

LARRY HOGAN
Governor

BOYD K. RUTHERFORD
Lt. Governor



AL REDMER, JR.
Commissioner

NANCY GRODIN
Deputy Commissioner

**INSURANCE
ADMINISTRATION**

200 St. Paul Place, Suite 2700, Baltimore, Maryland 21202
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1-800-492-6116 TTY: 1-800-735-2258
www.insurance.maryland.gov

January 11, 2018

CERTIFIED MAIL
RETURN RECEIPT REQUESTED
REGULAR MAIL

Ms. Jenene Lyn Williams, Director, External Audit
CareFirst BlueChoice, Inc.
840 First Street, NE
Washington, DC 20065

CareFirst of Maryland, Inc.
1501 S. Clinton Street
Baltimore, MD 21224

Group Hospitalization and Medical Services, Inc.
840 First Street, NE
Washington, DC 20065

Re: MIA v. CareFirst BlueChoice, Inc.; CareFirst of Maryland, Inc.;
Group Hospitalization and Medical Services, Inc.
Case No.: MIA-2018-01-023

Dear Ms. Williams:

This will acknowledge receipt of your check in the amount of \$24,975.00 representing the administrative penalty regarding the above captioned case.

A copy of the fully executed Consent Order is enclosed for your records.

Sincerely,

Melanie Gross
Executive Assistant to the Deputy Commissioner

Enclosure

cc: Al Redmer, Jr., Commissioner
Erica J. Bailey, Associate Commissioner
J. Van Lear Dorsey, Principal Counsel
Lisa Hall, Assistant Attorney General
Tracy Imm, Director of Public Affairs
Darci Smith, Special Assistant

MARYLAND INSURANCE ADMINISTRATION
200 ST. PAUL PLACE, SUITE 2700
BALTIMORE, MARYLAND 21202

* BEFORE THE
* INSURANCE COMMISSIONER

vs.

CAREFIRST BLUECHOICE, INC.
840 FIRST STREET, NE (NAIC #96202)
WASHINGTON, DC 20065

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ORDER NO.: MIA-2018-01-023

CAREFIRST OF MARYLAND, INC. (NAIC
#47058)
1501 S. CLINTON STREET
BALTIMORE, MD 21224

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INVESTIGATION NO.: MCLH-141-2015-I

GROUP HOSPITALIZATION AND MEDICAL
SERVICES, INC. (NAIC #53007)
840 FIRST STREET, NE
WASHINGTON, DC 20065

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CONSENT ORDER

This Consent Order is entered into by the Maryland Insurance Commissioner and CareFirst BlueChoice, Inc. ("BlueChoice"), CareFirst of Maryland, Inc., and Group Hospitalization and Medical Services, Inc., (collectively "CareFirst BlueCross BlueShield" and, together with BlueChoice, "Respondents") pursuant to §§ 2-108 and 2-204 of the Insurance Article, Annotated Code of Maryland, to resolve the matter, in lieu of litigation, before the Insurance Administration ("Administration")

Facts

(1) At all times relevant to this Order, CareFirst BlueCross BlueShield held and currently holds a Certificate of Authority from the State of Maryland to act as non-profit health service plans.

(2) At all times relevant to this Order, BlueChoice held and currently holds a Certificate of Authority from the State of Maryland to act as a health maintenance organization ("HMO").

(3) At all times relevant to this Order, Magellan Healthcare, Inc., ("Magellan") managed and currently manages the Respondents' behavioral health benefits as a managed behavioral healthcare organization ("MBHO").

(4) The Respondents offer individual and group health plans in Maryland on and off the Maryland Health Benefit Exchange.

(5) A survey ("Second Parity Survey") was sent in October 2015 to the Respondents regarding compliance with the federal Mental Health Parity and Addiction Equity Act ("MHPAEA").¹ After receiving the Second Parity Survey response from the Respondents, the Administration opened investigation MCLH-141-2015-1 to gather additional information necessary to determine compliance with MHPAEA.

Findings

1. BlueChoice Online Provider Directory

(6) On May 1, 2017, the Administration became aware that BlueChoice's online provider directory for behavioral health listed only two of the 27 in-network mental health hospital and two of the seven non-hospital facilities that the Respondents had reported were in-network during the Administration's investigation.

(7) On October 19, 2017, in response to the Administration's investigation, a representative of the Respondents stated, in pertinent part regarding the BlueChoice directory for in-network inpatient mental health hospital facilities:

...Magellan reported the 27 inpatient [mental health] hospital facilities and 7 inpatient non-hospital [mental health] facilities [for BlueChoice]. The 27 include Acute Care/General Hospitals that treat Inpatient Psychiatric/Mental Health patients. Since they are general/acute care, they are included in the directory under the medical facility search — not Mental Health. Recognizing this may not be apparent to a member or provider searching the directory, I have shared this observation with the CareFirst team that maintains the directory.

¹ See Federal Register, Volume 78, No. 219, published November 13, 2013.

(8) On October 24 and 26, 2017, in response to the Administration's investigation, a representative of the Respondents stated, in pertinent part regarding the seven reported BlueChoice in-network inpatient non-hospital mental health facilities:

For the providers being displayed, we have the same issue that they are listed under "hospitals"; [two] under medical, [two] under mental health. Recognizing that this may not be apparent to a member or a provider searching the directory, I asked my colleagues to add this to the list of follow up. . . .

...Three providers [] are in-network but are not being displayed in the directory. [The Provider Relations Department] has linked with the information technology team that supports them to identify why the facilities are not displaying and the appropriate remediation.

II. CareFirst BlueCross BlueShield's Online Provider Directory

(9) On May 1, 2017, the Administration became aware that CareFirst BlueCross BlueShield's BluePreferred online provider directory did not list any in-network inpatient behavioral health facilities,

(10) On May 5, 2017, in response to the Administration's investigation, a representative of the Respondents stated, in pertinent part:

Thank you for bringing this to our attention. [CareFirst BlueCross BlueShield] has reviewed its online provider directory and has corrected the technological errors that incorrectly made it appear that there were no in-network behavioral health facilities.

(11) On May 5, 2017, the BluePreferred online provider directory displayed seven in-network inpatient behavioral health facilities.

(12) On November 7, 2017, in response to the Administration's investigation, a representative of the Respondents stated, in pertinent part:

My colleague has confirmed that the BluePreferred inpatient mental health facilities appeared in the directory under the "medical" hospital search [prior to correction on May 5, 2017].

Conclusions of Law

(13) Section 15-1 12 of the Insurance Article states, in pertinent part:

(n)(l) A carrier shall make the carrier's network directory available to prospective enrollees on the Internet and, on request of a prospective enrollee, in printed form.

* * * *

(p)(2)(ii) 1. Information provided on the Internet under subsection (n) of this section shall be accurate on the date of initial positing and any update.

2. In addition to the requirement to update its provider information under subsection (t)(l) of this section, a carrier shall update the information provided on the Internet at least once every 15 days.

(14) Based on the results of the Investigation, the Administration concluded the BlueChoice and CareFirst BlueCross BlueShield violated §15-112 by failing to have an accurate online provider directory.

(15) Based on the information provided in response to the Second Parity Survey, the Administration did not identify any violation of MHPAEA.

Order

WHEREFORE, for the reasons set forth above, it is **ORDERED** by the Commissioner and consented to by Respondents:

A. That pursuant to §4-113 of the Insurance Article, Respondents, prior to execution of this Order, correct their online provider directories for mental health providers to include the in-network mental health hospital and non-hospital facilities that the Respondents had reported were in-network during the Administration's investigation.

B. That, pursuant to §19-730 of the Health-General Article, based on consideration of COMAR 31.02.04.02, BlueChoice pay an administrative penalty of Twenty Thousand Two Hundred and Fifty Dollars (\$20,250.00) for violation of §15-112 of the Insurance Article, simultaneously with the execution of this Order.

C. That, pursuant to §4-113 of the Insurance Article, based on consideration of COMAR 31,02.04.02, CareFirst BlueCross BlueShield pay an administrative penalty of Four Thousand Seven Hundred and Twenty-Five Dollars (\$4,725.00) for violation of §15-112 of the Insurance Article, simultaneously with the execution of this Order.

Other Provisions

D. The executed Order and any administrative penalty shall be sent to the attention of: Erica J. Bailey, Associate Commissioner, Compliance and Enforcement, 200 St. Paul Place, Suite 2700, Baltimore, MD 21202.

E. For the purposes of the Administration and for any subsequent administrative or civil proceedings concerning Respondents, whether related or unrelated to the foregoing paragraphs, and with regard to requests for information about the Respondents made under the Maryland Public Information Act, or properly made by governmental agencies, this Order will be kept and maintained in the regular course of business by the Administration. For the purposes of the business of the Administration, the records and publications of the Administration will reflect this Order.

F. The parties acknowledge that this Order resolves the Second Parity Survey, Investigation MCLH-141-2015-I and all matters relating to the factual assertions and agreements contained herein and are to be used solely for the purposes of this proceeding brought by or on behalf of the Administration. Nothing herein shall be deemed a waiver of the Commissioner's right to proceed in an administrative action or civil action for violations not specifically identified in this Order, including, but not limited to, specific consumer complaints received by the Administration, nor shall anything herein be deemed a waiver of the right of the Respondents to contest other proceedings by the Administration. This Order shall not be construed to resolve or preclude any potential or pending civil, administrative, or criminal action or prosecution by any other person, entity or governmental authority, including but not limited to the Insurance Fraud Division of the Administration, regarding any conduct by the Respondents including the conduct that is the subject of this Order.

G. Respondents have had the opportunity to have this Order reviewed by legal counsel of its choosing, and is aware of the benefits gained and obligations incurred by the execution of the Order. Respondents waive any and all rights to any hearing or

judicial review of this Order to which it would otherwise be entitled under the Insurance Article with respect to any of the determinations made or actions ordered by this Order.

H. This Order contains the entire agreement between the parties relating to the administrative actions addressed herein. This Order supersedes any and all earlier agreements or negotiations, whether oral or written. All time frames set forth in this Order may be amended or modified only by subsequent written agreement of the parties,

I. This Order shall be effective upon signing by the Commissioner or her designee, and is a Final Order of the Commissioner under §2-204 of the Insurance Article.

J. Failure to comply with the terms of this Order may subject Respondents to further legal and/or administrative action.

ALFRED W. REDMER, JR.
Insurance Commissioner



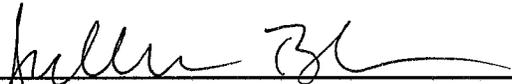
By: Erica J. Bailey
Associate Commissioner
Compliance & Enforcement

Date: 1/11/2018

RESPONDENTS' CONSENT

RESPONDENTS hereby CONSENT to the representations made in, and to the terms of, the above Consent Order. On behalf of Respondents, the undersigned hereby affirms that he or she has taken all necessary steps to obtain the authority to bind Respondents to the obligations stated herein and does, in fact, have the authority to bind Respondents to the obligations stated herein.

Name: Jonathan D. Blum

Signature: 

Title: Executive Vice President, Medical Affairs

Date: December 21, 2017