



Edmund G. Brown Jr., Governor
 State of California
 Health and Human Services Agency

Department of Managed Health Care
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April 6, 2016

SENT VIA FACSIMILE ONLY TO: (916) 447-0911

Mr. Terry German
 Blue Cross of California
 1121 L Street, Suite 500
 Sacramento, CA 95814

RE: ENFORCEMENT MATTER NUMBERS: 14-229 plus 39 additional matters.

LETTER OF AGREEMENT

Dear Mr. German:

The Office of Enforcement within the Department of Managed Health Care (the Department) has concluded its investigation of Blue Cross of California (the Plan) concerning the above matter. This investigation concerned the Plan's violations of the Knox-Keene Health Care Service Plan Act of 1975 (Knox-Keene Act) and regulations promulgated thereunder.

A summary of the violations and penalty assessed for each matter is contained in Appendix A attached hereto. The table below represents the grievance system violations cited in these matters.

Section	Violation	Count
Section ¹ 1367.01(h)(4)	Failure to clearly explain basis for denial in treatment denial letter.	1
Section 1368(a) and Rule 1300.68	Failure to adequately consider and rectify the enrollee's grievance.	15
Section 1368(a)(5)	Failure to describe the clinical reasons for the plan's medical necessity determination.	5
Section 1368(a)(4)(A) and Rule 1300.68(d)(1)	Failure to timely provide written acknowledgment of a grievance and failure to include date of receipt of the Enrollee's grievance in the Plan's grievance acknowledgment letter.	19
Section 1368.01(a) and Rule 1300.68(d)(3)	Failure to resolve grievance in 30 days.	20
Section 1368.01(b) and Rule 1300.68.01(a)	Failure to expedite grievance.	1

¹ All references to "Section" are to the Health and Safety Code unless otherwise indicated. All references to "Rule" are to Title 28 of the California Code of Regulations unless otherwise indicated.

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Rule/Section	Description	Violations
Rule 1300.68(g)	Failure to provide initial response to the Department within 5 days.	4
Rule 1300.68(g)(1-5)	Failure to provide all required information in response to the Department.	6
Rule 1300.68(g)(6)	Failure to timely respond to Department request for information.	8
Rule 1300.68(h)	Failure to expedite plan response pursuant to the Department's instructions in an early review case.	4

The nature of the Plan's violations fall into two grievance system categories: (1) failure to identify, timely process and resolve grievances at Plan level (61 violations); and, (2) after Department involvement, the Plan's failure to fully and timely provide information to the Department (22 violations). Each violation caused a delay in resolving the enrollees' grievances and therefore deprived the enrollees of significant consumer protections.

The Plan is obligated to maintain a compliant, reliable and accurate grievance and appeal system. This includes procedural protections that notify an enrollee when a grievance is received and has been identified as such, that the grievance is timely and thoroughly considered, the plan's decision is comprehensible and fairly communicated and the plan fully and timely responds to the Department's requests for information. The Plan failed to do so in these matters.

The Plan has acknowledged its failure to comply with the Knox-Keene Act and Title 28 of the California Code of Regulations in these enforcement matters. The Department determined that a Corrective Action Plan (CAP) and an administrative penalty of \$415,000 are warranted. The Department has accepted the CAP proposed by the Plan.

The Department recognizes the Plan implemented a CAP initiated in November 2014 as a result of the findings of deficiencies by the Division of Plan Surveys after a 2013 routine survey in an effort to ensure compliance with timely resolution of grievances and appeals as follows:

- Grievances and Appeals ("G&A") analysts received training on the regulated time frames for timely resolution of appeals and grievances in compliance with existing policies and procedures.
- The G&A tracking system, MAGI (Management of Appeals and Grievances Information), assists with the monitoring of case turnaround times. MAGI was implemented in November 2014 and on-going training is provided to the team as updates are released. Education is provided to the G&A team through:

MAGI Alerts - email communication to the team

MAGI's Corner - a standing agenda item at the monthly Quality Circles

MAGI 411" (sic) - a monthly workgroup

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- Continuous quality improvement opportunities, regulatory updates and case handling trends are explored with the team at monthly Quality Circle discussions. The discussions are scheduled for the first Tuesday of each month.

To resolve the matters identified in this action, the Department accepts utilization of the above CAP criteria. In addition, the Department requires the Plan to provide the following no later than July 5, 2016: (1) a status report that provides a detailed analysis of whether the implementation of the CAP outlined above resulted in an improvement of the Plan's grievance system; (2) an explanation of how the above CAP impacts expedited grievances; and, (3) an analysis of each of the cases at issue here and identify whether or not the above CAP would have prevented these grievance violations from occurring, had it been in place at the time.

The Department agrees that performance of the CAP to the Department's satisfaction and payment of the penalty will settle all issues, accusations, and claims pertaining to this enforcement matter. This Letter of Agreement may not be used as an admission by the Plan in any other civil or criminal proceedings; however, it may be used by the Department in future administrative proceedings.

Sincerely,

Dated: May 3, 2016

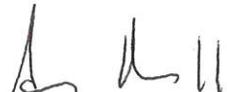


Carol L. Ventura
Deputy Director | Chief Counsel
Office of Enforcement

LMK:lmk

Accepted by Blue Cross of California

Dated: April 7, 2016



Ferry German Andrew Russell
Associate General Counsel, Senior
Blue Cross of California

