

PAYERS & PROVIDERS

CALIFORNIA EDITION

Calendar

June 5-8

National Association of Chain Drug Stores Annual Marketplace Conference. San Diego Convention Center. A demonstration of new products for drug retailers \$975-\$1,975.

Register Online:

<http://meetings.nacds.org/marketplace/2010/registration.cfm?pagel=1>

June 13-16

California Health Information Association Annual Conference. Hyatt Regency Sacramento. Discussion of relevant health information topics. \$275-\$525.

Register online:

https://www.californiahia.org/content/SignUP_CHIACConvention.cfm

June 23

Health IT Resource Teach-In. Preparing Underserved Communities for Health IT and EHR Adoption. California Endowment, Los Angeles. No charge.

Register Online:

<http://shireteachinla.eventbrite.com/>

E-Mail info@payersandproviders.com with the details of your event, or call (877) 248-2360, ext. 3. It will be published in the Calendar section, space permitting.

Anthem Big Outlier In DMHC Actions

Nearly 500 Violations; \$2.5M Fine Yet to be Publicized

Since the **California Department of Managed Health Care** began its regulatory mission a decade ago, it has levied nearly 1,200 enforcement actions against health plans, providers and other entities for violating state laws and regulations. The DMHC typically issues penalties for not responding to member grievances or failing to pay claims in a timely fashion.

Among the 170 organizations that have been penalized by the DMHC, **Anthem Blue Cross of California** stands alone.

The Indianapolis-based Anthem has racked up a remarkable 479 enforcement actions, or more than 40% of the statewide total, according to [DMHC records](#). Some 275 of those actions have been levied against Anthem since early 2009 – including a \$2.5 million fine the agency issued last November but has yet to publicize.

Anthem's overall number is more than

quadruple the 102 enforcement actions levied against San Francisco-based **Blue Shield of California**, the second-largest total.

Anthem Blue Cross equated the number of enforcement actions to its size: "As the state's largest health benefits

company serving more than 8 million people in California each year, it is not surprising that we might have the largest number of inquiries from the DMHC," the insurer said in a prepared statement.

Yet the only insurer of similar size to Anthem in California, Oakland-based **Kaiser Foundation Health**

Plan, has received just 84 enforcement actions from the DMHC. It has 6.7 million enrollees statewide.

"I'm a little stunned," said **Betsy Imholz**, special projects director for **Consumers Union** in San Francisco and a

DMHC Enforcement Actions, 2001-Present (1,188 Total)

Anthem Blue Cross of California (479)
Blue Shield of California (102)
Health Net (96)
Kaiser Foundation Health Plan (84)
PacifiCare of California (58)
Aetna Healthcare of California (40)
Cigna Healthcare (33)
Molina Healthcare (6)
L.A. Care Health Plan (3)

Source: DMHC

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NON-PROFIT HOSPITAL CEO SALARIES

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Publication Date: June 2010

\$149 (Executive Summary) \$275 (Summary and Salary Data)

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In Brief

Report: California Will Boost Medi-Cal Rolls by 3 Million Via Reform

A new report by the **Kaiser Family Foundation** concludes that California will have nearly 3 million new enrollees in the Medi-Cal program by the end of the decade as the result of national healthcare reform.

The report, which was released Wednesday in conjunction with the Urban Institute, concludes that California will see the boost in Medi-Cal enrollment by 2019, when the last phase of national reforms are implemented. The new enrollees will represent about 13% of the 22.8 million who will be added to the Medicaid rolls nationwide.

Of the new California enrollees, about 2.3 million will represent people who previously did not have health insurance. About 15 million people currently without insurance will be added to the national Medicaid rolls by the end of the decade.

Most of the new enrollees will be covered by federal subsidies. In California, just under 94% of the money spent for the coverage expansion will be paid for in federal dollars.

Howard Kahn, Chief Executive Officer of L.A. Care Health Plan, the state's largest Medi-Cal managed care insurer, cheered the news but noted that providers will be under an additional strain.

"There will be a lot of pent up demand," he said.

Prime Settles Balance Billing Litigation

Prime Healthcare Services has settled a 2008 lawsuit brought by the **Department of Managed Health Care** over accusations the Ontario-based hospital chain was balance-

Continued on Page 3

Anthem Blue Cross (Continued from Page One)

member of the advisory committee that helped create the DMHC a decade ago. "That is a huge number, and a huge proportion of the violations."

Judy Dugan, research director for **Consumer Watchdog**, a Santa Monica-based advocacy organization that has been one of Anthem's biggest adversaries, is not surprised by the numbers.

"We know Anthem Blue Cross cannot be trusted," she said, adding that the DMHC has not been vigilant enough in regulating the insurer.

Nonetheless, the DMHC has levied nearly \$3 million in fines against Anthem over the past 18 months. That sum does not include a \$10 million settlement Anthem paid the agency early last year for rescinding large numbers of individual health insurance policies.

Anthem has already been penalized 18 times by the DMHC this year, and fined a total of \$265,000, according to agency records. To date this year, DMHC has levied 21 other enforcement actions against 13 individuals, medical groups and insurers. The fines in those instances have totaled just \$30,000.

"A plan's history of violations is a factor that is considered when determining the amount of the penalty to be assessed," DMHC spokeswoman **Lynne Randolph** said in an e-mail response to questions.

In its statement, Anthem noted that "enforcement actions can result from the company taking several additional days to complete its work on a complex issue, or the (DMHC's) judgment that a particular letter to a member should have been more clear or more concise."

However, many of the recent enforcement actions levied against Anthem fall outside those boundaries.

In April, the DMHC fined Anthem \$100,000 for failure to show that a standalone network of providers it had created for its **Healthy Families** and **Access to Infants with Mothers** enrollees was sufficient to provide care to that population.

Also in April, Anthem was penalized for sending erroneous requests for refunds to providers. The requests "relied upon an improper and factually inaccurate statement for the requested return of the money," according to DMHC documents sent to Anthem's legal counsel. Anthem

was also cited for failure to pay the appropriate interest and penalties when it finally returned the money. However, Anthem was fined only \$10,000 due to "unusual mitigating circumstances" that were not detailed in the correspondence. Citing state confidentiality laws, Randolph declined to disclose further details.

In February, Anthem was fined \$80,000 for paying an unnamed provider a "fraction of the contracted rate" for a hospital procedure due to a contractual dispute. When Anthem finally paid the full amount, it again did not include the interest and penalties as required under state law. It was also fined for that violation.

Additionally, Anthem has been fined \$75,000 so far this year for repeatedly not responding to the grievances of its enrollees in a timely fashion.

Despite the repeated enforcement actions issued against it in 2010, Anthem's record does not yet compare to 2009, when the DMHC levied 257 enforcement actions, accompanied by \$2.67 million in fines. Virtually all were for not properly responding to enrollee grievances, according to DMHC records.

Randolph said that the agency does not believe the violations constitute willful misconduct by Anthem.

"The failure to timely respond to member grievances appears to be due to the lack of administrative capacity," she stated.

In November 2009, the agency entered into an agreement with the insurer to fine it \$2.5 million for failure to provide appropriate coverage to its members, violating a continuity-of-care agreement that stemmed from Anthem's 2004 merger with **WellPoint, Inc.** in 2004. The DMHC also began a rare systemwide survey of Anthem's business practices – the first such survey the agency has undertaken of the insurer since 2006, according to its records. The DMHC has yet to publish the survey or publicly announce the fine, even though the settlement agreement is posted on its website.

"Typically, the DMHC publicizes stipulated agreements and survey reports simultaneously," Randolph said. "But we did not want to delay corrective actions

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In Brief

billing insured patients for services rendered at its emergency rooms.

Under the terms of the settlement, Prime has agreed not to balance bill any more patients, and refund any monies collected as a result of balance billing with interest. It has also agreed to donate \$1.2 million to community clinics statewide to promote healthcare services.

"Consumers who purchase health coverage in good faith will know, once and for all, that it will cover them in a medical emergency and they will not fall victim to a crushing medical debt that they legally do not owe," said DMHC Director **Cindy Ehnes**.

According to the DMHC lawsuit, Prime tried to balance bill as many as 6,000 **Kaiser Foundation Health Plan** enrollees who sought care at the emergency rooms of three hospitals it operates in Orange County.

DMHC officials were unable to say how much Prime may have balance-billed patients. Prime will audit charges dating back the last six years to determine the exact amount.

California Is Bariatric Surgery Capital

California was the local of nearly 21% of all bariatric procedures performed nationwide between 2006 and 2008 – far more than any other state – according to a new report by **HealthGrades.com**.

Altogether, the Golden State hosted 38,592 of the procedures during the three-year period studied by HealthGrades. New York had the second-largest number of procedures, with 25,813 performed, or 13.6% of the total.

According to HealthGrades, the number of bariatric procedures performed nationwide has increased from to 220,000 to 2008 from 63,100 in 2002.

Anthem Blue Cross (Continued from Page Two)

from commencing while waiting for the report itself to be finalized."

Dugan criticized the opaque legal language of the settlement, and claimed it did not go far enough.

"The fine does not get to the larger issues – just the smaller issues," she said.

Given the nearly systematic levying of enforcement actions against Anthem, Imholz suggested that the insurer's management may have decided it is more economical to accept the monetary penalties rather than address the underlying issues.

"This may be seen as its cost of doing business in California," Imholz said. Given that plan enrollees and providers must file a grievance with the DMHC, she added that many may have given up fighting the insurer and never took the time to lodge a complaint.

Anthem claimed that it is bulking up its ability to respond to enrollee grievances.

"Anthem Blue Cross maintains a number of ongoing quality improvement processes to address such findings and ensure a high level of service for our

members," it said – a statement echoed by the DMHC.

Not every provider has a beef against Anthem. Its predecessor firms were criticized a decade ago for late payments to hospitals, leading to legislation that mandated most claims be settled within 45 days. Since that bill, **AB 1455**, was signed into law, hospitals have been mostly satisfied.

"It has not risen to a level of great concern," said **Jan Emerson**, vice president of external relations for the **California Hospital Association**.

However, the number of penalties issued by the DMHC against Anthem has risen to the point where another entity may have to step in, Imholz believes.

"When there are patterns like this, it is surely a signal that it should be investigated further," she said. "A joint agency effort, or perhaps an effort by the Attorney General's office is required – something that steps back and looks at the company as a whole."

Payers & Providers In Joint Venture

Circulation to Double; New Editions Are Planned

Payers & Providers Publishing LLC has entered into a strategic alliance with **MCOL, Inc.**

The two companies will immediately more than double the readership of the California Edition of *Payers & Providers*; launch editions in other U.S. markets; and develop a print national edition. MCOL will also help grow *Payers & Providers'* base of advertisers and paid subscribers. MCOL's membership-based service will also expand as a result of the affiliation.

Based in Modesto, MCOL publishes newsletters such as **HealthExec Wire**, **HealthExec Mobile**, **Predictive Modeling News** and **Medical Home News**. It also offers a variety of healthcare leadership directories.

"*Payers & Providers* is one of the best new healthcare publications in California. To have the opportunity to build it into a national brand is an exciting challenge that I look forward to executing in the coming

months," said MCOL President **Clive Riddle**.

Since its inaugural issue in July 2009, the Burbank-based *Payers & Providers* has broken a variety of healthcare business stories and has showcased the opinions of many of California's leading healthcare voices.

"I have had a dream for many years to operate a self-supporting weekly publication with a strong editorial voice that breaks healthcare news rather than follow it. The alliance with MCOL will not only allow *Payers & Providers* to achieve this dream, but to give it a national scope," said publisher **Ron Shinkman**.

Healthcare executives interested in serving on the Editorial Boards of the upcoming editions of *Payers & Providers* should submit queries to info@payersandproviders.com.

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A New Era For Medical Foundations

HASC Examining Group Effort With Region's Hospitals

About 15 years ago, the term PHO was not restricted to Vietnamese cuisine. Physician-Hospital Organizations were seen as the inevitable response to the growing clout of managed care plans.

The failure of mega-medical groups such as **KPC Medical Management** in 2000 changed all that. In the KPC case, 38 clinics closed overnight, and several health plans chipped in \$30 million to guarantee continuum of care to patients. It was one of many medical groups throughout California that went under a decade ago, the victim of overly ambitious executives who thought that capitation could be equated to positive cash flow. With so many medical groups on shaky grounds, no other providers wanted to touch them.

All those failures occurred during far flusher times. Health plan payments to physicians and other providers have been cut 15% or more in the intervening years. The number of uninsured statewide has increased about 60%, to 8 million – nearly one in four Californians. Dozens of smaller hospitals have had to close across the state over the past decade due to financial woes.

It's a tough environment for any physician to practice medicine. Newly minted medical school graduates, already saddled with up to \$200,000 in educational debt, are looking for job security and fewer administrative headaches. It is also becoming nearly impossible to recruit physicians to practice in rural hospitals. Moreover, community clinics, the backbone of primary healthcare delivery to low-income communities in Southern California, are under increasing financial strain.

These are among the reasons the **Hospital Association of Southern California** is considering a venture with some of its member hospitals to form a joint medical foundation. Such a foundation would allow the direct hiring

of physicians, as well as direct contracting with medical groups throughout the region.

The reasons HASC is considering such a venture are compelling. Current state regulations prohibit the formation of medical foundations with fewer than 40 physicians. Such a venture would allow small and medium-sized hospitals that did not have the operational resources to form their own foundation to participate in this one. It would prove invaluable in addressing the logistical difficulties these institutions have in recruiting and retaining qualified staff physicians.

Moreover, such a model would also make it far easier to make the changes demanded by the federal healthcare reform legislation signed into law earlier this year. As a result of the reforms, both accountable care organizations (ACOs) and bundled payments for care will become all but mandatory by 2012. Creating such a model will allow providers to better adjust to such changes wrought by reform.

The foundation would also allow for the operation of outpatient clinics, and provide a centralized hub for electronic medical records and billing. The latter item is particularly attractive to smaller physician practices. They are often overwhelmed with paperwork from insurers, and cannot invest the money required to install an electronic medical records database for their patients.

In other words, a joint foundation model would not only address the demands of federal reform, but help many of the area providers keep their costs down, and allow them to enter the 21st century in terms of the technological aspects of medicine. It would also provide a more seamless integration of Southern California's physicians and hospitals.

Jim Lott is the Executive Vice President of HASC. He is a member of the Payers & Providers Editorial Board.



By
Jim Lott

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