

DEPARTMENT OF HEALTH & HUMAN SERVICES
Centers for Medicare & Medicaid Services 7500
Security Boulevard, Mail Stop C1-22-06
Baltimore, Maryland 21244-1850



MEDICARE PARTS C AND D OVERSIGHT AND ENFORCMENT GROUP

June 17, 2021

Dr. Pavel Bindra
Chief Executive Officer
Imperial Insurance Companies, Inc.
1100 East Green Street
Pasadena, CA 91106

Re: Notice of Immediate Imposition of Intermediate Sanction (Suspension of Enrollment) for Medicare Advantage-Prescription Drug Plan Contract Number: H2793 – State of Arizona Only

Dear Dr. Bindra,

Pursuant to 42 C.F.R. §§ 422.756 and 423.756, the Centers for Medicare & Medicaid Services (CMS) hereby informs Imperial Insurance Companies, Inc. (“Imperial”) of its determination to immediately impose an intermediate sanction on the following Medicare Advantage-Prescription Drug Plan (MA-PD) Contract: H2793.

This intermediate sanction will consist of the suspension of enrollment of Medicare beneficiaries into Imperial’s contract (42 C.F.R. §§ 422.750(a)(1) and 423.750(a)(1)). CMS is imposing an intermediate sanction immediately, effective at 11:59 p.m. EDT, June 17, 2021, pursuant to 42 C.F.R. §§ 422.756(c)(2) and 423.756(c)(2). The intermediate enrollment sanction will remain in effect through the duration of the contract year. CMS will provide Imperial with detailed instructions regarding enrollment suspensions in a separate communication.

Summary of Noncompliance

On May 27, 2021, the Arizona Department of Insurance and Financial Institutions (AZ DIFI) and Imperial entered into a consent order requiring Imperial to “immediately cease from enrolling any new members into any of its Arizona HMO Medicare Advantage plans. Arizona took this action after determining that Imperial was operating without a proper certificate of authority.

Pursuant to 42 C.F.R. §§ 422.504(a)(1) and 423.505(b)(2), organizations that contract with CMS to offer MA-PD contracts must agree to accept new enrollments as provided in 42 C.F.R. Parts 422 and 423, Subpart B. Because Imperial is not permitted to accept new enrollments under its license with the state of Arizona, it is non-compliant with CMS’ contract requirements.

Legal Basis for the Immediate Imposition of Intermediate Sanction

As a result of AZ DIFI's order, Imperial no longer substantially meets the applicable conditions to carry out its contract with CMS (42 C.F.R. §§ 422.510(a)(3) and 423.509(a)(3)). Imperial's non-compliance provides a sufficient basis for the immediate imposition of an intermediate sanction (42 C.F.R. §§ 422.752(b) and 423.752(b)).

Opportunity to Respond to Notice

Pursuant to 42 C.F.R. §§ 422.756(a)(2) and 423.756(a)(2), Imperial has ten (10) calendar days from the date of receipt of this notice to provide a written rebuttal, or by June 28, 2021. Please note that CMS considers receipt as the day after the notice is sent by fax, email, or overnight mail or in this case June 18, 2021. If you choose to submit a rebuttal, please send it to the attention of Kevin Stansbury at the address noted below. Note that the sanction imposed pursuant to this letter are not stayed pending a rebuttal submission.

Right to Request a Hearing

Imperial may also request a hearing before a CMS hearing officer in accordance with the procedures outlined in 42 C.F.R. §§ 422.641-696 and 423.650-668. Pursuant to 42 C.F.R. §§ 422.756(b) and 423.756(b), a written request for a hearing must be received by CMS within fifteen (15) calendar days of receipt of this notice, or by July 6, 2021.¹ Please note, however, a request for a hearing will not delay the date specified by CMS when the sanction becomes effective. Your hearing request will be considered officially filed on the date that it is mailed; accordingly, we recommend using an overnight traceable mail carrier.

The request for a hearing must be sent electronically, and may also be sent via hard copy, to the CMS Hearing Office at the following address:

CMS Office of Hearings
Attn: Benjamin R. Cohen, Director
7500 Security Boulevard
Mail Stop: N2 19-25
Baltimore, MD 21207-2671
Phone: 410-786-3169
Email: benjamin.cohen@cms.hhs.gov

A copy of the hearing request should also be sent to CMS at the following address:

Kevin Stansbury
Director, Division of Compliance Enforcement
Centers for Medicare & Medicaid Services 7500
Security Boulevard
Baltimore, MD 21244
Mail Stop: C1-22-27
Email: kevin.stansbury@cms.hhs.gov

CMS will consider the date the Office of Hearings receives the email or the date it receives the

¹ Since July 3rd falls on a weekend or holiday, the date reflected in the notice is the next regular business day for you to submit your request.

fax or traceable mail document, whichever is earlier, as the date of receipt of the request. The request for a hearing must include the name, fax number, and e-mail address of the contact within Imperial (or an attorney who has a letter of authorization to represent the organization) with whom CMS should communicate regarding the hearing request.

Please note that we are closely monitoring your organization and Imperial may also be subject to other applicable remedies available under law, including the imposition of additional sanctions, penalties, or other enforcement actions as described in 42 C.F.R. Parts 422 and 423, Subparts K and O. CMS will consider taking action to immediately terminate your contract if issues that pose a serious threat to the health and safety of Medicare beneficiaries are identified or left uncorrected.

If you have any questions about this notice, please call or email the enforcement contact provided in your email notification.

Sincerely,

/s/

John A. Scott
Director
Medicare Parts C and D Oversight and Enforcement Group

cc: Kevin Stansbury, CMS/CM/MOEG/DCE
Ann Duarte, CMS/OPOLE
Brenda Suiter, CMS/OPOLE
Ayanna Busby-Jackson, CMS/OPOLE
Devon King, CMS/OPOLE