

In re: Anthem Health Plans of Maine, Inc.)
Docket No. INS 05-205) CONSENT AGREEMENT
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This document is a Consent Agreement authorized by 10 M.R.S.A. § 8003(5)(B) and entered into by and among Anthem Health Plans of Maine, Inc. d/b/a Anthem Blue Cross and Blue Shield ("Anthem"), the Superintendent of the Maine Bureau of Insurance ("the Superintendent"), and the Maine Office of the Attorney General ("the Attorney General"). Its purpose is to resolve, without resort to an adjudicatory proceeding, Anthem's failure to comply with a lawful order of the Superintendent.

FACTS

1. The Superintendent is the State official charged with administering and enforcing Maine's insurance laws and regulations.
2. The Attorney General is the chief law enforcement officer of the State of Maine.
3. Together, Anthem and its predecessor have been a Maine insurer licensed to sell health insurance since 1938, and Anthem presently holds License # LHD 70566.

Mixed-Aged Contracts

4. In August 2002, Anthem filed for approval of proposed revised rates for, among others, individual HealthChoice products, and the Superintendent initiated a proceeding to consider that filing, Docket No. INS-02-785. In a November 8, 2002 Decision and Order regarding Anthem's filing, the Superintendent changed the way rates are determined for contracts covering two adults (with or without children). The new method bases rates on the age of the primary policyholder only. Previously, the rates reflected the ages of both adults. Therefore, while it had previously made little difference which spouse was designated as primary insured, it is now advantageous for policyholders to designate the younger spouse as the primary insured. In order to make policyholders aware of this, the Superintendent provided, at Part V, ¶ 3 of his November 2002 Decision and Order:

Anthem...shall take vigilant measures to ensure that affected policyholders under mixed-age contracts are aware of their opportunity to make the younger spouse the policyholder by means of initial direct mail notification, follow-up direct mail notification where a policyholder is non-responsive to the initial mailing, and a single telephone notification if a policyholder continues to be non-responsive. This requirement applies both to those policyholders initially affected by the change and to those who are affected in the future as the older spouse reaches an older age band. Anthem... also shall take similarly vigilant measures to ensure that those applying for family coverage are aware of the savings available by making the younger spouse the policyholder.

5. In September 2004, Anthem again filed for approval of proposed revised rates for individual HealthChoice products, and the Superintendent initiated a proceeding to consider that filing,

Docket No, INS-04-610. In the course of that proceeding, Anthem's response to a Bureau of Insurance discovery request revealed that it had failed to follow the notice procedures required by Part V, ¶ 3 of the November 8, 2002 Decision and Order in Docket No.INS-02-785. Anthem offered time constraints as a reason for some of its failure to comply. However, Anthem had never sought relief from the Superintendent's November 2002 Decision and Order nor provided the Superintendent notice of its noncompliance with that Decision and Order.

Supplemental Accident and Preventive Care Riders

6. Anthem's Supplemental Accident and Preventive Care Rider waives the deductible for claims relating to accidents or preventive care. The Superintendent's November 8, 2002 Decision and Order, at Part V, ¶ 4, provided, "Anthem...shall include in all future rate filings experience data for the Supplemental Accident & Preventive Care Rider." Prior to the 2002 Decision and Order, Anthem had applied the same percentage increase to the Rider's rate as the average increase applied to the base policy

7. In its September 2004 rate filing, Anthem did not comply with Part V, ¶ 4 of the Superintendent's November 8, 2002 Decision and Order. Instead, it provided total claim costs for professional services divided between policies with the Rider and those without it. In response to a discovery request, Anthem asserted that it is difficult, if not impossible, to segregate experience so as to identify claims paid pursuant to the Rider. Anthem explained that it is not apparent whether a claim payment was due to the Rider or a result of the deductible having been met. However, Anthem had never sought relief from the Superintendent's November 2002 Decision and Order nor provided the Superintendent notice of its noncompliance with that Decision and Order.

CONCLUSIONS OF LAW

8. Anthem failed to comply with the requirements of Part V, ¶¶ 3 and 4 of the Superintendent's November 8, 2002 Decision and Order, Docket No.INS-02-785, as explained more fully in paragraphs 4 through 7 above.

In mitigation, on February 1, 2005, Anthem provided the Superintendent with a letter describing steps taken to that date to comply fully with the Superintendent's Order regarding mixed age contracts. Anthem stated that in response to written notices 185 subscribers changed to the younger spouse during 2004. Anthem stated that in January 2005 follow-up telephone calls were made offering the "subscriber-flip" retroactively to January 1, 2004 with a premium refund, and that 21 subscribers requested to change to the younger spouse. Anthem stated that in response to written notices 148 additional subscribers have changed to the younger spouse during 2005. Anthem further stated that:

Each November, Anthem BCBS will run a system query to identify all HMO Maine and HealthChoice subscribers whose premium would be lower if the younger spouse became the subscriber. Each identified subscriber will receive a written notification advising them of the opportunity to lower their premium if they 'flip' the current subscriber and spouse. In December, follow-up telephone calls will be made to those subscribers not responding to the written notice.

COVENANTS

9. A formal hearing in this matter is waived.

10. No later than May 16, 2005, Anthem shall pay a civil penalty of Five Thousand Dollars (\$5,000), for failing to comply with Part V, ¶¶ 3 and 4 of the Superintendent’s November 8, 2002 Decision and Order, Docket No. INS-02-785.

11. This Consent Agreement constitutes licensing disciplinary action, and the Superintendent shall report it to the NAIC RIRS database.

12. This Consent Agreement may be modified only by the written consent of the parties hereto.

13. Nothing in this Consent shall be construed to affect any right or interest of any person not a party hereto. In particular, this Consent Agreement does not affect the rights of any consumer not a party to hereto.

14. This Consent Agreement is a public record within the meaning of 1 M.R.S.A. § 402 and will be available for public inspection and copying as provided for by 1 M.R.S.A. § 408.

15. Anthem has been advised of its right to consult with counsel and has, in fact, consulted with counsel before executing this Consent Agreement.

16. Nothing shall prohibit the Superintendent or the Attorney General from seeking an order to enforce this Consent Agreement or from seeking additional sanctions, in the event that Anthem does not comply with the terms of the Agreement or in the event that the Superintendent or Attorney General receives heretofore unknown evidence deemed by the Superintendent or Attorney General to warrant further legal action.

SIGNATURES

ANTHEM HEALTH PLANS OF MAINE, INC.

Dated:

By: _____

Its: _____

(Printed Name and Title)

Subscribed and sworn to before me
this _____ day of _____, 2005

Notary Public

Printed name

Date of commission expiration

MAINE BUREAU OF INSURANCE

Dated:

Alessandro A. Iuppa
Superintendent of Insurance

MAINE OFFICE OF THE
ATTORNEY GENERAL

Dated:

James M. Bowie
Assistant Attorney General