

As authorized by Health and Safety Code §1382(d), Kaiser Foundation Health Plan (Plan) herewith submits a response to be appended to the Department's Final Report of the Non-Routine Medical Survey (Emergency Transport) issued to the Plan on January 20, 2012.

In the Report's Executive Summary the Department "noted an emerging trend in which the Plan routinely denied enrollees reimbursement for non-scheduled ambulance transport services." [In this Response, these services will be referred to as "911 calls."]

This statement mischaracterizes the Plan's practice and the Plan takes strong exception to it. If the Plan does anything routinely with regard to 911 call claims, it is to pay them. As was demonstrated to the Department in documentation submitted before the Survey, regarding the period generally contemporaneous with the Survey, of 159,415 ambulance claims processed in the 13-month period through July 2010 only 392 -- 0.2% -- were denied for lack of medical necessity, i.e., because they did not meet the Prudent Layperson standard. The Plan also notes that all 12 ambulance cases that were reviewed by the Department's Independent Medical Review entity in the 3 years preceding the Survey resulted in the Plan's denial decision being upheld in those cases.

In preparation for the Survey, the Plan was requested to assemble, in addition to denied claims, files for 92 approved claims. To the Plan's knowledge, these approved-claim files were not reviewed by the surveyors. Had they been reviewed, the files would have substantiated the Plan's position that claims were appropriately paid based on the Prudent Layperson standard.

In the Significant Findings section of the Report, the Department makes the Statement on page 5 that the Plan's ambulance "denials relied solely on review of medical records focusing on the discharge diagnosis." This inaccurately reflects the Plan's demonstration to the Department during the Survey. The Plan reviews the ambulance record, the entirety of the ER record and any subjective member statement contained in the ambulance run report and/or in the ER record along with the discharge diagnosis.

The Department goes on to state in that section that "[i]f an actual emergency condition was not documented, reimbursement was denied." This also is not accurate. Ambulance transport has been reimbursed even when an actual emergency did not exist if a prudent layperson would have thought that an emergency existed and that the services of an ambulance were required.

The Department states that the Plan is "operating at variance with its" Evidence of Coverage (EOC). Although the Plan does not agree that it has operated at variance with its EOC, it did submit, for Department approval, revised EOC language which literally tracked the statutory language and which was intended to align the EOC language with Health and Safety Code §1371.5. The Plan submitted its proposed revision on June 27, 2011. To date, the Department has not approved this revised language.

Thus, although the Plan acknowledges that there may have been deficiencies in the processing of certain specific 911 claims, on the whole the Plan approves the overwhelming majority of these claims and has, as the Department concedes, taken "substantial steps to revise policies and implement changes consistent with the statute".