



HEALTH NET SETTLEMENT OVERVIEW

(Agreement dated May 2, 2005; Preliminarily Approved by Judge Moreno May 10, 2005)

The following is a general overview of the major provisions of the Health Net Settlement likely to be of interest to California physicians. It is not intended to be comprehensive. The prospective relief noted below generally extends for four (4) years from the date it is implemented, unless terminated earlier as specified in the Agreement. *See* Attachment A. Physicians interested in the specifics should read the language of the actual Settlement Agreement, which is posted in the CMA's RICO Resource Center at www.cmanet.org.

Retrospective Relief:

- \$39,000,000 to class members, without any requirement for the submission of medical records. (§8)
- \$1,000,000 to the Compliance Fund to be used for monitoring and enforcing compliance with the Settlements. (§8)

Prospective Relief: Over \$80 million

- ***Better Medical Necessity Definition*** - Patients will be entitled to receive medically necessary care as determined by a physician exercising clinically prudent judgment in accordance with generally accepted standards of medical practice, and cheaper alternatives are permissible only when they are "at least as likely to produce equivalent therapeutic or diagnostic results." (§7.16)
- ***Payment of Vaccines and Vaccine Administration*** - Recommended vaccines and injectibles and the administration of such vaccines and injectibles, will be reimbursed. (§7.14)
- ***Reduced Downcoding*** - Evaluation and management CPT codes will not be automatically downcoded or reassigned. (§7.19)
- ***Fewer Contract Changes*** - No material adverse change to a contract may be made on less than 90 days written notice. (§7.6)
- ***Fairer Payment Rules*** - CPT coding edits will comply with most of the guidelines contained in the AMA CPT Manual. (§7.20)
- ***Most Favored Nation Clauses Prohibited*** - Health Net will not include any "most favored nation clause" in its contracts with physicians. (§7.29)
- ***Consistency and Disclosure of Payment Rules*** - Payment rules will be consistent across all of Health Net's commercial products within each separately licensed health plan by December 31, 2005. Moreover, most reimbursement edits and claims adjudication logic will be disclosed. (§7.8)

- **Capitation from Date of Enrollment** - Capitation fees will be paid when the patient chooses a PCP or is assigned to a PCP, retroactive to date of enrollment. (§7.28)
- **All products and “other payor” clauses prohibited** – Health Net will not require physicians to participate in products they do not want to participate in, including but not limited to products the Company offers to workers’ compensation payors. (§7.13) Moreover, Health Net will not require physicians to be “leased” to entities other than Health Net, its affiliates, or their self-funded plans’ customers. (§7.29)
- **Stop-loss Insurance May be Purchased Elsewhere** – Health Net will not restrict physicians from purchasing stop-loss coverage from other insurers. (§7.29)
- **Faster Credentialing** – New physician group members will be credentialed within 90 days of application, which physician groups can submit prior to their employment, and little or no additional credentialing will be required when already credentialed physicians change employment or location. (§7.13)
- **Arbitration Fees Capped** - For solo and small group physicians arbitration fees will be capped at \$1000 and Health Net’s participation contracts will not require that arbitrations take place more than 100 miles from the physicians’ office, or that there be multiple arbitrators for disputes of less than \$500,000. (§7.29)
- **Prompt, external dispute resolution mechanism for physician disputes** – A streamlined, external review system will be established enabling physicians to dispute Health Net’s decisions on billing or medical records requests (Billing Dispute External Review Board) and on medical necessity (Medical Necessity External Review Process). (§§7.10, 7.11)
- **Gag clauses prohibited** - “Gag” clauses will be prohibited. (§7.29)
- **Non-participating physicians protected** – Disparaging language will be removed from EOBs, and the Agreement will not change or alter the rights of non-participating physicians to balance bill patients or to avoid dealing with Health Net. (§§7.21 and 7.29) Moreover, Health Net will identify “the data used ... to determine the “reasonable and customary” charge” whenever any specific determination is challenged. (§7.14)
- **Limitation on Rental Networks** – Health Net will disclose on each EOB or remittance advice the identity of any PPO discount it is claiming, and within 30 days of a physician’s request, will provide the physician with a copy of the signed agreement between the physician and that PPO, or else Health Net will not be entitled to that discount. (§
- **No HIPAA Mandate** – Non-participating physicians will not be forced to use electronic transactions or otherwise become HIPAA compliant, and Health Net agrees to continue to accept paper claims. (§7.17)
- **Restrictive Endorsements Limited** – When the check is a partial payment of allowable charges, physicians may cash a check with "Payment in Full" on it without waiving the right to pursue a remedy under the Settlement. (§7.29)
- **Better Mental Health Coverage** – Health Net will generally apply the §7.16 definition of medical necessity described above to mental health care, including treatment for psychiatric illness and

substance abuse, it will treat its participating psychiatrists like its other participating physicians with respect to its provider directories and referrals, and it will adhere to the "prudent lay person standard" for emergency services, including admission, or physical or chemical restraints. (§7.33)

- ***Better state and federal law supercedes the Agreement.*** (§7.29)

Enforcement of Settlement Agreement

- A Physicians' Advisory Committee will be created to address issues of statewide or greater scope. (§7.9)
- Physicians and signatory state medical societies will enforce the Agreement, including Health Net's agreement to abide by those laws that are more protective of physicians than the provisions otherwise contained in the Agreement, exclusively through an efficient "compliance dispute" resolution process. The United States District Court Judge handling the litigation will have ultimate enforcement power. (§12)
- Physicians and signatory state medical societies retain the right to seek the enactment of better state laws and regulations, and to enforce those better protections. (§13.9)

Coverage:

- The Settlement covers all physicians (over 700,000 physicians, physician groups and physician organizations) who have provided covered services to any person enrolled in or covered by a plan offered or administered by any of the defendants named in the complaint (including Aetna, CIGNA, Prudential, Humana, Wellpoint, Pacificare, Health Net, Anthem, United and Coventry).
- The Settlement also includes the following 15 Signatory Medical Societies: California, Connecticut, El Paso County (Co), Florida, Georgia, Hawaii, Louisiana, Nebraska, New Jersey, North Carolina, Northern Virginia, South Carolina, Tennessee, Texas and Washington.

Distribution of Monetary Relief

- Retired Physicians who file valid claims will receive their pro rata share of the Retired Physician Amount, which will be calculated based on the number of retired physicians who file valid proofs of claim (they receive more than Active Physicians because they will not directly benefit from the prospective relief).
- Active Physicians will be entitled to receive the portion of the Settlement Fund that is available after subtracting the Retired Physician Amount.
- Each Active Physician who files a valid Proof of Claim will receive an amount based on the physician's gross receipts for providing covered services to Health Net Members during a three-year calendar period, depending on whether those receipts were less than \$5,000 (entitling the physician to a single base amount) at least \$5,000 but less than \$50,000 (entitling the physician to five times the base amount), or \$50,000 or greater (entitling the physician to ten times the base amount), regardless of whether these amounts were paid by Health Net or one of its delegated entities. The calculations will be based on Health Net's records for the period 2002-2004, unless the Physician wishes to submit his or her own proof of payment. ***Physicians who received payment for services to Health Net members from an IPA or other delegated entity or who had larger gross receipts in an earlier three-year period should elect this option, and submit 1099s***

or other documentation reflecting payments from those organizations, supplemented with a letter certifying what percentage of that payment was from Health Net and/or its subsidiaries.

- In determining the amount of gross receipts, Physicians may only count payments from Health Net and its subsidiaries and affiliates which include: Health Net of California, Inc., Health Net of Arizona, Inc., Health Net of Oregon, Inc., Health Net of the Northwest, Inc., Health Net of Connecticut, Inc., Health Net of New York, Inc., Health Net of New Jersey, Inc., Health Net of Pennsylvania, Inc., plans that were formerly associated with Foundation Health Corporation, Inc., such as Intergroup Prepaid Health Services of Arizona, Inc., Intergroup of Utah, Inc., CareFlorida Health Systems, Inc., Community Medical Plan, Inc., S. Colorado Health Plan, Foundation Health, A California Health Plan, Inc., Foundation Health, A Florida Health Plan, Inc., Foundation Health, A Colorado Health Plan, Inc., Foundation Health, A Louisiana Health Plan, Inc., Foundation Health, A Texas Health Plan, Inc., and Foundation Health, A Oklahoma Health Plan, Inc., plans that were formerly associated with QualMed, Inc., such as QualMed Plans for Health, Inc., QualMed Plans for Health of Ohio and W. Virginia, Inc., QualMed Plans for Health of Pennsylvania, Inc., QualMed Colorado Health Plan, Inc., QualMed Oregon Health Plan, Inc., QualMed Plans for Health New Mexico, QualMed Washington Health Plan, and Preferred Health Network, Inc., plans that were formerly associated with Health Systems International, Inc., such as MD Health Plan, Greater Atlantic Health Services, Inc., Advantage Health, and Pennsylvania Health Care Plan, Inc., plans that were formerly associated with Foundation Health Systems, Inc. such as First Option Health Plan of New Jersey, Inc., First Option Health Plan of Pennsylvania, Inc., PACC HMO/PACC Health Plans, Physicians Health Services (“PHS”), Inc., PHS of New York, Inc., PHS of New Jersey, Inc., and PHS of Connecticut, Inc., and others (collectively “Health Net”).
- Physicians who do not specify a category of gross receipts will be deemed entitled to a single base amount. Each Retired Physician and Active Physician has the option of receiving payments or directing his or her amount to the California Medical Association Foundation, or the Foundation created by the CIGNA Settlement, the Physicians’ Foundation for Health Systems Innovations.
- Physician Groups may submit claims on behalf of Physicians employed or otherwise working with them at the time the claims are submitted, but only to the extent these Physicians do not submit individual claims. Physician Groups should file the claim form using the group’s tax ID number and address, and attach a list of the names and Social Security Numbers of the individual physicians on whose behalf the group is claiming, and the category of gross receipts applicable to each physician, as discussed above. The claim form should be signed by the Medical Group’s President or by another individual who has authority to represent the listed physicians.

Enclosure: Attachment A

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EXHIBIT A

IMPLEMENTATION DATES FOR SECTION 7 COMMITMENTS

Section	Description	Implementation Date*
7.1	Automated Adjudication of Claims	5/10/05
7.2	Increased Intranet and Clearinghouse Functionality	
a	Investments/Requirements	Effective Date + 90 days
b	Electronic Transactions	Effective Date + 90 days
c	Website Access—Facilitator/Medical Societies	9/7/05
7.3	Availability of Fee Schedule/CPT Code Inquiries	Effective Date + 120 days
7.4	Provider Relations Investment	5/10/05
7.5	Reduced Pre-certification Requirements/Disclosure	
a	Reduced Pre-certification Requirements	11/6/05
b	Disclosure of Pre-certification Requirements	11/6/05
c	Disclosure of Customized Pre-certification List	11/6/05
7.6	Material Adverse Charge Notice	7/9/05
7.7	Initiatives to Reduced Claims Resubmissions	11/6/05
7.8	Disclosure of Commitments Concerning Claims Payment Practices	
a	Consistency of Claim Payment Practices	The later of the Effective Date or 12/31/05
b	Certain Claims Bundling Logic	Effective Date + 90 days
c	Request for Clinical Information	Effective Date + 90 days
d	Claims with Modifiers 25 and 59	The later of the Effective Date or 12/31/05
e	Updates	The later of the Effective Date or 12/31/05
7.9	Physicians Advisory Committee	Effective Date

* Company may at its option give noticed to Class Counsel that it is implementing a commitment earlier than the date for such commitment on this Exhibit A, in which case the Implementation Date, Effective Period and Conclusion Date for such commitment(s) shall be advanced in accordance with the date set forth in such notice.

7.10	New Dispute Resolution Process for Physician Billing Disputes	Effective Date
7.11	Medical Necessity/Experimental-Investigational Determinations	Effective Date
7.12	ERA/EFT	12/31/05
7.13	Participation in Company's Network	
a	Credentialing	Effective Date + 90 days
b	"All Products" Clauses	7/9/05
c	Termination Without Cause	7/9/05
d	Rights of Class Members to Refuse to Accept New Patients	Effective Date
7.14	Fee Schedule Changes	
a	Notice	Effective Date
b	Payment Rules for Injectibles, DME, etc.	Effective Date
c	Appeals of R&C Determinations	Effective Date
7.15	Recognition of Assignments of Benefits	9/7/05
7.16	Application of Clinical Judgment	
a(1)	Medical Necessity Definition	7/9/05
a(2)	External Review Statistics	Effective Date
b	Policy Issues Involving Clinical Judgment	7/9/05
c	Consideration of Administrative Exemption Program	Effective Date
7.17	Billing and Payment	
a	Timing of Claim Submissions 120-day requirement	12/31/05
b	Claims Submissions (acceptance of certain forms and submissions of Clinical Information)	12/31/05
7.18	Timelines for Processing and Payment of Complete Claims	
a	Logging of Receipt Date and Attempt to Require 24-Hour Transmission by Clearinghouses	The later of the Effective Date + 6 months or 10/1/06

b	Payment of Simple Interest	The later of the Effective Date + 6 months or 10/1/06
7.19	No Automatic Downcoding of Evaluation and Management Claims	5/10/05
7.20.a.i	Modifications to Payment Policies	The later of the Effective Date + 6 months or 10/1/06
7.21	Modification of Language in EOBs and Remittance Forms	Effective Date + 120 days
7.22	Overpayment Recovery Procedures	Effective Date + 90 days
7.23	Efforts to Improve Accuracy of Eligibility Information	5/10/05
7.24	Response to Physicians Inquiries	5/10/05
7.25	Confirmation of Medical Necessity	7/9/05
7.26	Electronic Connectivity	Effective Date + 90 days
7.27	Physician Information on Website	Effective Date + 90 days
7.28	Capitation and Physician Organization Issues	
a	Capitation Reporting	Effective Date
b	PCP Assignment	Effective Date
7.29	Miscellaneous	
a	No "Gag Clauses"	7/9/05
b	Ownership of Medical Records	7/9/05
c	Arbitration Fee Limits	Effective Date + 60 days
d	Impact on Physician Agreements	Obligations and commitments to be incorporated into physician contracts (where required) as they commence pursuant to this Exhibit A
e	Impact of this Agreement on Covered Services	5/10/05
f	Privacy of Records	5/10/05
g	Physician Risk Pools	5/10/05
h	"Stop Loss"	5/10/05

i	Pharmacy Provisions—Disclosures re: Formulary, Maintenance of Exception Process; Coverage for Off-Label Uses	5/10/05
j	Restrictive Endorsements	5/10/05
k	Scope of Responsibilities	Obligations and commitments to be incorporated into physician contracts (where required) as they commence pursuant to this Exhibit A
l	Provision of Contract Copies	7/9/05
m	State and Federal Laws	5/10/05
n	Modification of Means of Disclosure	5/10/05
o	Participating Physicians Status and Limits on Obligations on Non-Participating Physicians	Effective Date
p	Limitation on Rental Networks	Effective Date + 60 days
q	Most Favored Nations Clauses	7/9/05
7.30	Compliance with Applicable law and Government Contracts	Obligations and commitments to be incorporated into physician contracts (where required) as they commence pursuant to this Exhibit A
7.31	Value of Section 7 Initiatives	5/10/05
7.32	Force Majeure	5/10/05
7.33	Mental Health Provisions	Effective Date + 120 days