Arnold Schwarzenegger, Governor
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Business, Transportation and Housing Agency

Department of Managed Health Care
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April 2, 2007

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LEGAL DIVISION

SENT VIA FAX (510) 627-2592 AND U.S. MAIL

Marlene Ma, Esq.
Kaiser Foundation Health Plan, Inc.
2101 Webster Street, 8th Floor
Oakland, CA 94614

RE: Enforcement Matter Number 05-326

LETTER OF AGREEMENT

The Department of Managed Health Care ("Department") has concluded its investigation of Kaiser Foundation Health Plan, Inc. (the "Plan") in the above referenced matter. The focus of the Department's investigation was the Plan's failure to consistently and appropriately pay for out-of-network emergency services provided to its members in situations wherein members reasonably believed that a medical emergency existed (Health and Safety Code section 1371.4); for its failure to act promptly and reasonably to adequately investigate and resolve member grievances (Health and Safety Code section 1368); and for its failure to operate in compliance with its basic organizational documents (Health and Safety Code section 1386(b)(1).

Since 2002, the Department's Help Center has received numerous complaints from the Plan's members regarding its failure to pay claims for out-of-network emergency services obtained in situations in which the members reasonably believed that a medical emergency existed. The complaints revealed that the Plan denies out-of-network emergency claims, forcing the member to appeal the denial and justify the reasonableness of their decision to seek out-of-network emergency services. As a result of these complaints, the Department's Division of Plan Surveys conducted a non-routine medical survey of the Plan, issuing its Final Report on April 28, 2006. A Follow Up survey was conducted and a report issued on February 8, 2007. As a result of these surveys, the Department determined that sufficient evidence existed to warrant enforcement action.

Pursuant to the Department's authority under California Health and Safety Code section 1386, the Department assessed an administrative penalty against the Plan in the amount of $500,000 as a result of the Plan's violation of Health and Safety Code sections 1371.4, 1368, and 1386(b)(1) in this matter. The Plan was provided the opportunity to furnish any mitigating circumstances related to the violations. In a letter dated October 2, 2006, the Plan outlined the number of enhancements that it had undertaken to improve its process for reviewing out-of-area emergency room claims since the December 2005 survey. As a result, the Department has determined that it will suspend $250,000 of the $500,000 penalty amount, contingent upon the Plan creating and implementing a Corrective Action Plan based on certain specified standards and conditions. The Corrective Action Plan must be approved by the Department by May 1, 2007. The Plan must reach full compliance with these conditions by December 31, 2007. At that time, it can petition the Department for a waiver of the suspended penalty amount of $250,000. Should the Plan fail to meet the stated goals, the Department may reinstate the suspended penalty amount, in whole or in part, at its discretion. The Plan has agreed to pay the remaining penalty amount of $250,000.

Cordially,

Amy L. Dobberteen
Assistant Deputy Director
Office of Enforcement

DLD:mrr

Accepted by Kaiser Foundation Health Plan, Inc.

Date: 5-3-07

Lisa Bachers Kolton for Maria Borje Bonkowski

Maria Borje-Bonkowski
Director, HP Licensing/Submissions
Kaiser Foundation Health Plan, Inc.