ILLINOIS DEPARTMENT OF
HFS Healthcare and Family Services

Bruce Rauner, Governor
Felicia F. Norwood, Director

201 South Grand Avenue East, Springfield, IL 62763-0002 • (217) 782-1200 • (800) 526-5812 TTY

January 23, 2018

Julie Faulhaber
Vice President Enterprise Medicaid
Blue Cross Blue Shield of Illinois
300 East Randolph Street
Chicago, IL 60601

RE: Sanction of Blue Cross Blue Shield of Illinois due to non-compliance under the Contact for Furnishing Health Services by a Managed Care Organization in an Integrated Care Program

Dear Ms. Faulhaber:

This letter serves as notice to Blue Cross Blue Shield of Illinois (BCBS) of sanctions pursuant to the Contact for Furnishing Health Services by a Managed Care Organization in an Integrated Care Program ("contract") between the Department of Healthcare and Family Services "Department" and BCBS. The sanctions are for multiple violations, outlined below.

Pursuant to Article VII, Section 7.16.14, Other Failures, BCBS is sanctioned $12,500, as the Department has determined that the Contractor is in substantial noncompliance with the Quality Assurance Program requirements of the contract regarding taking appropriate remedial action and developing corrective action.

> Attachment XI, Quality Assurance Program, 1.i states, *"These regulations require that Contractor have an ongoing fully implemented Quality Assurance Program for health services that: includes written procedures for taking appropriate remedial action and developing corrective action and quality improvement whenever, as determined under the Quality Assurance Program, inappropriate or substandard services have been furnished or Covered Services that should have been furnished have not been provided."* The BCBS Quality Improvement Committee (QIC), the designated accountable entity for implementation and oversight of the quality assurance program, did not regularly review grievance and appeals reports during QIC meetings because the Grievance and Appeals Department did not present reports to the Committee, as documented in the QIC's meeting minutes. While the QIC continued to request reports from the Grievance and Appeals Department, the QIC did not take further action beyond elevating that reports were not being submitted. As a result, the QIC failed to identify the continued noncompliance in processing grievances and appeals and take appropriate remedial action, as required under the contract.

Pursuant to Article VII, Section 7.16.14, Other Failures, BCBS is sanctioned $12,500, as the Department has determined that the Contractor is in substantial noncompliance with the Quality Assurance Program requirements of the contract regarding effectiveness of corrective actions.

Attachment XI, Quality Assurance Program, 3.f Assessment of Effectiveness of Corrective Actions states, *"Contractor shall monitor and evaluate corrective actions taken to assure that appropriate changes have been made. Contractor shall assure follow-up on identified issues to ensure that actions for improvement have been effective and provide documentation of the same."* The BCBS QIC, as the designated accountable entity for implementation and oversight of the quality assurance program, failed to monitor and evaluate corrective actions to assure that appropriate changes were implemented. For remediation for the 2016 Administrative Review, BCBS submitted to HSAG a revised policy to include grievance resolution documentation guidance, as well as staff training on intake, processing and documentation of grievances. The on-site 2017 Administrative Review did not validate compliance with grievance and appeal processing. BCBS management and operational staff could not accurately describe the grievance and appeals process during interview, and non-compliance was identified for timeliness of processing of grievances and appeals during the 2017 Administrative Review reporting period.

Pursuant to Article VII, Section 7.16.14, Other Failures, BCBS is sanctioned $12,500, as the Department has determined that the Contractor is in substantial noncompliance with the grievance process requirements of the contract.

Section 5.25.1.1 states, *"Contractor shall attempt to resolve all Grievances as soon as possible but no later than ninety (90) calendar days from receipt of grievance. Contractor may inform an Enrollee of the resolution orally or in writing."* BCBS did not respond to grievances within the required timeframes. During the on-site 2017 Administrative Review, plan staff cited grievance resolution system issues and staffing resources as systemic issues causing non-compliance with contract requirements. BCBS's current process does not capture the date of receipt of the grievance and instead captures the date it is entered into the health plan's database. Situations for appropriate closure of a grievance also were not well-established. Review of grievance reports for July 2016 through November 2017 identified non-compliance with timely resolution of enrollee grievances for the entire reporting period. A review of grievance and appeals staffing identified staff resource concerns and apparent lack of oversight of the grievance process, and an interview with grievance and appeals management and operational staff during the on-site 2017 Administrative Review identified a lack of understanding of Illinois Medicaid contract requirements. HSAG conducted a follow-up Focused File Review of a sample of grievances based on the findings of the 2017 Administrative Review, which further identified non-compliance with the intake, acknowledgement, and timely resolution of enrollee grievances.

Pursuant to Article VII, Section 7.16.14, Other Failures, BCBS is sanctioned $12,500, as the Department has determined that the Contractor is in substantial noncompliance with the standard appeals requirements of the contract.

Section 5.25.2.4 states, *"If an Enrollee does not request an expedited Appeal, Contractor shall make its decision on the Appeal within fifteen (15) business days after submission of the Appeal. Contractor may extend this timeframe for up to fourteen (14) calendar days if the Enrollee requests an extension, or if Contractor demonstrates to the satisfaction of the appropriate state agency's Hearing Office that there is a need for additional*

information and the delay is in the Enrollee's interest." During the on-site 2017 Administrative Review, plan staff reported a backlog of entering appeal information into the system due to resource issues. Review of appeals reports for July 2016 through November 2017 identified non-compliance with timely resolution of Standard Appeals for the entire reporting period. A review of grievance and appeals staffing identified staff resource concerns and apparent lack of oversight of the appeals process, and an interview with grievance and appeals management and operational staff during the on-site 2017 Administrative Review identified a lack of understanding of Illinois Medicaid contract requirements. HSAG conducted a follow-up Focused File Review of a sample of standard appeals for the ICP program based on the findings of the 2017 Administrative Review, which further identified non-compliance with the intake, acknowledgement, and timely resolution of standard appeals.

Pursuant to Article VII, Section 7.16.14, Other Failures, BCBS is sanctioned $12,500, as the Department has determined that the Contractor is in substantial noncompliance with the expedited appeals requirements of the contract.

Section 5.25.2.3 states, *"If an Enrollee requests an expedited Appeal pursuant to 42 CFR 438.410, Contractor shall notify the Enrollee within twenty-four (24) hours after the submission of the Appeal, of all information from the Enrollee that Contractor requires to evaluate the Appeal. Contractor shall render a decision on an expedited Appeal within twenty-four (24) hours after receipt of the required information."* During the on-site 2017 Administrative Review, plan staff reported a backlog of entering appeal information into the system due to resource issues. The 2017 Administrative Review interviews and follow-up Focused File Review also identified that BCBS physicians are downgrading expedited appeal requests to standard appeals without notification of the enrollee. Review of appeals reports for July 2016 through November 2017 identified non-compliance with timely resolution of Expedited Appeals for the entire reporting period. A review of grievance and appeals staffing during the on-site 2017 Administrative Review identified staff resource concerns and apparent lack of oversight of the appeals process, and an interview with grievance and appeals management and operational staff identified a lack of understanding of Illinois Medicaid contract requirements. HSAG conducted a follow-up Focused File Review of a sample of expedited appeals based on the findings of the 2017 Administrative Review, which further identified non-compliance with the intake, acknowledgement, and timely resolution of expedited appeals.

Pursuant to Article VII, Section 7.16.14, Other Failures, BCBS is sanctioned $12,500, as the Department has determined that the Contractor is in substantial noncompliance with the subcontractor requirements of the contract.

Section 2.7.4, Subcontractors states, *"Contractor's Delegated Oversight Committee will provide oversight of subcontractors to ensure compliance with contractual and statutory requirements, including, but not limited to, the Illinois Human Rights Act, the U. S. Civil Rights Act, and Section 504 of the federal Rehabilitation Act. This oversight will occur through the following quarterly delegation oversight audits, monthly joint operation meetings and regular monitoring of Enrollee Complaints."* During the on-site 2017 Administrative Review interviews, follow-up Focused File Review interview and review of denial and appeal sample files, and a review of reporting for the 2016-2017 review period by HSAG, it was identified that delegates responsible for processing denials and

appeals were not using the required notice determinations. Also, grievances were not reported to the Grievance and Appeals Department by the delegated vendor Cognizant/TMG customer service representatives. The delegated vendor EviCore did not consistently use the Department-approved denial letter template for decision notices and its denial notice letterheads included delegated vendor EviCore instead of BCBS of Illinois. In addition, review of the delegated vendor DentaQuest online dental directory identified that the directory did not have the required fields updated in the directory (*e.g.*, credentials, telephone number, address, and hours of operation). Additionally, BCBS is not compliant with timely processing of provider complaints through the Managed Care Provider Complaints Portal. The delegated vendor Cognizant/TMG is responsible for processing claims, which BCBS cited as impacting their ability to respond timely to provider complaints that come through the Managed Care Provider Complaints Portal. BCBS did not appropriately identify and establish corrective action for the noncompliance of these delegated vendors.

Pursuant to Article VII, Section 7.16.14, Other Failures, BCBS is sanctioned $12,500, as the Department has determined that the Contractor is in substantial noncompliance with the authorization requirements of the contract.

Section 5.15.5, Authorization of Services states, *"If Contractor declines to authorize Covered Services that are requested by a Provider or authorizes one or more services in an amount, scope, or duration that are less than that requested, Contractor shall notify the Provider orally or in writing and shall furnish the Enrollee with written notice of such decision. Such notice shall meet the requirements set forth in 42 CFR 438.404."* HSAG conducted a follow-up Focused File Review of denial notices based on the findings of the 2017 Administrative Review. A review of the case notes associated with the sample denial files and interviews with BCBS staff raised concern about BCBS's overall process for oversight of authorization denial notices, including delegated functions related to denials. There was an overall lack of consistent use of the Department-approved denial letter template. One delegated entity, EviCore, did not consistently use the Department-approved denial letter template for decision notices. Template letterheads included delegated vendor EviCore, BCBS with a Texas address, and BCBS with a New Mexico address. During the 2017 Administrative Review follow-up Focused File Review, interviews with health plan staff did not identify the reason for use of multiple versions of template letters, none of which contained the address for BCBS of Illinois. Additionally, EviCore reported that providers are afforded a "reconsideration period" that may overturn a denial, but was unable to describe how providers are notified of the reconsideration process or validate that the enrollee was aware of the reconsideration period. There also was a lack of review of denial decision letters developed by BCBS to verify compliance with reading level requirements prior to distribution to enrollees.

Pursuant to Article VII, Section 7.16, Sanctions, "The Department may disallow an opportunity to cure when noncompliance is willful, egregious, persistent, part of a pattern of noncompliance, is incapable of being cured, or a cure is otherwise not allowed under this Contract." The Department is disallowing an opportunity for BCBS to cure the non-compliance of the requirements above prior to sanction as the non-compliance is egregious, persistent, and incapable of being cured retroactively. Therefore, the Department is sanctioning BCBS in the

amount of $87,500. BCBS is required to remit a check to the Department within 30 days of receipt of this letter. Payment should be sent to:

HFS Bureau of Fiscal Operations
Attn: Matthew Duff
2200 Churchill Road
Building A2
Springfield, IL, 62702

Attached is a Corrective Action Plan (CAP) that, if followed, should remediate the non-compliance actions above going forward. The CAP is a follow-up to the 2017 Administrative Review HSAG conducted at BCBS's office on December 6 and December 7, 2017 and a Focused File Review HSAG conducted at BCBS's office on December 21, 2017. The CAP includes required actions to address substantial noncompliance issues going forward, including those noted above, under the Contract Furnishing Health Services by a Managed Care Organization (2018-24-001).

The Department will monitor BCBS's remediation in accordance with HSAG's CAP to determine whether BCBS satisfactorily addresses the actions needed to correct the deficiencies. Furthermore, pursuant to the Contact for Furnishing Health Services by a Managed Care Organization (2018-24-001), Article VII, Section 7.16.9, Failure to Demonstrate Improvement in Areas of Deficiencies, if BCBS does not submit a satisfactory CAP within the required timeframes or show necessary improvements the Department may impose a performance penalty in the amount of $50,000 for every 30 day period thereafter, without notice, and require BCBS to submit another CAP.

Please let your Account Manager know if you have any questions.

Sincerely,

Michelle Maher

Michelle Maher
Chief, Bureau of Managed Care

cc:
Robert Mendonsa
Laura Ray
Sylvia Riperton-Lewis
Sameena Aghi
Matthew Seliger