



1750 OCEAN PARK BOULEVARD, #200, SANTA MONICA, CA 90405-4938
TEL: 310-392-0522 • FAX: 310-392-8874 • WWW.CONSUMERWATCHDOG.ORG

March 28, 2006

Honorable John Garamendi
California Insurance Commissioner
300 Capitol Mall, Suite 1700
Sacramento, CA 95814

RE: Blue Cross's "Retroaction Review Department" Violates Basic Principles of Insurance

Dear Commissioner John Garamendi,

Californians buy health insurance to protect themselves from financial disaster when they get sick. However, a seemingly illegal practice by Blue Cross of California renders insurance coverage meaningless in what amounts to a "bait and switch" scheme. An undetermined number of Blue Cross-covered patients pay insurance premiums but are told their coverage is retroactively canceled when they seek medical treatment due to a purported discrepancy with information provided on their enrollment form. Our consumer group has seen this type of denial grow and calls upon you to address it.

According to lawsuits filed throughout California yesterday, Blue Cross of California and its parent company WellPoint have created a so-called "Retroaction Review Department" whose sole purpose is to terminate policies for patients who had previously been given approval for medical treatments. "Retroaction review," on its surface, appears to be nothing more than this insurer's way of avoiding big medical bills by manipulating the fine print in its insurance contracts to deny patients what they are entitled to.

As provided for in Article 1, Section 3 of the California Constitution and Section 11340.6 and 11340.7 of the California Government Code, the Foundation for Taxpayer and Consumer Rights (FTCR) hereby petitions you and the California Department of Insurance to convene public hearings to investigate the workings of Blue Cross' Retroaction Review Department, use your subpoena power to make public key Blue Cross documents about this practice, hear testimony, including testimony from Blue Cross executives, about this Retroaction Review Department's legality, and to seize upon your regulatory powers to ban the practice.

The Retroaction Review Department appears to have had a widespread impact and, according to papers filed in Los Angeles Superior Court, more detailed information about the Department uncovered in a previous case appears to be shielded from public view under a court order sealing the data. This information should be made public through your office's auspices.

It's scandalous that the nation's largest and most profitable health insurer would have a secret special operations unit that seeks to dump policyholders that cost it too much money. Not only does this practice result in huge unpaid medical bills, collections and bankruptcy for patients when doctors and hospitals try to collect, it increases emotional stress on the patient and the family when they are most vulnerable.

Blue Cross's practice of "retroaction review" appears to be illegal under state law you are charged with enforcing:

- HMOs and insurers are obligated to pay for authorized services provided by doctors and hospitals in good faith (Insurance Code § 796.04);
- HMOs and insurers are prohibited from engaging in post-claims underwriting (Insurance Code § 10384).

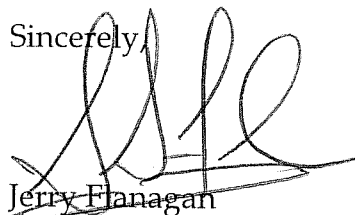
Patients who pay their insurance premiums and were already subject to an insurer's underwriting review should not have to fear being uninsured simply because they need surgery or expensive treatment. If Blue Cross and WellPoint want to deny coverage, they should do so on the front end after examination of a patient's medical records. Overturning insurance coverage after a policyholder pays for it and when they need the coverage is an outrageous abuse that must stop. By making more information about the Retroaction Review Department public, you will help the public ascertain how many patients are affected by the practice, give patients affected by the problem a forum to be heard, and be able to determine the reasonableness of Blue Cross's and WellPoint's tactics.

Blue Cross's "Health Care Questionnaire," required as part of the application for coverage, has been interpreted by patients as confusing, overbroad, and ambiguous. Many say it is designed to trap patients into making misstatements and omissions in order to justify retroactive denials. For example, enrollees have found that the form only allows for unqualified "yes" or "no" answers, and fails to provide for responses in circumstances where a person might not recall past events or fully understand the importance of the question and the consequences

of the answer. At hearings you will also be able to determine the efficacy of Blue Cross's enrollment processes.

Insurers should be in the business of insuring, not un-insuring. Patients deserve to have insurers live up to their promise and are counting on you in this matter.

Sincerely,

A handwritten signature in black ink, appearing to read 'J. Flanagan', with a horizontal line drawn across the bottom of the signature.

Jerry Flanagan

(310) 392-0522 ext. 319

A handwritten signature in black ink, appearing to read 'Jamie Court', with a horizontal line drawn across the bottom of the signature.

Jamie Court

(310) 392-0522 ext. 327



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March 28, 2006

Cindy Ehnes
Director
Department of Managed Health Care
980 9th St., Suite 500
Sacramento, CA 95814

RE: Blue Cross's "Retroaction Review Department" Violates Basic Principles of Insurance

Dear Ms. Ehnes,

Californians buy health insurance to protect themselves from financial disaster when they get sick. However, a seemingly illegal practice by Blue Cross of California renders insurance coverage meaningless in what amounts to a "bait and switch" scheme. An undetermined number of Blue Cross-covered patients pay insurance premiums but are told their coverage is retroactively canceled when they seek medical treatment due to a purported discrepancy with information provided on their enrollment form. Our consumer group has seen this type of denial grow and calls upon you to address it.

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As provided for in Article 1, Section 3 of the California Constitution and Section 11340.6 and 11340.7 of the California Government Code, the Foundation for Taxpayer and Consumer Rights (FTCR) hereby petitions you and the California Department of Managed Health Care to convene public hearings to investigate the workings of Blue Cross's Retroaction Review Department, use your subpoena power to make public key Blue Cross documents about this practice, hear testimony, including testimony from Blue Cross executives, about this

Retroaction Review Department's legality, and to seize upon your regulatory powers to ban the practice.

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It's scandalous that the nation's largest and most profitable health insurer would have a secret special operations unit that seeks to dump policyholders that cost it too much money. Not only does this practice result in huge unpaid medical bills, collections and bankruptcy for patients when doctors and hospitals try to collect, it increases emotional stress on the patient and the family when they are most vulnerable.

Blue Cross's practice of "retroaction review" appears to be illegal under state law you are charged with enforcing:

- HMOs and insurers are obligated to pay for authorized services provided by doctors and hospitals in good faith (Health & Safety Code § 1371.8);
- HMOs and insurers are prohibited from engaging in post-claims underwriting (Health & Safety Code § 1389.3).

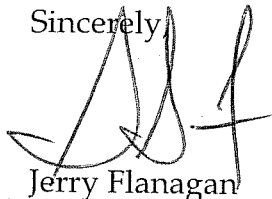
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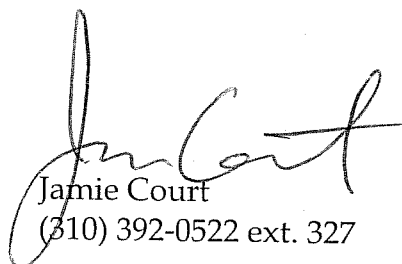
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Jerry Flanagan

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Jamie Court

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