

# Illinois insurance co-op sues feds over health law payments

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A struggling Illinois health insurance co-op is suing the federal government, claiming it is being shortchanged \$72.8 million in promised payments under the Affordable Care Act.

Chicago-based Land of Lincoln Health filed the lawsuit Thursday in the U.S. Court of Federal Claims in Washington, D.C. At least four other [insurers](#) have filed similar claims over the so-called risk corridor payments, a temporary provision of the [health](#) care law meant to help unprofitable insurers and stabilize consumer prices during the first three years of the law's new insurance exchanges.

Land of Lincoln's balance sheet has been deteriorating rapidly. The 3-year-old startup lost \$90 million in 2015 and \$7 million in the first quarter of 2016.

As it fights to remain solvent, Land of Lincoln also announced Thursday it will withdraw from the group market for 2017 and is now informing more than 800 employers with contracts. Land of Lincoln will fulfill its obligations for 2016, but will not renew group policies, said company President and interim CEO Jason Montrie.

It intends to stay in the individual market, where it covers about 42,000 Illinois residents, Montrie said.

U.S. Health and Human Services spokesman Aaron Albright declined to comment on pending litigation.

The risk corridor program was designed to make the new market more predictable.

Under President Barack Obama's health law, insurers could no longer deny coverage to people with pre-existing medical problems and nobody knew how sick the newly insured would be. Insurers would share risk, paying into the program if they made more profit than anticipated, getting payments if they lost more than expected.

Congress stopped the Obama administration from funding the program beyond what insurers paid into it, with Sen. Marco Rubio of Florida and other Republicans calling the payments "massive bailouts."

In October, the government announced it would pay less than 13 cents on the dollar of the \$2.87 billion requested by insurers to cover losses. That meant Land of Lincoln received \$550,000 instead of \$4.5 million for 2014. Land of Lincoln said it will be owed nearly \$69 million for 2015.

Small insurers "absolutely depended on the risk corridor," said John Morrison, founder and past president of the National Alliance of State Health Co-ops, and a co-founder of Montana Health Co-op.

"By reneging on the risk corridor, not only did the government breach its contractual agreements and promises, but it also dramatically undermined the very purposes" of the health law—to bring more competition and choice to consumers, Morrison said.

Land of Lincoln is one of the Affordable Care Act's surviving nonprofit health insurance co-ops, funded by low-interest federal loans and meant to compete with traditional insurance companies.

Nationwide, 13 of the original 23 co-ops have closed. Eight closed in the immediate weeks after it was announced that risk corridors would be

funded at only 12.6 percent.

"It was absolutely a leading factor in those closures," said Kelly Crowe, CEO of the National Alliance of State Health Co-ops.

The federal Justice Fund, which pays the government's court judgments and settlements, is "an appropriate place" for the payments to come from, Crowe said.

At least four other insurance companies have filed similar lawsuits. They are Health Republic Insurance Company of Oregon, Pittsburgh-based Highmark Inc., Blue Cross and Blue Shield of North Carolina and Oregon-based Moda Health.

Going to court is "the right thing to do to protect our company and our members," Montrie said. "We believe in the merits of the case."

Land of Lincoln is currently meeting Illinois requirements for solvency, he said. It has failed to attract private investors, Montrie said, because federal regulations make it impossible for investors to reap any return.

The Illinois Department of Insurance "closely monitors the solvency of insurers operating within Illinois on an on-going basis," said department spokeswoman Anjali Julka in an emailed response to questions about Land of Lincoln's financial health.

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