


Dealing with Slow-Paying Clients

At some point, nearly every agency has had to deal with a customer who failed to pay his/her premiums on time. For some policyholders, this is a recurring problem that eventually causes insurance carriers to cancel their policies in midterm. When it's a direct bill policy, the agent can feel caught in the middle. While it's the carrier's duty to notify the insured of the cancellation, many agents believe they should follow up and make sure the insured is aware of the cancellation. While doing so may seem like good customer service, it also creates a potential errors and omissions situation.

Generally, each state has very specific requirements on when and how a carrier may cancel a policy for failure to pay premium. Typically, this includes providing written notice to the policyholder and a certain amount of time for the policyholder to pay the unpaid premium to prevent cancellation. Often, the carrier will provide the agent with a copy of the cancellation notice. Upon receipt of a cancellation notice, many agents contact the policyholder to verify they are aware of it. Other times, the agent might contact the customer to notify them that their premium is overdue even before the cancellation notice arrives. Agents do this because of a personal relationship with their customer; others may be trying to keep a commission or an account. Many agents simply believe they have a duty to look out for their insured and do everything they can to make sure the policy remains in force.

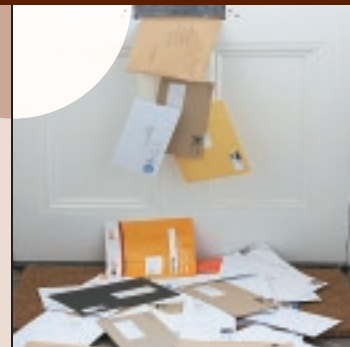
However, agents generally aren't required to contact their customers to make sure they are aware of a cancellation on a direct bill policy. In fact, by doing so, the agent may be creating a duty that didn't exist before. Every state has its own rules and regulations governing insurance agents and their responsibilities to customers, and each agent should be aware of the law in his or her state.

The best practice for agents who wish to serve their customers but not create duties for themselves is to inform customers written on a direct bill basis that payments must be received by the carrier by the due date or they risk cancellation of their policy. Agencies should not make a practice of accepting those payments, but should advise their customers to pay the carriers directly. The carrier's bills likely contain language to that effect, but the agent can also make this clear at the outset.

If an agency has already established a pattern and practice of providing this reminder notice, it should immediately take steps to change it. The agency should send a letter (preferably approved by its corporate counsel) to each customer advising that, despite past procedures, they will no longer be providing any reminder notices on direct bill policies. As with so many other potential E&O situations, it is ultimately important for agents to establish written procedures for handling cancellation notices on direct bill policies and to follow them consistently. 

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Who's Reading the Mail?

Generally, a policyholder is expected to read his or her mail. When an agent sends a notice or calls with a reminder, he's taking on a duty that he did not otherwise have. If that call or letter doesn't come after a cancellation notice—whether due to a change in personnel, change in procedures or even simply something slipping through the cracks—the policyholder may end up ignoring the cancellation notice and the policy will be cancelled. While an argument can be made that the insured still had a duty to read the mail from the carrier, the policyholder will argue that he or she relied on the agent's pattern and practice of reminders to pay. What's more, despite what an agency might think, if it is providing this "service" to any of its customers, it has probably established a precedent that it must provide the notice to all of its customers.

—J.N.