

Blue Cross of California Fined \$1 Million

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The Department of Managed Health Care (DMHC) has fined Blue Cross of California \$1 million for routinely rescinding health insurance policies after patients had submitted claims. The large fine is the result of complaints to the DMHC's Consumer Help Center.

The DMHC, not a part of the Department of Insurance, governs HMO plans in California, including ASHP and ACN. This state regulatory agency received complaints from consumers in 2006 and conducted a "non-routine medical survey" of Blue Cross of California from May 15 to July 7, 2006. The survey proved that Blue Cross violated section 1389.3 of the state's Health and Safety Code, commonly referred to as the Knox-Keene Act.

Blue Cross routinely sold policies to citizens and then canceled them if the policy-holder submitted claims on the policy. Blue Cross is required to read the application and investigate anything on it before issuing the policy. The DMHC has emphatically told the HMOs in California they cannot cancel policies after such policies have been issued unless the applicant "willfully" lied on the application.

The DMHC had the power, based on these consumer complaints, to interview Blue Cross management, staff and attorneys to review the insurer's internal policies, procedures, underwriting guidelines and computer programs; and to do a detailed review of 90 randomly chosen case files of enrollees whose coverage was rescinded based on an assertion by Blue Cross that the enrollee provided false, misleading or incomplete information on the application and associated materials. It turned out that in 39 of the 90 cases, Blue Cross had failed to properly underwrite the policies, and in all 90 cases, Blue Cross failed to prove the applicant had willfully misrepresented their medical history before their policy was cancelled.

Doctors in California should be pleased to learn there is a state agency with some teeth that will investigate consumer complaints and enforce the law. The DMHC has a Web site where consumers can file complaints: www.dmhc.ca.gov.

Doctors can file complaints at the same Web site and get assistance to "help resolve claims submitted to health plans." On the site, doctors also can help a patient submit a request for an independent medical review (IMR), which is an external review of decisions made by health plans. Finally, there is a way to get a truly "independent" review of the claims denied by those plans we deal with so often.

Chiropractors can look up groups like ACN and ASHP on the DMHC site and access a wealth of public information, such as the fact that Stephen Castro is the president and CEO of ACN of California, and that his e-mail address is scastro@acngroup.com; or the chief operating officer for ASHP is Robert White (robertw@ashn.com).

Doctors also can access copies of the state laws that govern the HMO plans, in order to compare the actions of these groups with the law they are supposed to be following. If a doctor finds a state law

that is being violated by Blue Cross, ACN or ASHP, the doctor can file their own complaint to the DMHC. The track record of this agency might give encouragement to doctors of California who have been beaten down and subjected to the whims of whatever these organizations have wanted to do to us. Finally, the power to fight back is in our hands by filing complaints to the DMHC.

Complaints resulted in a DMHC fine to Blue Cross for \$200,000 in September 2006, and a fine to Kaiser Foundation Health Plan for \$325,000. Kaiser has agreed to clean up its act and stop violating the law. Blue Cross has not agreed to clean up its act and is fighting the fines.

The California DMHC is the only stand-alone HMO watchdog agency in the nation and governs more than 21 million California citizens who have HMO plans. It has assisted more than 633,000 Californians through its 24-hour Consumer Help Center.

I learned in law school that the best way for chiropractors to fight back against these behemoth HMOs is to know the law, use the law and make sure it is enforced. You can find copies of the laws governing ASHP and ACN on the DMHC Web site.

MAY 2007