



Arnold Schwarzenegger, Governor
State of California
Business, Transportation and Housing Agency
MANAGED HEALTH CARE
ACCOUNTING OFFICE

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February 3, 2005

Marlene S. Ma, Esq.
Kaiser Foundation Health Plan, Inc.
One Kaiser Plaza, 21st Floor
Oakland, CA 94612

**RE: DMHC Complaint No. 187521
Enforcement Matter Number 04-360**

LETTER OF AGREEMENT

The Department of Managed Health Care (hereinafter “the Department”) has concluded its investigation of Kaiser Foundation Health Plan, Inc. (hereinafter “Kaiser” or the “Plan”) in the above referenced matter. The focus of the investigation was the Plan’s failure to comply with Health and Safety Code section 1368, subdivision (a), subpart (5). This section requires a Plan to provide a clear and concise explanation of the reasons for the Plan’s response. This explanation is for either “medical necessity” or “coverage” issues. The Plan failed to provide the requisite explanation in notifying the enrollee that the health care services requested were not a covered benefit.

In this matter, the enrollee requested an out-of-network referral to a hepatobiliary specialist. The only reason for the Plan’s denial was that the requested health care services were available with Kaiser ~~Permanent~~ ^{Foundation} Health Plan (within the network).

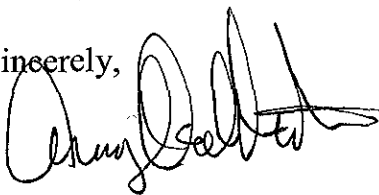
Kaiser denied the enrollee’s request without clearly explaining the terms of the contract. Under the law, the Plan must indicate the provision of the contract that prohibits the enrollee from going out-of-network for specific health care services (Health & Saf. Code, § 1368(a)(5)). There was no evidence that the Plan, in its denial letter to the enrollee, explained the terms of the contract denying the enrollee the opportunity to seek out-of-network health care services.

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Since the Plan was found to have previously violated section 1368, subdivision (a)(5), on four separate occasions, and accumulated an administrative penalty of \$2,500.00 per incident, the Department will assess a penalty of \$5,000.00 for this violation.

The Department, pursuant to its authority under Health and Safety Code section 1386, subdivisions (a) and (b)(6), has assessed an administrative penalty against Kaiser in the amount of \$5,000.00 for the violation in Enforcement Matter No. 04-360, payable to the Department of Managed Health Care. Kaiser has agreed to pay the assessed penalty to the Department.

Sincerely,




Amy L. Dobberteen
Assistant Deputy Director
Office of Enforcement

JGT/kts

Assessed Penalty Accepted by Kaiser Foundation Health Plan, Inc.

DATE: 2.25.2005



Marlene S. Ma, Counsel
Kaiser Foundation Health Plan, Inc.