

BEFORE THE DIVISION OF INSURANCE, STATE OF COLORADO

Final Agency Order No. O-11-045

STIPULATION FOR ENTRY OF FINAL AGENCY ORDER

IN THE MATTER OF ROCKY MOUNTAIN HOSPITAL AND MEDICAL SERVICE, INC d/b/a ANTHEM BLUE CROSS AND BLUE SHIELD

THE State of Colorado Division of Insurance (“Division”) and Rocky Mountain Hospital and Medical Service, Inc. d/b/a Anthem Blue Cross and Blue Shield (“Anthem”), hereby enter into this Stipulation for Entry of Final Agency Order (“Stipulation”) to resolve the matters at issue pertaining to the pending market conduct examination involving Anthem rate filings for individual health insurance coverage and the Division’s related rate inquiry regarding said filings, more fully described below, and do hereby stipulate and agree as follows:

1. The Colorado Commissioner of Insurance (“Commissioner”) and the Division have jurisdiction over Anthem and the subject matter herein pursuant to Title 10, C.R.S., including Article 16 of Title 10, C.R.S.
2. Anthem made three rate filings pertaining to Anthem’s individual health insurance rates in Colorado with effective dates January 1, 2009 (SERFF Tracking No. WLPT-125764768), July 1, 2009 (SERFF Tracking No. WLPT-126042460), and January 1, 2010 (SERFF Tracking No. WLPT-126300764).
3. The Division initiated a Market Conduct Examination on February 19, 2010, regarding the three Anthem rate filings (the “MCE”). The Division subsequently began a separate inquiry regarding the same Anthem rate filings pursuant to Article 16 of Title 10, C.R.S. (“Rate Inquiry”) (The MCE and related Rate Inquiry jointly referred to as the “Anthem Rate Matters”).
4. In order to avoid the uncertainty and cost of litigation, and to resolve and settle disputes related to the Anthem Rate Matters, the Division and Anthem hereby agree to enter into this Stipulation for Final Agency Order (“Stipulation”) and to the following:
 - a. In the aggregate, Anthem will issue a twenty million dollar (\$20,000,000.00) premium credit to eligible individuals. Eligible individuals entitled to a credit will be those who had individual health insurance coverage with Anthem at any time from January 1, 2010 up to and including September 30, 2010, but will not include Colorado Major Med, Custom Plus Plan, or group conversion

policyholders. The credit to be issued to any individual will be based on a pro-rata determination of premium paid by the individual during the applicable time period to the total amount of the credit. A credit will be provided to eligible individuals either as a reduction to premiums or in the form of a check payable to the eligible individual. Anthem agrees that it will issue the majority of the credits or payments to eligible individuals by **December 31, 2010** and that the entire amount of the credit will be paid to eligible individuals no later than **March 31, 2011**. Anthem agrees to provide a report to the Division no later than **January 31, 2011** with information and documents to verify the amount of the credit paid to each eligible individual by December 31, 2010. In addition, Anthem also agrees to provide a final report to the Division no later than **April 30, 2011** with information and documents confirming that the entire credit has been paid to each eligible individual.

- b. Anthem will provide the eligible individuals with a written communication that states the credit is being applied or paid by Anthem as a result of a settlement with the Division regarding matters involving individual health insurance rates in Colorado. This written communication will be provided to all eligible individuals at the time any credit is applied or paid.
- c. The MCE will be closed without resolution of the factual and legal issues and disputes that were the subject of the MCE and will not be reopened. The Rate Inquiry will also be closed without resolution of the factual and legal issues and disputes that were the subject of the Rate Inquiry and will not be reopened. Anthem is not admitting any fault or wrongdoing with respect to the factual and legal issues and disputes that were the subject of the MCE and/or the Rate Inquiry. The Division has agreed not to assess any civil penalty, including any monetary penalties, against Anthem as a result of either the MCE or the Rate Inquiry.
- d. All information and documents provided by Anthem related to the MCE and/or the Rate Inquiry will be and remain confidential to the fullest extent permitted by Colorado law, except that the Division may use the information and documents for historical comparison and other legally permissible purposes when reviewing or examining any Anthem rate filings that are not the subject of the MCE or the Rate Inquiry.
- e. Anthem's rate filings as more fully described in paragraph 2 above will be accepted as filed by the Division.
- f. The closure of the MCE and Rate Inquiry and entering into this Stipulation will not impair or restrict Anthem's right to make rate filings with the Division pertaining to individual health insurance or other types of insurance. All such rate filings (whether already made or whether made after the date of this

Stipulation) will be reviewed or examined by the Division in accordance with Colorado and Federal law, as applicable.

- g. The Division agrees not to commence any further market conduct examinations or other rate inquiries involving (1) Anthem's rate filings referenced in paragraph 2 above that were the subject of the MCE or the Rate Inquiry, or (2) any other Anthem lines of business in Colorado based upon information and/or complaints available to the Division up to the date this Stipulation.
5. By entering into this Stipulation, Anthem knowingly and voluntarily waives its rights under Title 10, C.R.S., and §§ 10-16-216.5, and 24-4-104, 105 and 106, C.R.S., including but not limited to, a hearing in this matter; the right to be represented at such hearing by counsel chosen and retained by Anthem; the right to present a defense, oral and documentary evidence, and cross-examine witnesses at such hearing; and the right to seek judicial review of this Stipulation and the Final Agency Order approving this Stipulation. Notwithstanding this waiver, Anthem makes no waiver of, and reserves all rights regarding, the confidentiality provided for the documents and information provided by Anthem as authorized under Colorado law.
6. The Division and Anthem agree that this Stipulation and the related Final Agency Order is a full and final settlement of the issues and disputes regarding the MCE, the Rate Inquiry and the rate filings referenced in paragraph 2 above.
7. Neither this Stipulation or the Final Agency Order approving this Stipulation shall be deemed in any manner to prevent the Division from commencing any other agency action relating to any other conduct of Anthem not settled herein, and without regard to whether such conduct occurred prior to the date of this Stipulation or the Final Agency Order approving this Stipulation.
8. Anthem understands and acknowledges the Division may take such lawful steps as may be required or appropriate to investigate and determine whether Anthem is in compliance with the Stipulation and the Final Agency Order approving this Stipulation, and take any action it deems appropriate to enforce compliance with the terms of the Stipulation and Final Agency Order.
9. In the event the Division takes action relating to alleged violations of this Stipulation or Final Agency Order approving this Stipulation, said Stipulation and Final Agency Order shall be admissible in full in that proceeding for any purpose.
10. Anthem enters into this Stipulation freely and voluntarily, after having the opportunity to consult with counsel of its choice, and with full understanding and acceptance of the legal consequences of this Stipulation and the Final Agency Order approving this Stipulation.

11. Any and all public statements and/or press releases issued by the Division and/or Anthem regarding this Stipulation and Final Agency Order shall be accurate and factual and shall not contain and/or reference any confidential information.
12. Invalidation of any provision of this Stipulation or the Final Agency Order approving this Stipulation by a court of competent jurisdiction will in no way affect any other provisions, which shall remain in full force and effect.
13. This Stipulation and Final Agency Order embodies the entire agreement between Anthem and the Division, and there are no agreements, understandings, representations or warranties that are not expressly set forth herein.
14. Upon the Commissioner's entry of the Final Agency Order approving this Stipulation, this Stipulation and Final Agency Order shall be a public record in the custody of the Division under the Colorado Public Records Act, § 24-72-101, *et seq.*, C.R.S.
15. This Stipulation is subject to approval by the Commissioner or her designee, and shall become binding upon the parties hereto upon such approval. In the event the Commissioner does not approve this Stipulation, the parties shall retain all claims and defenses available to them had this Stipulation not been entered into by the parties.

ANTHEM

J.W. Martie
 BY: JOHN W. MARTIE
 TITLE: President and GM

9/15/2010
 DATE

Subscribed and sworn to before me in the County of Denver, State of Colorado, this 15th day of September, 2010, by Kathaleen A. Rowley

Kathaleen A. Rowley
 NOTARY PUBLIC



My Commission expires: 4/28/2014

FOR THE COLORADO DIVISION OF INSURANCE

John J. Postolowski
 John J. Postolowski
 Deputy Commissioner of Financial & Administration

9/15/2010
 DATE

APPROVED AS TO FORM

Rocky Mountain Hospital and Medical
Service, Inc., dba Anthem Blue Cross and
Blue Shield



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Managing Senior Associate General Counsel

JOHN W. SUTHERS, Attorney General



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BEFORE THE DIVISION OF INSURANCE, STATE OF COLORADO

Final Agency Order No. O-11-045

FINAL AGENCY ORDER

IN THE MATTER OF ROCKY MOUNTAIN HOSPITAL AND MEDICAL SERVICE, INC. d/b/a ANTHEM BLUE CROSS AND BLUE SHIELD

THIS MATTER comes before Marcy Morrison, Commissioner of Insurance for the State of Colorado ("Commissioner"), upon the Stipulation for Entry of Final Agency Order ("Stipulation") between the Colorado Division of Insurance ("Division") and Rocky Mountain Hospital and Medical Service, Inc. d/b/a Anthem Blue Cross and Blue Shield ("Anthem"). After reviewing the Stipulation, the Commissioner makes the following Findings and enters the following Order:

FINDINGS

1. The Commissioner has jurisdiction over Anthem and this matter pursuant to Title 10, C.R.S.
2. By entering into the Stipulation, Anthem has waived its rights to a hearing under Title 10, C.R.S. and pursuant to §§ 10-16-216.5, and 24-4-104, 105, and 106, C.R.S.; the right to be represented at such hearing by counsel chosen and retained by Anthem; the right to present a defense, oral and documentary evidence, and cross-examine witnesses at such hearing; and the right to seek judicial review of this Final Agency Order.

ORDER

1. In accordance with the Stipulation, in the aggregate, Anthem will issue a twenty million dollar (\$20,000,000.00) premium credit to eligible individuals. Eligible individuals entitled to a credit will be those who had individual health insurance coverage with Anthem at any time from January 1, 2010 up to and including September 30, 2010, but will not include Colorado Major Med, Custom Plus Plan, or group conversion policyholders. Anthem will issue the majority of the credits or payments to eligible individuals by **December 31, 2010** and that the entire amount of the credit must and will be paid to eligible individuals no later than **March 31, 2011**. Anthem will provide a report to the Division no later than **January 31, 2011** with information and documents to verify the amount of the credit paid to each eligible individual by December 31, 2010. In addition, Anthem will provide a final report to the Division no later than **April 30, 2011** with information and documents confirming that the entire credit has been paid to each eligible individual.

2. Anthem will provide all individuals who receive a credit in accordance with the Stipulation a written communication that states that the credit is being applied or paid by Anthem as a result of a settlement with the Division regarding matters involving individual health insurance rates in Colorado. This written communication will be provided to all eligible individuals at the time any credit is applied or paid.
3. The MCE will be closed without resolution of the factual and legal issues and disputes that were the subject of the MCE and not reopened. The Rate Inquiry will also be closed without resolution of the factual and legal issues and disputes that were the subject of the Rate Inquiry and not reopened. Anthem is not admitting any fault or wrongdoing with respect to the factual and legal issues and disputes that were the subject of the MCE and/or the Rate Inquiry. The Division will not assess any civil penalties, including any monetary penalties, against Anthem as a result of either the MCE or the Rate Inquiry.
4. All information and documents provided by Anthem related to the MCE and/or the Rate Inquiry will be and remain confidential to the fullest extent permitted by Colorado law, except that the Division may use the information and documents for historical comparison and other legally permissible purposes when reviewing or examining any Anthem rate filings that are not the subject of the MCE, the Rate Inquiry, or referenced in paragraph 2 of the Stipulation.
5. Anthem's rate filings as more fully described in paragraph 2 of the Stipulation will be accepted as filed by the Division.
6. The closure of the MCE and Rate Inquiry and entering into this Stipulation will not impair or restrict Anthem's right to make rate filings with the Division pertaining to individual health insurance or other types of insurance. All such rate filings (whether already made or whether made after the date of this Stipulation) will be reviewed or examined by the Division in accordance with Colorado and Federal law, as applicable.
7. The Division agrees not to commence any further market conduct examinations or other rate inquiries involving (1) Anthem's rate filings referenced in paragraph 2 of the Stipulation that were the subject of the MCE or the Rate Inquiry, or (2) any other Anthem lines of business in Colorado based upon information and/or complaints available to the Division up to the date of this Stipulation.
8. In the event the Division commences an action against Anthem for an alleged violation of this Final Agency Order, this Final Agency Order and the Stipulation shall be admissible in any such action.
9. The Division and Anthem shall comply with and satisfy the requirements set out in the Stipulation.

10. The Stipulation is incorporated by reference and all its conditions, terms, and agreements are specifically made a part of this Order as though fully set forth herein.

Based upon the foregoing and the terms of the Stipulation between the Division and Anthem, it is hereby ORDERED as follows:

DONE AND ORDERED this 15th day of Sept., 2010.



MARCY MORRISON
COLORADO INSURANCE COMMISSIONER

CERTIFICATE OF SERVICE


This is to certify that I have duly served the within STIPULATION FOR ENTRY OF FINAL AGENCY ORDER and FINAL AGENCY ORDER upon all parties herein by depositing copies of same in the United States mail, first-class postage prepaid, at Denver, Colorado, this 15th day of September 2010 addressed as follows:

David G. Harris, Esq.
Managing Senior Associate General
Counsel
Anthem Blue Cross and Blue Shield
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Mail Code CO 0105-0560
Denver, CO 80273

John W. Martie
President and General Manager
Anthem Blue Cross and Blue Shield
700 Broadway
Mail Code CO 0103-0359
Denver, CO 80273

Via Inter-Agency Mail:

Todd S. Larson
Senior Assistant Attorney General
Judy L. LaBuda
Assistant Attorney General
Office of the Colorado Attorney General
1525 Sherman Street, 7th Floor
Denver, Colorado 80203


Eleanor Patterson
Market Regulation Administrator