statement of cash flows; and
 - (D) members.

The filing of a single consolidated withdrawal plan for all withdrawing HMO's in the same holding company system, as defined in the Insurance Holding Company System Regulatory Act, the Texas Insurance Code Article 21.49-1, §2, does not meet the requirements of this subchapter. A separate withdrawal plan must be filed for each HMO intending to totally or substantially withdraw from a line or lines of insurance.

Plan Submission and Approval Procedures

Any HMO filing a plan of orderly withdrawal should submit the plan to the Texas Department of Insurance, Company Licensing & Registration Division, Mail Code 305-2C, P.O. Box 149104, Austin, Texas 78714-9104.

The withdrawal plan shall be deemed approved if the Commissioner has not held a hearing within 30 days after the complete plan is filed or has not been denied approval within 30 days after the hearing.

No plan shall be considered "filed" until such date as the withdrawing HMO has provided to the Commissioner all information and material necessary to constitute a completed plan of orderly withdrawal, as required.

Within ten (10) business days of the Commissioner's receipt of the withdrawal plan, the HMO will be notified by letter either that the plan is sufficient to constitute a completed plan of orderly withdrawal that meets all of the requirements of this subchapter or that the plan is insufficient to constitute a completed plan of orderly withdrawal that meets all of the requirements of this subchapter and what information and material must be provided in order for the HMO to have filed a completed plan of orderly withdrawal, as required under this subchapter.

Filing of Annual Financial Statement and Other Required Data and Information

Any HMO filing a total withdrawal plan or a substantial withdrawal plan shall continue to file all annual financial statement data, other required statistical and data filings, other reporting, and any other department-requested information applicable to any withdrawn line until all policyholder obligations for such line in this state are fulfilled. This section does not exempt an HMO from any filings or information requests required by the department.

Requirements To Resume Writing Insurance

Any HMO totally or substantially withdrawing from writing any line of coverage in this state and required to file a plan of orderly withdrawal pursuant to the Texas Insurance Code, Article 21.49-2C, may not resume writing the withdrawn line in this state without complying with all applicable statutory and regulatory provisions governing authorization to write such line of coverage in this state and receiving the written approval of the Commissioner to resume such writing.

INCOMPLETE APPLICATIONS IMPEDE TIMELY REVIEW BY THE DEPARTMENT, THEREFORE, IT IS EXTREMELY IMPORTANT THAT APPLICATIONS ARE COMPLETE. SUBMIT A COMPLETE FILING TO THE TEXAS DEPARTMENT OF INSURANCE, COMPANY LICENSING & REGISTRATION DIVISION, MC 305-2C, P. O. BOX 149104, AUSTIN, TX 78714-9104. FOR QUESTIONS OR MORE INFORMATION, CALL (512) 322-4370.

THESE GUIDELINES ARE GENERAL IN NATURE AND DO NOT SUPERCEDE STATUTE OR REGULATION. THEY ARE NOT INTENDED TO BE ALL INCLUSIVE AND ADDITIONAL DOCUMENTATION MAY BE REQUESTED.