

ORDER TERMINATING PROCEEDINGS

No. 11-0084

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On July 16, 2011, the undersigned received a letter, which was considered a Demand for Hearing, from Regence BlueShield, by and through Leonard A. Hagen, its Assistant Secretary and Director of Regulatory Affairs. Said letter advised that the Insurance Commissioner ("OIC") had proposed, through offering a Consent Order dated April 19, 2011, that Regence agree to pay a penalty of \$150,000 plus interest at 8% per annum for improperly denying claims as described in that April 19 Consent Order. Regence further advised that it was in settlement negotiations with the OIC and anticipated settlement, and therefore requested that the hearing not proceed until the outcome of these negotiations were known.

Thereafter, by letter dated August 8, 2011, Regence advised the undersigned that it had settled this matter and that it was thereby withdrawing its request for hearing, and on August 25, a copy of the settlement agreement, entitled Consent Order Levying a Fine, was filed, it being executed by Regence and the OIC on August 8 and August 15, respectively. The August 15 Consent Order Levying a Fine which settled this matter, along with Regence's August 8 letter withdrawing its request for hearing, are attached hereto and are by this reference incorporated herein. Relative to the August 15 Consent Order Levying a Fine, it is noted that this case was settled prior to a hearing. Therefore, for purposes of clarification, while this Consent Order includes statements identified as "Findings of Facts" and "Conclusions of Law," these are not Findings of Fact or Conclusions of Law which were made by an adjudicator after an adjudicative proceeding; rather, the statements contained in the attached Consent Order which are entitled "Findings of Fact" and "Conclusions of Law" are only agreed upon statements of the parties.

Based upon the above activity,

IT IS HEREBY ORDERED that this case has been settled prior to a hearing. Therefore, for purposes of clarification, while the Consent Order Levying a Fine, executed by Regence and the OIC on August 8, 2011 and August 15, 2011, respectively, includes statements identified as "Findings of Facts" and "Conclusions of Law," these are not Findings of Fact or Conclusions of Law which were made by an adjudicator after an adjudicative proceeding; rather, the statements contained in the attached Consent Order entitled "Findings of Fact" and "Conclusions of Law" are only agreed upon statements of the parties.

IT IS FURTHER ORDERED that, by agreement of the parties, this proceeding, Docket No. 11-0084, is hereby dismissed with prejudice.

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Entered this 22nd day of September, 2011, at Tumwater, Washington, pursuant to Title 48 RCW, Title 34 RCW and regulations pursuant thereto.



PATRICIA D. PETERSEN
Chief Hearing Officer

Declaration of Mailing

I declare under penalty of perjury under the laws of the State of Washington that on the date listed below, I mailed or caused delivery through normal office mailing custom, a true copy of this document to the following people at their addresses listed above: M. Jonathon Hensley, Leonard A. Hagen, Mike Kreidler, Mike Watson, John F. Hamje, Carol Sureau, and Andrea L. Philhower.

DATED this 22nd day of September, 2011



KELLY A. CAIRNS



FILED

OFFICE OF
INSURANCE COMMISSIONER

2011 AUG 25 P 12:05

IN THE MATTER OF
REGENCE BLUESHIELD,

Authorized Insurer.

Hearings Unit, DIC
Patricia D. Petersen
Chief Hearing Officer
ORDER NO. 11- 0084
CONSENT ORDER LEVYING A FINE

The Insurance Commissioner of the State of Washington, pursuant to the authority set forth in RCW 48.02.080, RCW 48.44.166 and RCW 48.44.180, and having reviewed the official records and files of the Office of the Insurance Commissioner ("OIC"), makes the following:

FINDINGS OF FACT:

1. In April of 2010, OIC received a consumer complaint regarding Regence BlueShield's denial of payment to remove an intrauterine contraceptive device ("IUD"). (Regence BlueShield is hereinafter referred to as "Regence" or "the Company").
2. According to the Company's response to the complaint, IUD insertion was covered under the "special equipment and supplies" benefit, as long as it was prescribed. Removal of IUDs, however, was subject to a different benefit, the professional benefit (outpatient surgery), which requires "medical necessity" for coverage. Specifically, removal was not covered simply because the device became outdated or the woman wanted to become pregnant.
3. This interpretation of Regence's policies meant that the policies covered insertion of the devices but placed unreasonable restrictions on their removal. In addition, placing a requirement of medical necessity on the removal of the devices was inconsistent with the WAC requirement that coverage of prescription contraceptive devices includes coverage for medical services associated with their removal.
4. At OIC's request, Regence reprocessed its claims from January 1, 2002 to the present, and made the necessary payments to its policyholders who had received denials.
5. 984 claims were incorrectly denied in violation of WAC 284-43-822. All 984 claims have been reprocessed and paid, for a total payment of \$148,740.37.



CONCLUSIONS OF LAW:

1. Regence violated WAC 284-43-822 in the following ways:
 - (1) It is an unfair practice for any health carrier to restrict, exclude, or reduce coverage or benefits under any health plan on the basis of sex. Adding special requirements for the removal of IUDs restricts, excludes, or reduces coverage or benefits on the basis of sex.
 - (2)(a) Regence's treatment of IUD removal resulted in "cover[ing] prescription contraceptives on a less favorable basis than other covered prescription drugs and prescription devices."
 - (2)(b) Regence's treatment of IUD removal resulted in "impos[ing] ... limitations, or restrictions on prescription contraceptives that are not required or imposed on other covered prescription drugs and prescription devices."

CONSENT TO ORDER:

Regence Blueshield, acknowledging its duty to comply fully with the applicable laws of the State of Washington, consents to the following in consideration of its desire to resolve this matter without further administrative or judicial proceedings. The Insurance Commissioner consents to settle the matter in consideration of the Company's payment of a fine and such terms and conditions as are set forth below.

1. Regence consents to the entry of this Order, waives any and all hearing rights, and further administrative or judicial challenges to this Consent Order.
2. By agreement of the parties, the Insurance Commissioner will impose a fine of \$100,000 and the conditions that:
 - a) Within thirty days of the entry of this Order, Regence pays \$100,000;
 - b) Within ninety days of the entry of this Order, Regence pays 8% interest to the policyholders on each of the claims that were improperly denied;
 - c) Regence commits no further violations of the statutes and regulations that are the subject of this Order.
3. Regence understands and agrees that any future failure to comply with the statutes and regulations that are the subject of this Order constitutes grounds for further penalties, which may be imposed in direct response to further violation, in addition to the imposition of this fine.

4. Regence's failure to timely pay this fine and to adhere to the conditions shall constitute grounds for revocation of Regence's Certificate of Authority, and shall result in the recovery of both the suspended and unsuspended amounts of the fine through a civil action brought on behalf of the Insurance Commissioner by the Attorney General of the State of Washington.

EXECUTED this 8th day of August, 2011.

REGENCE BLUESHIELD

By: [Signature]

Printed Name: Leonard Nader

Typed Corporate Title: Assistant Secretary

ORDER

Pursuant to the foregoing Findings of Fact, Conclusions of Law, and Consent to Order, the Insurance Commissioner hereby Orders as follows:

1. Regence BlueShield shall pay a fine in the amount of \$100,000.
2. The Company's failure to pay the fine within the time limit set forth above shall result in the revocation of the Company's Certificate of Authority and in the recovery of both the suspended and unsuspended amounts of the fine through a civil action brought on behalf of the Insurance Commissioner by the Attorney General of the State of Washington.

ENTERED AT TUMWATER, WASHINGTON, this 15th day of August, 2011.

MIKE KREIDLER
Insurance Commissioner

By [Signature]
Andrea L. Philhower
OIC Staff Attorney
Legal Affairs Division



Regence

1800 Ninth Avenue
Seattle, WA 98101

FILED

2011 AUG 11 A 9:50

August 8, 2011

Patricia D. Petersen, Chief Hearing Officer
Office of Insurance Commissioner
Hearings Unit
P.O. Box 40255
Olympia, WA 98504-0255
Hearings@oic.wa.gov

Hearings Unit, DIC
Patricia D. Petersen
Chief Hearing Officer

**RE: Regence BlueShield
Consent Order Levying a Fine, No. 11-0084**

Dear Ms. Petersen:

Regence BlueShield has settled the above referenced Consent Order with the Office of Insurance Commissioner, and hereby withdraws its request for a hearing.

Sincerely,

Leonard A. Hagen, Director
Regulatory Affairs
206-332-2354 (office)
206-332-6260 (facsimile)
leonard.hagen@regence.com

c: Andrea L. Philhower, Staff Attorney
Office of Insurance Commissioner