



**MEDICARE AND MEDICAID PROCEEDING DEFENSE COSTS ONLY REIMBURSEMENT
SUPPLEMENTARY BENEFIT ENDORSEMENT**

This endorsement modifies coverage provided under the:

**PROFESSIONAL LIABILITY COVERAGE PART
GENERAL TERMS AND CONDITIONS**

In consideration of the premium, the policy is amended as follows:

I. The **COI** is amended with the addition of the following:

\$25,000.00: Medicare and Medicaid Defense Costs Aggregate Limit

II. The following new Section is added to the Professional Liability Coverage Part:

Medicare and Medicaid Proceeding Defense Costs Only Reimbursement

We will reimburse **medicare and medicaid defense costs** incurred by an **insured** as a result of a **violation** to which this insurance applies, up to the **Medicare and Medicaid Defense Costs** Aggregate Limit of Insurance set forth on the **COI**, above, for all covered **medicare and medicaid defense costs** in the aggregate regardless of the number of **insureds**, the number of **medicare and medicaid proceedings** brought, **investigations** conducted, or **violations** cited in such **medicare and medicaid proceedings** or **investigations** provided that:

- A. the Centers for Medicare and Medicaid Services, Department of Health and Human Services (hereafter referred to as "CMS") or the Department's Office of the Inspector General (hereafter referred to as "OIG") notifies you in writing during the **policy period** of the commencement of the investigation or **medicare and medicaid proceeding**;
- B. prior to the effective date of the policy, none of you received notice of a **violation** or knew that the **violation** had occurred, in whole or in part. If you received notice of a **violation** or knew prior to the **policy period**, that the **violation** occurred, then any continuation, change or resumption of such **violation** during or after the **policy period** will be deemed to have been known prior to the **policy period** and notification of a **medicare and medicaid proceeding** or **investigation** arising out of such **violation** will not be covered under this endorsement;
- C. prior to the effective date of the policy, none of you had given notice to a prior insurer of any related **violation**; and
- D. such **medicare and medicaid proceeding** or **investigation** is reported to us in writing within sixty (60) days of your receipt of notice of such **medicare and medicaid proceeding** or **investigation**.

Any **medicare and medicaid defense costs** paid by us pursuant to this endorsement will be in addition to the Limits of Liability.

III. Solely with respect to this endorsement, Section IV, Exclusions Applicable to the Professional Liability Coverage Part, is amended with the addition of the following exclusions:

- **Criminal Acts**

Any **violation** which results in any criminal penalties or arises out of a criminal act committed by or at the direction of any insured.

- **Compliance Reviews or Audits**

Any compliance reviews, audits or inspections by CMS or OIG, whether or not requested by CMS or OIG.



- **Judicial Review**

Arising out of any appeal or judicial review by any court of a **violation**.

- **Retroactive Date**

Any **violation** with respect to **professional services** performed before the **retroactive date**. This exclusion does not apply if your professional liability coverage is on an occurrence basis.

IV. Solely with respect to the defense only coverage provided by this endorsement, the exclusion entitled Medicare or Medicaid set forth in Section IV, Exclusions Applicable to all Coverage Parts, of the General Terms and Conditions is deleted.

V. Solely with respect to this endorsement, Section III, Coverage Part Definitions, of the Professional Liability Coverage Part is amended with the addition of the following definitions:

- **Medicare and medicaid defense costs** means the reasonable and necessary expenses incurred by the **named insured** and consented to by us in connection with the defense of any **proceeding** or **investigation** including, but not limited to legal fees and other defense costs. **Medicare and medicaid defense costs** will not include:

- A. any amounts incurred with respect to any **violation** which results in any criminal penalties or arises out of a criminal act committed by or at the direction of any insured;
- B. any amounts incurred with respect to your defense against a criminal investigation, complaint or indictment;
- C. any fines or penalties, remuneration, salaries, wages, or overhead; or
- D. any **defense costs**, expense or supplementary payments, including attorney's fees which are covered pursuant to any other provision of this policy, including attorney's fees of defense counsel retained to defend any **claim** under this policy.

- **Investigation** means an investigation by CMS or OIG, pursuant to 42 CFR 402 and any amendments thereto of an actual or alleged **violation** by you.

- **Medicare and medicaid proceeding** means an action by CMS, Centers for Medicare and Medicaid Services, Department of Health and Human Services or OIG, Department's Office of the Inspector General ("OIG"), against you arising out of a **violation**, and seeking civil money penalties, assessments or exclusions pursuant to 42 CFR 402 and any amendments thereto.

- **Violation** means **your** actual or alleged failure to comply with the provisions of the Social Security Act specified in 42 CFR 402.1, as promulgated by CMS pursuant to the authority given to CMS under the Social Security Act in 42 U.S.C. 1302 and 42 U.S.C. 1295hh as may be amended from time to time.

All other terms and conditions of the Policy remain unchanged.

This endorsement, which forms a part of and is for attachment to the Policy issued by the designated Insurers, takes effect on the effective date of said Policy at the hour stated in said Policy, unless another effective date is shown below, and expires concurrently with said Policy.