



## LOUISIANA DEPARTMENT OF INSURANCE

JAMES J. DONELON  
COMMISSIONER

### **DIRECTIVE 177 (REVISED AND REISSUED)**

**TO: HEALTH INSURANCE ISSUERS AND HEALTH MAINTENANCE ORGANIZATIONS**

**FROM: JAMES J. DONELON, COMMISSIONER OF INSURANCE**

**RE: HEALTH INSURANCE ISSUER GUIDELINES FOR REPLACEMENT OF A HEALTH BENEFIT PLAN OF SIMILAR BENEFITS**

**DATE: SEPTEMBER 21, 2020**

Directive 177, originally issued on August 2, 2005, is being revised and reissued to update the cited statutory provisions and to remove reference to a specific Division of Administrative Law (DAL) ruling.

Acts 2008, No.415, § 1, effective January 1, 2009, redesignated the provisions of Title 22, formerly comprising La. R.S. 22:1 to 22:3311, into a new format and numbering scheme comprising La. R.S. 22:1 to 22:2371, without changing the substance of the provisions. Directive 177 is being amended to update the cited statutory provisions.

Additionally, Directive 177 referred to a specific 1996 ruling by an Administrative Law Judge bearing Docket Number 95-2019 in the DAL. The directive is being amended to remove reference to the specific DAL ruling while adopting the ruling's interpretation of La. R.S. 22:1006.

### **BACKGROUND**

Clarification is needed regarding the liabilities of health insurance issuers and health maintenance organizations (HMO) (collectively referred to as "issuers"), when a health benefit plan is being replaced by a health benefit plan of similar benefits pursuant to La. R.S.22:1006.

When a health benefit plan replaces one issuer with another, the date that the replacement coverage begins establishes when liabilities begin to accrue for the replacement health insurance issuer. However, the date that the prior issuer's policy or contract for coverage ended **does not** establish the end of all liability for benefits covered under the terminated policy or contract. An issuer whose policy or contract for coverage

is ending remains liable for payment of all covered medical services or losses that were accrued during the period of coverage and through the termination date of the hospital stay.

La. R.S. 22:1006(E)(1) states:

E. Whenever a contract of one carrier replaces a health benefit plan of similar benefits of another carrier:

- (1) The prior carrier shall remain liable only to the extent of its accrued liabilities. The position of the prior carrier shall be the same whether the group policyholder or other entity secures replacement coverage from a new carrier, or a self-insurer, or foregoes the provision of coverage.

Compliance with this statute requires a clear understanding of the term “accrued liabilities.” The following guidance outlines the Louisiana Department of Insurance’s (LDI) interpretation of the term “accrued liabilities” for enforcement of the statute.

### **THE ACCRUAL OF LIABILITIES**

The proper interpretation of La. R.S. 22:1006(E) is that when a patient who is covered under a health plan is admitted to a hospital, the liability of that health plan is accrued as of that time, and extends until [the] patient is discharged, whether or not the coverage by its term has expired.

The term “accrued” in the statute means to add to or to increase, to accumulate or have due after a certain period of time. The liability of the issuer begins to accrue when the insured is admitted to a hospital under the terms of the policy in effect at the time of admission. The liability accrues until the time that the insured is discharged. The hospital stay is one occurrence.

La. R.S. 22:1006(E)(1) consists of two sentences that should be read together. The second sentence enhances the word “accrued” in the first sentence and insures there is no gap in coverage of an insured that has incurred a claim while the coverage is in effect. The statute provides that the liability of the issuer accrues through the hospital stay that was commenced while the insured was covered under the policy or contract.

### **WHEN COVERAGE ENDS**

An issuer whose policy or contract of coverage is ending remains liable for payment of all covered medical services or losses that were accrued during the period of coverage and through the termination date of the hospital stay. This means that any approved hospital admission that commences prior to or on the last day of coverage is a liability of the issuer. This liability ends on the date of discharge from the hospital.

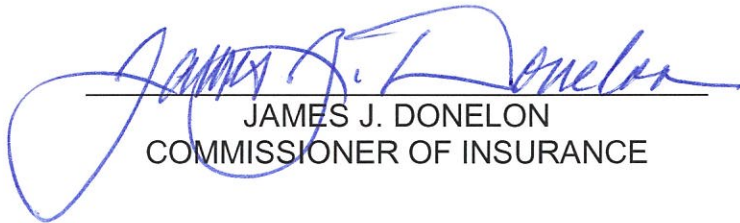
## **EFFECTIVE DATE**

The statutory requirements addressed in this directive are in effect. Entities or plans identifying risk arrangements that violate the requirements of Louisiana law should immediately amend or cancel such agreements to assure full compliance.

Please be governed accordingly.

If there are any questions regarding this Directive, please contact the Deputy Commissioner for the Office of Health, Life, and Annuity, electronically at [public@ldi.la.gov](mailto:public@ldi.la.gov).

Baton Rouge, Louisiana, this 21<sup>st</sup> day of September, 2020.



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COMMISSIONER OF INSURANCE