

Another Victory Over Managed Care

HEALTH NET OF NEW JERSEY SHELLS OUT \$41 MILLION FOR UNDERPAYING MEMBER CLAIMS FOR ALMOST A DECADE.

Peter W. Crownfield

Following a 21-month investigation, the New Jersey Department of Banking and Insurance (DOBI) has ordered Health Net of New Jersey to pay \$26 million in restitution and interest to 88,000 plan members whose claims for chiropractic and other health care services were underpaid for nearly 10 years. Including interest, a hefty fine and other fees, the managed care organization agreed to pay \$41 million for its improper billing practices. "Health Net waived its right to a hearing and has agreed to resolve the matter with the payment of \$14 million in unpaid claims, \$12 million in interest on those claims, \$2 million in examination fees and a record \$13 million fine, for a total of \$41 million," asserted a press release posted Aug. 26, 2008 on the DOBI Web site.

"You can imagine what a great victory this is for patients and doctors throughout New Jersey, who have been cheated for many years by Health Net" said Dr. Steven Clarke, president of the Association of New Jersey Chiropractors, in a statement provided to *DC*. "Our members have continually complained of the unfair practices companies like Health Net and others use to delay or deny payment. This action is going to serve notice to every other carrier who plays games with the health and welfare of patients throughout our state and throughout the entire country that this will not be tolerated."

A 2002 complaint by a Health Net member spurred a DOBI investigation into the managed care organization's reimbursement practices. The member alleged that his prior carrier had paid \$125 for an out-of-network service, while Health Net paid only \$77 for the identical service. That complaint to the DOBI and the department's subsequent investigation ultimately led to an \$800,000 settlement benefiting 4,700 Health Net members who had been underpaid. At the time of the settlement, Health Net claimed the underpayments had only occurred between July 2001 and October 2002.

However, in late 2005, upon learning that Health Net had underpaid providers well before July 2001, the DOBI initiated a second investigation. That investigation, which concluded in May of this year, determined that Health Net and its predecessors (First Option Health Plan of New Jersey and Physicians Health Services of New Jersey) had underpaid out-of-network medical claims as early as 1996 and out-of-network chiropractic, dental and mental health claims dating back to 1999.

"Health Net dramatically underpaid claims to New Jerseyans to reimburse them for out-of-network health care services," said Steven Goldman, DOBI Commissioner. "I'm pleased that we were able to obtain the return of this money to Health Net's New Jersey members, together with interest, since this is what Health Net promised to pay but had not. The fine represents an appropriate penalty for this improper business practice."

Consent Order No. E08-71, which accompanies the official DOBI press announcement, reveals that a whopping \$2.5 million in chiropractic claims were underpaid from 1999-2006. Including interest, total repayment for chiropractic claims totaled \$4,762,742. According to Goldman, Health Net has already issued restitution and interest payments to all affected plan members.

Health Net, Inc., provides health care benefits to an estimated 6.6 million individuals nationwide. Headquartered in Woodland Hills, Calif., the company offers coverage in all 50 states and the District of Columbia. New Jersey subscribers are not the only plan members to receive less-than-adequate treatment from Health Net. In fact, just a few weeks after the New Jersey DOBI rendered its decision, Health Net and the California Department of Insurance reached an agreement whereby the insurer would pay nearly \$18 million in restitution and penalties. In this case, Health Net allegedly cancelled the policies of 926 subscribers after they became ill.

While not admitting any wrongdoing, Health Net did agree to pay \$3.6 million in penalties and approximately \$14 million for reasonable, medically necessary health care services that would have been covered and paid for if the policies had been in effect. The company also agreed to reinstate coverage for the 926 policyholders whose coverage was cancelled.

In the past year, Health Net has been under fire in California for inappropriate practices. Perhaps the most glaring example is a \$9.4 million judgment awarded to a Gardena, Calif., woman in February. According to a *Los Angeles Times* article, Health Net dropped her coverage while she was receiving chemotherapy for breast cancer. And Health Net was fined \$1 million in November 2007 for "misleading state investigators about bonuses paid to employees based, in part, on how many policyholders were dropped."

Resources

1. "DOBI Issues Record \$41 Million Fine and Restitution Order to Health Net." State of New Jersey Department of Banking and Insurance, Aug. 26, 2008.
2. "HMO Agrees to Pay \$41 Million for Shortchanging Customers." *The Star-Ledger*, Aug. 26, 2008.
3. "Health Net to Reinstate 926 Dropped Policyholders in California." *Los Angeles Times*, Sept. 12, 2008.

OCTOBER 2008