

STATE OF MAINE
DEPARTMENT OF PROFESSIONAL AND FINANCIAL REGULATION
BUREAU OF INSURANCE

IN RE:

ANTHEM HEALTH PLANS OF MAINE, INC.

Docket No. INS-16-221

**CONSENT AGREEMENT
AND ORDER**

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”) hereby enter into this Consent Agreement pursuant to 10 M.R.S. § 8003(5)(B) to resolve, without resort to an adjudicatory proceeding, violations of the Maine Insurance Code and the Maine Bureau of Insurance Rules. As set forth in more detail below, an examination of Anthem’s complaint handling procedures has identified certain violations of the Maine Insurance Code and Maine Bureau of Insurance Rules, including violations of 24-A M.R.S. § 220(2); 24-A M.R.S. § 4302; 24-A M.R.S. § 223(4); Bureau Rule ch. 850 § 10(A); and Bureau Rule ch. 850 § 10(B).

STATUTORY AUTHORITY

1. The Superintendent is the official charged with administering and enforcing Maine’s insurance laws and regulations, and the Bureau of Insurance is the administrative agency with such jurisdiction. The Superintendent has jurisdiction over this matter pursuant to 24-A M.R.S. §§ 12-A and 211.
2. Under 10 M.R.S. § 8003(5)(A) and 24-A M.R.S. § 12-A, the Superintendent may issue a warning, censure, or reprimand to a licensee, may suspend, revoke or refuse to renew the license of a licensee, may impose conditions of probation on the licensee, may levy a civil penalty, or may take any combination of such actions, for violating any insurance laws, or violating any rule, regulation, subpoena, or order of the Superintendent.
3. Pursuant to 10 M.R.S. § 8003(5)(B), the Superintendent may resolve a complaint by entering into a consent agreement with a licensee and with the agreement of the Attorney General.

STATEMENT OF FACTS AND APPLICABLE LAW

A. Background

4. Anthem (through its predecessors) has been a Maine insurer licensed to sell health insurance since 1938, and Anthem presently holds License # LHD 70566.

5. In or around February of 2014, Maine Bureau of Insurance (the “Bureau”) staff noticed that Anthem had not timely responded to a number of consumer complaint inquiries that the Bureau had sent to Anthem.
6. As a result, the Bureau conducted a targeted market conduct examination pursuant to 24-A M.R.S. §§ 211 and 221, focusing on Anthem’s complaint handling processes (the “Examination”).
7. The Examination targeted Anthem’s complaint handling for its Accident and Health product line. Using the National Association of Insurance Commissioner’s Market Regulation Handbook Standards (the “MRH”), the Examination evaluated Anthem’s compliance with the Maine Insurance Code, Maine Bureau of Insurance Rules, and Anthem’s own internal policies.
8. The Examination revealed certain violations of the Code, Bureau Rules, and Anthem’s internal policies, which are discussed in more detail below.

B. Failure to Maintain an Accurate Grievance Register

9. During the Examination, Bureau staff reviewed Anthem’s grievance register.
10. Pursuant to Bureau Rule ch. 850 § 10(A), Anthem was required to “maintain written records to document all grievances received during a calendar year (the register).” Furthermore, the register must “be maintained in a manner that is reasonably clear and accessible to the Superintendent.” *Id.*
11. Bureau staff determined that the number of Bureau grievances identified in Anthem’s register did not match the known number of Bureau grievances.
12. On July 11, 2014, the Bureau emailed Anthem to request an explanation for the variance.
13. On August 5, 2014, Anthem responded, admitting that the grievance register did not contain all complaints Anthem had received during the review period under examination.

C. Failure to Respond to Bureau Inquiries in a Timely Manner

14. As noted above, the impetus for the Examination was the concern over Anthem’s failure to respond to Bureau consumer complaint inquiries in a timely fashion.
15. Pursuant to 24-A M.R.S. § 220(2), “All insurers . . . shall respond to all lawful inquires of the superintendent that relate to resolution of consumer complaints involving the licensee within 14 days of receipt of the inquiry.”

16. During the review period, the Bureau sent 106 inquiries regarding consumer complaints to Anthem (the “Complaint Inquiries”). Many of these Complaint Inquiries contained multiple requests from the Bureau which required a response from Anthem.
17. Of the 106 Complaint Inquiries, Anthem responded in a timely fashion (*i.e.*, within 14 days) to all Bureau requests in only 39 Complaint Inquiries. In the remaining 67 Complaint Inquiries, Anthem failed to respond to one or more requests from the Bureau within the 14-day statutory timeframe.
18. Of the 67 Complaint Inquiries that contained untimely responses, 24 responses were received within 15 days of the statutory deadline; 25 responses were received 15-30 days late; 7 were received 30-45 days late; and 11 were received more than 45 days late.
19. In all, Anthem responded to only 37 percent of the Complaint Inquiries within the 14-day statutory timeframe.

D. Failure to Maintain a Complete and Accurate Health Report Card Survey

20. Pursuant to 24-A M.R.S. § 4302, Anthem is required to “provide annually to the superintendent information for each health plan that it offers or renews on plan complaints, adverse decisions and prior authorization statistics.”
21. During the Examination, Bureau staff reviewed Anthem’s Health Report Card Survey (the “Survey Report”) Anthem submitted to the Bureau in 2014.
22. Bureau staff determined that the number of complaints and grievances recorded on the Survey Report did not align with the known number of Bureau complaints.
23. Anthem indicated that the Survey Report included telephonic complaints.
24. Anthem further indicated that the Survey Report also erroneously included out-of-state and self-insured group member appeals.
25. Bureau staff found additional errors in the Survey Report, such as the inclusion of data from enrollees not covered by Anthem Health Plans of Maine.

E. Failure to Establish and Implement Adequate Complaint Handling Procedures

26. Pursuant to Bureau Rule ch. 850 § 10(B), Anthem must establish and implement written procedures for receiving and resolving complaints sufficient to ensure the proper maintenance of the grievance register required by ch. 850 § 10(A).

27. During the Examination, Bureau staff determined that, while Anthem did have a written procedure for handling complaints (the "Procedure"), Anthem employees did not consistently comply with the Procedure.
28. Bureau staff discovered that not all incoming mail was marked with a date received stamp, as the Procedure required.
29. Anthem's failure to consistently implement the Procedure resulted in Anthem's inability to maintain an adequate grievance register and ultimately contributed to Anthem's repeated untimely responses to the Complaint Inquiries.

F. Failure to Make Documents and Information Freely Available and Facilitate the Examination

30. 24-A M.R.S. § 223(4) requires that "every person being examined . . . shall make freely available to the superintendent or designated examiners the accounts, records, documents, files, information, assets . . . relating to the subject of the examination and shall facilitate the examination."
31. Throughout the Examination, there were numerous instances where Anthem had difficulty providing Bureau staff, in a timely and substantive manner, with requested data, information, records, documents, and other materials related to the Examination.
32. The following are examples of Anthem's difficulties with making all requested information freely available to the Bureau and with otherwise facilitating the Examination:
 - a. On June 5, 2014, the Bureau requested Anthem's files on all Bureau complaints within the scope of the Examination. Anthem omitted 16 complaints from the files.
 - b. On June 5, 2014, the Bureau requested complete copies of the complaint files to be examined and sought assurances that the files would be both ready and complete before starting the on-site portion of the exam. Prior to the examiner's arrival on site, Anthem assured Bureau staff that the files would be complete. However, when examiners arrived on site on September 10, 2014, the requested files were not complete.
 - c. On June 5, 2014, the Bureau requested that Anthem provide an attestation as to the completeness and accuracy of the materials provided. Anthem failed to provide the attestation, requiring follow-up from the Bureau.
 - d. On August 29, 2014, the Bureau requested direct access to Anthem's systems sufficient to allow the examiners read-only capability of all databases relevant

to the Examination. Anthem offered to provide “full” access to the databases but advised that it could not provide read-only access.

- e. On August 29, 2014, the Bureau requested two sample files to review prior to the on-site exam. The files were received on September 3, 2014. However, the files were incomplete.
 - f. On November 21, 2014, the Bureau requested data on Maine appeals. Anthem responded in a timely fashion, but the data provided contained irrelevant data that distorted the set. Anthem failed to verify the accuracy of the data prior to its submission.
 - g. On February 27, 2015, the Bureau requested data on a selection of telephone inquiries from customers that were handled by Anthem’s customer service department. Anthem failed to provide a complete set of the data requested.
 - h. On April 23, 2015, Bureau staff, while on site at Anthem, requested access to the requested telephone calls regarding consumer inquiries. Anthem made assurances that access would be provided to Bureau staff later that day. Access was not provided as promised.
33. Anthem’s difficulties in providing complete and accurate information upon initial request extended the duration and increased the cost of the Examination.

VIOLATIONS OF LAW


- 34. As set forth in Paragraphs 9 through 13 above, Anthem violated Bureau Rule ch. 850 § 10(A) by failing to maintain a complete and accurate grievance register.
- 35. As set forth in Paragraphs 14 through 19 above, Anthem committed a minimum of 67 violations of 24-A M.R.S. § 220(2) (calculated on a singular basis, not including instances where there were multiple violations per file) by failing to respond to Bureau inquiries regarding consumer complaints within 14 days after receipt of the inquiries.
- 36. As set forth in Paragraphs 20 through 25, Anthem violated 24-A M.R.S. § 4302 by failing to provide an accurate yearly record of complaints, adverse decisions, and prior authorization statistics.
- 37. As set forth in Paragraphs 26 through 29 above, Anthem violated Bureau Rule ch. 850 § 10(B) by failing to establish and implement written procedures for receiving and resolving grievances..
- 38. As set forth in Paragraphs 30 through 33 above, Anthem violated 24-A M.R.S. § 223(4) by failing to make documents and information requested by the Bureau during the Examination freely available and otherwise failing to facilitate the Examination in an efficient manner.

COVENANTS

39. No later than sixty (60) days after executing this Consent Agreement, Anthem will remit to the Maine Bureau of Insurance a company check in the amount of Two Hundred and Twenty-Five Thousand Dollars (\$225,000.00) payable to the Treasurer of the State of Maine.
40. No later than thirty (30) days after executing this Consent Agreement, Anthem shall submit a proposed Corrective Action Plan to the Superintendent for his review and approval specifying the actions Anthem intends to implement to correct the deficiencies found in the Market Conduct Examination and referenced in this Consent Agreement. The Corrective Action Plan should separately state each issue to be addressed as described in the Examination Report, Anthem's plan to correct each issue, and a proposed timeframe within which each correction shall be made.
41. The parties understand that nothing herein shall affect any right or interest which any person not a party to this Consent Agreement may possess.
42. This Consent Agreement is not subject to appeal. Anthem waives any right it might have to appeal any matter that is a subject of this Consent Agreement.
43. This Consent Agreement constitutes an Order of the Superintendent and is enforceable by the Superintendent and by an action in Maine Superior Court.
44. This Consent Agreement may be modified only by a written agreement executed by all of the parties. Any decision to modify, continue, or terminate any provision of this Consent Agreement rests in the discretion of the Superintendent and the Attorney General.
45. This Consent Agreement is a public record subject to the provisions of the Maine Freedom of Access law, 1 M.R.S. §§ 401-414; will be available for public inspection and copying as provided for by 1 M.R.S. § 408-A; and will be reported to the National Association of Insurance Commissioners' "RIRS" database.
46. By the duly-authorized signature of its representative on this Consent Agreement, Anthem warrants that it has consulted with counsel before signing the Consent Agreement or has knowingly and voluntarily decided to proceed in this matter without consulting counsel, that it understands the Consent Agreement, and that it enters into the Consent Agreement voluntarily and without coercion of any kind from any person.
47. In return for Anthem's execution of and compliance with the terms of this Consent Agreement, the Superintendent and the Attorney General agree to forego pursuing further disciplinary measures or other civil or administrative sanctions available under the Maine Insurance Code for the specific conduct described in this Consent Agreement, other than those agreed to herein. However, should Anthem fail to comply with or violate this Consent Agreement, it may be subject to any available remedy under the law for such a failure or violation.

ANTHEM HEALTH PLANS OF MAINE, INC.

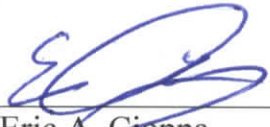
Dated: 12/19, 2016



Daniel P. Corcoran
President, Anthem BCBS in Maine

THE MAINE SUPERINTENDENT OF INSURANCE


Dated: 1-3, 2017



Eric A. Cioppa
Superintendent

FOR THE OFFICE OF THE ATTORNEY GENERAL

Dated: 12/28, 2016



Colin W. Hay
Assistant Attorney General