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Illinois Director of Insurance Restricts Offshoring of Utilization Review Functions and Third Party Administrators

On January 18, 2013, the Illinois Director of Insurance issued *Company Bulletin #2013-01, Offshoring*, to insurers, registered utilization review organizations and licensed third party administrators conducting business affecting Illinois insureds. The Bulletin provides notice that the Illinois Department of Insurance will not permit the offshoring of either third party administration or utilization review functions. The Bulletin supersedes previous *Bulletin #2012-12, Offshoring*, dated December 20, 2012. Insurers utilizing the services of TPAs or UROs and independent entities providing TPA or URO services are subject to certain examinations prescribed by Illinois law which require that the Department have convenient and free access to the offices of such companies to all books, records, documents and papers relating to the business, performance and affairs of the companies. The Department's position is that maintaining these records in foreign locations denies the Department the convenient and free access required by Illinois law. According to the Bulletin, maintaining these records on domestic servers does not satisfy this requirement, since the Department would be unable to conduct onsite observance and interview those generating the records.

The Bulletin has the potential to affect existing and future offshoring arrangements, and to disrupt portions of the operations of insurers subject to the Department's jurisdiction. The Bulletin also has the potential to disrupt the arrangements of other registered or licensed entities providing TPA and URO services relating to Illinois insureds.

Sutherland has advised clients subject to similar state offshoring restrictions with regard to defining, distinguishing and differentiating the core functions subject to state offshoring restrictions from the non-core, incidental and ancillary supporting functions in order to preserve the ability of our clients to continue leveraging labor arbitrage and other advantages available through the offshore performance of such non-core functions.



If you have any questions about this Legal Alert, please feel free to contact any of the attorneys listed below or the Sutherland attorney with whom you regularly work.

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