



BOARD OF DIRECTORS

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**Meeting Location:
Fresno County Employee Retirement
Association Board Chambers
1111 H Street
Fresno, CA 93721
April 25, 2014 9:00 AM**

AGENDA DATE: April 25, 2014

ITEM NUMBER: 10

SUBJECT: Approve the Acceptance of Revised Anthem Blue Cross Marketing Guidelines

REQUEST(S): That the Board approve the Acceptance of Revised Anthem Blue Cross Marketing Guidelines

DESCRIPTION:

The SJVIA utilizes Anthem Blue Cross as the primary vendor for network access as well as claims administration. For the last 20 years, Anthem Blue Cross has required adherence to a product distribution guideline called ***“Blue on Blue”***.

Blue on Blue was adopted to promote stability in the market. It defined rules of engagement for competing entities that promote Anthem branded products. These Blue on Blue guidelines discouraged the following activities:

- Proposal from a Joint Powers Authority (JPA) or Trust to a competing JPA or Trust offering an Anthem product
- Direct quotation from Anthem to remove an entity from a JPA or Trust
- Offer by Anthem to replace business administered by a TPA with an Anthem administered or fully insured product. A TPA is also prohibited from quoting against in-force Anthem business.

AGENDA: San Joaquin Valley Insurance Authority

DATE: April 25, 2014

There have been many changes in the marketplace since the introduction of Blue on Blue. In response to these changes, Anthem Blue Cross is updating the Blue on Blue product distribution guidelines.

Anthem Blue Cross framework for change

Anthem Blue Cross's goal is to provide an environment that promotes change and continues to allow for competition in a manner that doesn't disrupt the market and is fair to all participants. Anthem has established a framework for transition with three primary parts:

1. JPAs and Trusts that offer an Anthem competing health plan option (excluding Kaiser) are offered a choice to accept or decline the Anthem product distribution guidelines.
2. Those that accept the guidelines may offer proposals to employer groups that offer Anthem branded medical products through competing Trust or JPA programs, and those that are insured or administered directly through Anthem.
3. For those JPAs and Trusts that choose to decline the guidelines, the current Blue on Blue marketing distribution practice will remain in effect without change. The entity may not offer an Anthem product to an employer group that is actively participating in an Anthem health plan through any source.
 - a. Note: Those JPAs and Trusts that do accept the guidelines will not be prohibited from offering Anthem health plan coverage to an employer group that participates in a Trust or JPA plan that declines to accept the guidelines.

Acceptance of the Anthem Blue Cross amended guidelines

The following conditions apply to those JPAs and Trusts that agree to accept the amended Blue on Blue guidelines:

1. The price for an offering of Anthem administered or insured health plan coverage should reflect the pricing principals and actuarial soundness of the quoting entity.
2. The initial price of the coverage must conform to the following:
 - a. If the renewal is not known, the price offered (or fully insured equivalent) may not be less than the price for medical coverage that the employer group is paying within their current in-force program.
 - b. If the renewal is known, then the price offered may not be less than the proposed renewal rates.

AGENDA: San Joaquin Valley Insurance Authority

DATE: April 25, 2014

An actuarial adjustment is allowed for plan design differences to align the pricing to the next nearest plan offered within the offering entity's portfolio of products, but the actuarial adjustment may be no greater than a discount of five percent. There is no limit on upward pricing adjustments.

Following acquisition, rating adjustments to the employer group may be made in accordance with the usual pricing practices of the Trust or JPA following a period of no less than 12 months.

Conclusion

In order to maintain a competitive position in the marketplace and gain access to existing Anthem Blue Cross members, the SJVIA should accept the amended guidelines.

Non-acceptance of the new guidelines would place the SJVIA at the following disadvantage – *“The entity may not offer an Anthem product to an employer group that is actively participating in an Anthem health plan through any source”*. Further, the SJVIA would be at a disadvantage to other marketing organizations that chose to accept the new guidelines.

FISCAL IMPACT/FINANCING:

None

ADMINISTRATIVE SIGN-OFF:



Paul Nerland
SJVIA Manager



Rhonda Sjostrom
SJVIA Assistant Manager

**BEFORE THE BOARD OF DIRECTORS
SAN JOAQUIN VALLEY INSURANCE
AUTHORITY**

IN THE MATTER OF Approve the Acceptance of Revised Anthem Blue Cross Marketing Guidelines

RESOLUTION NO. _____
AGREEMENT NO. _____

UPON MOTION OF DIRECTOR _____, SECONDED BY
DIRECTOR _____, THE FOLLOWING WAS ADOPTED BY
THE BOARD OF DIRECTORS, AT AN OFFICIAL MEETING HELD _____
_____, BY THE FOLLOWING VOTE:

AYES:
NOES:
ABSTAIN:
ABSENT:

ATTEST:

BY: _____

* * * * *

That the Board approved the Acceptance of Revised Anthem Blue Cross Marketing Guidelines



Steven Scott
Vice-President and General Manager
Anthem Blue Cross Large Group

March 17, 2014

Dear Valued Partner,

We recently advised you of a change to our "Blue on Blue" product distribution guidelines. A copy of that announcement and related Frequently Asked Questions are attached. We are writing now to request that you advise us of whether you wish to accept and operate under the new guidelines, or whether you will decline and thus continue to operate under the current "Blue on Blue" restrictions. Please provide us with your response by **March 31, 2014**.

If the below decision conflicts with any existing language contained within your JPA, Trust or ASO agreement, this will serve as confirmation that we will waive any contract language that conflicts with the new pricing guidelines contained within the new guidelines so long as you continue to comply with the new pricing guidelines.

Please indicate your decision by marking only one box below and confirming with your signature and date.

- YES, our organization is choosing to accept the new Blue on Blue product distribution guidelines and agrees to adhere to these guidelines.
- No, our organization is not agreeing to the new Blue on Blue product distribution guidelines and we understand that we will not have the ability to request quotes for any inforce Anthem account.

Signature: _____

Printed Name: _____

Organization: _____

Date: _____

This form can be returned via e-mail to your Anthem Blue Cross Account Management Executive. Feel free to also reach out to your assigned representative should you have any questions on the above.

Sincerely,

Steve Scott
Vice-President and General Manager
Anthem Blue Cross Large Group

Anthem Amends Large Group “Blue on Blue” Product Distribution Guidelines

We want to let you know that Anthem is updating its large group Blue on Blue guidelines. With the introduction of the Affordable Care Act, we need to ensure that our products continue to be offered in a way that is fair and positive for everyone.

Why is Anthem changing the Blue on Blue guidelines?

For the last 20 years, Anthem Blue Cross has required adherence to our product distribution guidelines called “Blue on Blue”.

Blue on Blue was adopted to promote stability in the market. It defined rules of engagement for competing entities that promote Anthem branded products. These Blue on Blue guidelines discouraged the following activities:

- Proposal from a Joint Powers Authority (JPA) or Trust to a competing JPA or Trust offering an Anthem product
- Direct quotation from Anthem to remove an entity from a JPA or Trust
- Offer by Anthem to replace business administered by a TPA with an Anthem administered or fully insured product. A TPA is also prohibited from quoting against in-force Anthem business.

The market has evolved since the introduction of Blue on Blue. The Affordable Care Act contains a Guaranteed Availability of Coverage provision that requires health plans to provide an offer of insurance, upon request, for any product it is approved to sell in the state (this guaranteed availability provision does not apply to ASO products).

In addition, the individual consumer now has the option of accessing health care insurance through a marketplace exchange. Many employers are considering the adoption of a private exchange platform to expand choice among their employee health plan portfolio.

Others also consider a private exchange to be an effective vehicle to transition to a defined contribution model of funding health care benefits.

In response to the current market dynamics we are updating the Blue on Blue product distribution guidelines.

Our objectives – fair, collaborative and flexible

The Anthem brand is presented to the California market through a number of distribution channels. Products and services are made available through direct contracts with Anthem, or from a number of formal purchasing collaborative plans in the form of a Health and Welfare Trust plan or a Joint Powers Authority. Our brand also is represented through a number of authorized Third Party Administrators.



We value the unique attributes that each offering entity presents to the market. We are revising our guidelines to enable each entity to promote its value proposition in a manner that also allows it to maintain its collaborative relationship with Anthem. There are many ways that purchasing pools and distribution partners define their value proposition. Some of the attributes that uniquely define our distribution partners are based on decisions and structure in the following areas, including:

- Product Portfolio
- Customer Service
- Financial Model
- Governance
- Field Service
- Affinity Programs

Our Blue on Blue guidelines change will offer more flexibility to our customers that desire to maintain the Anthem product branding, while also maintaining the freedom to choose from a “market place” of program options.

Our framework for change

Our goal is to provide an environment that promotes change and continues to allow for competition in a manner that doesn't disrupt the market and is fair to all participants. That's why we have established a framework for transition with three primary parts:

1. JPAs and Trusts that offer an Anthem competing health plan option (excluding Kaiser) are offered a choice to accept or decline the Anthem product distribution guidelines.
2. Those that accept the guidelines may offer proposals to employer groups that offer Anthem branded medical products through competing Trust or JPA programs, and those that are insured or administered directly through Anthem.
3. For those JPAs and Trusts that choose to decline the guidelines, the current Blue on Blue marketing distribution practice will remain in effect without change. The entity may not offer an Anthem product to an employer group that is actively participating in an Anthem health plan through any source.
 - a. Note: Those JPAs and Trusts that do accept the guidelines will not be prohibited from offering Anthem health plan coverage to an employer group that participates in a Trust or JPA plan that declines to accept the guidelines.



How do the guidelines affect pricing?

The following conditions apply to those JPAs and Trusts that agree to accept the amended Blue on Blue guidelines:

1. The price for an offering of Anthem administered or insured health plan coverage should reflect the pricing principals and actuarial soundness of the quoting entity.
2. The initial price of the coverage must conform to the following:
 - a. If the renewal is not known, the price offered (or fully insured equivalent) may not be less than the price for medical coverage that the employer group is paying within their current in-force program.
 - b. If the renewal is known, then the price offered may not be less than the proposed renewal rates.

An actuarial adjustment is allowed for plan design differences to align the pricing to the next nearest plan offered within the offering entity's portfolio of products, but the actuarial adjustment may be no greater than a discount of five percent. There is no limit on upward pricing adjustments.

Following acquisition, rating adjustments to the employer group may be made in accordance with the usual pricing practices of the Trust or JPA following a period of no less than 12 months.

When do these changes take effect?

These revisions are effective for quotes issued immediately following written acceptance of agreement to comply with the amended guidelines, for health plan offerings that are effective July 1, 2014 and beyond.

How does this apply to TPAs?

The majority of contracts in effect with Third Party Administrators that offer Anthem networks and medical management services contain non-compete language that defines limitations on issuing proposals to in-force Anthem customers. With the exception of actions we must take to maintain compliance with the Affordable Care Act, the non-compete language will remain in effect unless modified by mutual agreement.



Anthem Amends “Blue on Blue” Product Distribution Frequently Asked Questions - External

1. Who is affected by this change?

All distribution channel partners not currently operating under a non-compete arrangement are impacted. That includes entities such as Joint Power Authorities (JPAs), Trusts, and Third Party Administrators (TPAs). Each of these entities will be given a choice to accept the new guidelines to allow them to participate in an open Anthem marketplace.

2. Why are we making this change now?

Our Blue on Blue business practice has been in place for over 20 years. The market has evolved since the introduction of Blue on Blue. The Affordable Care Act contains a Guaranteed Availability of Coverage provision that requires health plans to provide an offer of insurance, upon request, for any product it is approved to sell in the state (this guaranteed availability provision does not apply to ASO products). As such, we are modifying our business practice to comply with these requirements and provide our existing customers the option to choose from a marketplace of available options by our distribution channel partners.

3. How do the new guidelines affect you?

In an effort to provide an environment that facilitates change in a manner that is non-disruptive and equitable to all participants, entities (i.e. JPAs, Trusts and Third Party Administrators) that offer an Anthem competing health plan option (excluding Kaiser) are offered a choice to accept or decline the Anthem guidelines reflected below:

For entities that choose to accept:

- Those entities may offer proposals to employer groups that offer Anthem branded medical products through competing Trust or JPA programs, and those that are insured or administered directly through Anthem.

For entities that choose to decline:

- The current Blue on Blue business practice will remain in effect without change. Please note, other entities that accept the guidelines will be allowed to offer Anthem health plan coverage to an employer group that participates in a Trust or JPA plan that declines to accept the new guidelines.

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4. Do the guidelines affect pricing?

Yes. The price for an offering of health plan coverage should reflect the pricing principals and actuarial soundness of the quoting entity. As such, the following pricing guidelines will apply to those entities that have accepted the new Blue on Blue guidelines:

- If a renewal has not been issued - the price offered (or fully insured equivalent) may not be less than the price for medical coverage that the employer group is paying with their current in-force program
- If renewal has been issued - the price offered may not be less than the proposed renewal rates.

An actuarial adjustment for plan design differences to align the pricing to the next nearest plan offered, within the offering entity's portfolio of products, is allowed. The actuarial adjustment may be no greater than a discount of 5%. There is no limit on upward pricing adjustments.

Following acquisition, rating adjustments to the employer group may be made in accordance with the usual pricing practices of the Trust or JPA following a period of no less than 12 months.

5. *When does this change become effective?*

These revisions are effective for quotes issued immediately following written acceptance of agreement to comply with the amended guidelines, for health plan offerings that are effective no sooner than July 1, 2014.

6. *How will you be notified?*

An amended guideline has been sent to impacted parties on February 21, 2014. Anthem Sales and Account management will contact impacted parties for follow up.

7. *How does this impact non-compete language?*

Contracts that contain non-compete language that defines limitations on issuing proposals to in-force Anthem customers will not be affected by this change, with the exception of actions we must take to maintain compliance with the Affordable Care Act.

8. *Will entities that offer a competing non-Anthem plan be given a deadline for making an election?*

Yes, we are asking Trust and JPA programs that offer a competing non-Anthem plan, excluding Kaiser, to declare their decision to accept or reject the pricing guidelines, by March 31, 2014.

9. *Will Anthem still allow a Trust to offer additional downgraded (or upgraded) plans even if the pricing is outside the 5% (Example, a Trust has a menu of several HMO, PPO and CDHP plans, will Anthem's guidelines prohibit them from offering them all, or, as long as the most similar plan is within the 5% guideline they are free to adjust their other plans and offer them all?)?*

A Trust may offer their full portfolio of products; however, the plan design that most closely resembles the in-force plan design cannot be offered lower than 5% of the in force rate. All other plan offerings must reflect the same decrements that apply to their published pool rates.

10. *Is Broker Commission and/or trend load or reduction for short or long plan years outside of the allowed 5% benefit adjustment?*

Anthem has Trusts/JPA's that will allow a group to join at any time, but quote short or long plan years to sync them up with the Case renewal moving forward. Historically, Anthem's quotes on many of these are for anywhere from a 9 month to 15 month plan year, thus, the rating can be significantly skewed. If a plan is offering a short term rate, the in force rate floor (subject to 5% benefit adjustment) will still apply. Broker commissions may be excluded from the rates without affecting the 5%.

11. Do the guidelines as outlined applicable to all transfer scenarios:

- **Trust/JPA going to a different Trust/ JPA**
- **Anthem Direct going to Trust/JPA**
- **Trust/JPA going to Anthem Direct**

Yes, the guidelines are intended to apply to all three scenarios.

12. Is Anthem creating any guidelines relative to the number of times a group can transfer between distribution channels or will it be Anthem's underwriting standard of "X" amount of moves in "X" years?

Each Trust/JPA may have established rules for entering and/or leaving a trust. Those decisions and guidelines remain between the client and the Trust/JPA.

13. Will there be any "Policing" requirements that Anthem will have to put in place to validate the pricing security caveat that everyone must follow for the first 12 months (specifically self-funded or MPP Trusts/JPAs where Anthem doesn't collect information on the rates that are being charged to any one District or Group)?

We are giving Trust/JPAs an option and expect that those who accept Anthem's rating guidelines will act with integrity in the market. In the event a claim that pricing guidelines were not honored, Anthem will take appropriate action.

14. Does Anthem anticipate including verbiage surrounding a Trusts decision to adhere or not to adhere to the guideline change within their ASO agreement that is updated each year?

Anthem will be seeking a written declaration of an entity's decision which will be considered evergreen.

15. How does this change Anthem's proposal process?

As a result of this change, Anthem will now require disclosure of the current incumbent carrier as well as current rates (or renewal rates if released).

16. Do these guideline changes apply to PEO arrangements?

Yes, assuming the PEO contracts contain the appropriate contract language. PEO contracts that contain non-compete language that defines limitations on issuing proposals to in-force Anthem customers will not be affected by this change, with the exception of actions we must take to maintain compliance with the Affordable Care Act.

17. What is the process when Anthem receives a proposal request from a TPA partner AND a direct request?

In the case that a TPA contract contains non-compete language that defines two-way limitations on issuing proposals to in-force Anthem customers, Anthem will not be able to directly compete, with the exception of actions we must take to maintain compliance with the Affordable Care Act.

18. Would Anthem require a Letter of Authorization from a group?

Our procedures related to broker authorizations remain unchanged.

19. Would Anthem respond to a proposal request from a TPA when the group is currently insured on a direct basis?

Should the TPA have a non-compete clause, they would be limited in pursuing Anthem's in force customers. Otherwise, the market is open.

20. Is an ASO Anthem case the same as an insured case in Anthem's view of its obligation to provide a proposal? In other words, a self-insured JPA with an Anthem ASO plan vs. insured Anthem outside the JPA?

Our obligation under the Affordable Care Act is to provide a fully insured proposal only. However, under these new guidelines, we are creating an open marketplace where customers can purchase Anthem products using different funding and distribution channels.

21. Can the self-insured Anthem ASO JPA plan quote against an Anthem insured plan? How about the reverse?

Yes.

22. Does Anthem believe that the ACA obligation to quote apply to self-insured plans who are accessing the Anthem network and paying Anthem for ASO services? Further, does the election the JPA's make in regard to your proposed new rules make any difference?

Our obligation under the Affordable Care Act is to provide a fully insured proposal only. However, under these new guidelines, we are creating an open marketplace where customers can purchase Anthem products using different funding and distribution channels.

23. Does this guideline apply to specialty?

No. The Blue on Blue business practice only applies to medical.