

Dear Client,

You may be aware of the *Louis Peterson v. United HealthGroup* lawsuit that was decided by the Eighth Circuit Court of Appeals recently. That case involved how United HealthGroup conducted offsetting and cross-plan offsetting. As a result of this case, Anthem is updating its Administrative Services Agreements to improve the language in the provisions that address offsetting and cross-plan offsetting. Offsetting is defined as the practice of recovering overpayments made to a provider by withholding the overpaid amount from subsequent payments to be made to the same provider. Cross-plan offsetting is defined as the practice of recovering overpayments made to a provider for one member by withholding the overpaid amount from subsequent payments to be made to the same provider for another member covered by a different Anthem health plan.

The amendment below is made part of your Administrative Services Agreement and is effective immediately. The actual amendment to your Administrative Services Agreement, including the provisions below, will be provided at your renewal on or after October 1, 2019. If your agreement happens to include terms, provisions, or sections that differ from those below, the provisions below are still considered to be immediately incorporated into your agreement and any discrepancies will be addressed through the full amendment that will be provided at your renewal on or after October 1, 2019. As a courtesy to assist you in identifying the provisions that are changing, we have italicized the changes below.

1. The following provision replaces ARTICLE 2 – Administrative Services Provided by Anthem – provision 2(b) or other applicable provision or section in its entirety:
 - b. Anthem shall perform recovery services as provided in *Articles 4 and 13*.
2. The following provision is added as ARTICLE 4 – Claims Payment Method – provision 4(c) or other applicable provision or section:
 - c. *Client acknowledges and directs Anthem to utilize offsetting and cross-plan offsetting to recover overpaid Claims from Network Providers. Offsetting and cross-plan offsetting will be conducted only in cooperation with non-Network Providers who have expressly agreed to such procedures and have agreed that members will be held harmless. Offsetting is the practice of Anthem recovering overpayments made to a Network Provider by withholding overpaid amounts from subsequent payments to be made to the same Network Provider. Cross-plan offsetting is the practice of Anthem recovering overpayments made to a Network Provider for one member by withholding the overpaid amount from subsequent payments to be made to the same Network Provider for another member, who receives benefits under a different group health plan for which Anthem pays the Claims on behalf of a different employer.*
3. The following Article replaces ARTICLE 13 – Recovery Services – provision 13(b) or

other applicable provision or section in its entirety:

b. Anthem may become aware of additional recovery opportunities by means other than reviewing Paid Claims processed under this Agreement. Client grants Anthem the authority and discretion in those instances to do the following: (1) determine and take steps reasonably necessary and cost-effective to effect recovery, *such as adjusting Claims by offsetting or cross-plan offsetting as described in Article 4(c)*; (2) select and retain outside counsel; (3) reduce any recovery obtained on behalf of the Plan by its proportionate share of the outside counsel fees and costs incurred during litigation or settlement activities to obtain such recovery; and (4) negotiate and effect any settlement of the Client's and Plan's rights by, among other things, executing a release waiving the Client's and Plan's rights to take any action inconsistent with the settlement.

If you have any questions, please contact your Anthem Representative.