



## **Medicare Contracting Administration Group**

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### **Corrective Action Plan**

June 29, 2021

Contract Numbers: H2793

Erica Ruiz  
Imperial Insurance Companies, Inc.  
1100 East Green Street  
Pasadena, CA 91106

VIA EMAIL: [eruiz@imperialhealthplan.com](mailto:eruiz@imperialhealthplan.com)

RE: Failure to Hold Proper State license

Dear Ms. Ruiz:

The Centers for Medicare & Medicaid Services (CMS) is issuing this request for a Corrective Action Plan (CAP) to Imperial Insurance Companies, Inc. (Imperial) (contract number H2793) for failure to comply with Medicare Advantage (MA) requirements regarding state licensure. Based on the failures identified below, CMS is requiring that Imperial take corrective action to correct the deficiencies.

Pursuant to 42 C.F.R. §422.400, MA organizations must be licensed or authorized under state law to operate a risk bearing entity eligible to offer health insurance in each state in which the MA organization operates. In addition, pursuant to this regulation, the scope of the license or authority must allow the MA organization to offer the type of MA plan or plans that the organization will offer in each state they operate.

Imperial began operating in Texas on January 1, 2019, and is currently operating in Arizona, Nevada, New Mexico, Texas, and Utah. Imperial's applications clearly stated that Imperial would be offering a Health Maintenance Organization (HMO) in each of the five states identified. Once approved for each service area, Imperial submitted bids, benefit packages, and required materials, including the Evidence of Coverage and Provider Directories, identifying the products being offered as HMOs.

In March 2021, the Arizona Department of Insurance (DOI) notified CMS that Imperial's license for the State of Arizona is a Preferred Provider Organization (PPO) license, not an HMO license. Because Imperial only has a PPO license, Arizona stated that Imperial is actually operating an HMO without a license.

After the Arizona finding, CMS contacted Nevada, New Mexico, Texas, and Utah to verify what type of license Imperial held in each state and whether that license permitted Imperial to operate an HMO. These four states all confirmed that Imperial's license or appointment permitted Imperial to operate a PPO and not an HMO. In multiple conversation with those states and your organization, Imperial represented that it is offering a PPO in each of these service areas. However, Imperial's Medicare Advantage applications and supporting documents requested approval as an HMO.

Since licensure is a state issue, CMS has communicated with the five states where Imperial operates to learn whether they were going to permit Imperial to continue operating in 2021 and whether they would permit Imperial to apply for the correct license. CMS understands that Arizona is only permitting Imperial to operate through December 31, 2021. In addition, Arizona's Department of Insurance and Financial Institutions has issued a consent order, dated, May 27, 2021, prohibiting Imperial from writing new business. The other four states are working individually with Imperial to determine whether each will permit Imperial to continue operating for 2021 but are requiring Imperial to apply for and receive the appropriate HMO license/appointment prior to offering products in 2022.

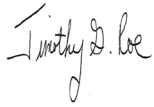
Because Imperial does not hold an HMO license/appointment in the above-mentioned states, Imperial has failed to meet CMS' requirements at 42 C.F.R. §422.400. For Imperial to continue operating in 2022, your organization must be appropriately licensed/appointed in each state in which your organization plans to offer products.

CMS requests that Imperial submit and implement a detailed CAP addressing how and when Imperial will have the appropriate license/appointment for Nevada, New Mexico, Texas, and Utah. This CAP should include a draft timeline for coming into compliance for each State. CMS is issuing this compliance notice pursuant to 42 C.F.R. § 422.510(c), which requires CMS to afford a plan at least 30 days to develop and implement a corrective action plan to correct deficiencies before taking steps to terminate a sponsor's Medicare contract. While CMS is not obligated to grant a greater than 30-day cure period, we acknowledge that an extended period may be appropriate, depending on the nature of the correction required. CMS advises that, for any part of its timeline scheduled to be completed in more than 30 days, Imperial provide a justification of the need for that additional time. CMS expects that the correction timeline will be no longer than absolutely necessary and will reflect an appropriate level of urgency in resolving this matter.

CMS has the authority to impose sanctions, penalties and other enforcement actions as described in Federal regulations at 42 CFR 422 Subpart O. Should your organization fail to develop, implement or complete its CAP, CMS may consider the imposition of intermediate sanctions (e.g., suspension of marketing and enrollment activities) or civil money penalties.

If you have any questions about this letter, please contact Kelli McDermott ([kelli.mcdermott@cms.hhs.gov](mailto:kelli.mcdermott@cms.hhs.gov)).

Sincerely,

A handwritten signature in black ink, appearing to read "Timothy G. Roe". The signature is written in a cursive, flowing style.

Timothy G. Roe  
Director, Division of Surveillance, Compliance, and Marketing

cc via email:

Devon King, CMS, San Francisco  
Christine Reinhard, CMS Baltimore  
Erica Sontag, CMS Baltimore  
Kelli Singleton, CMS Baltimore