

**STATE OF OREGON
DEPARTMENT OF CONSUMER AND BUSINESS SERVICES
INSURANCE DIVISION**

In the Matter of **Kaiser Foundation Health Plan)**) **STIPULATION** and
of the Northwest dba Kaiser Permanente) **FINAL ORDER**
) Case No. INS 08-12-010

STIPULATION

The Director of the Oregon Department of Consumer and Business Services (director) commenced this administrative proceeding, pursuant to Oregon Revised Statutes (ORS) 731.256, to take enforcement action against Kaiser Foundation Health Plan of the Northwest dba Kaiser Permanente (Kaiser Permanente).

Kaiser Permanente desires to conclude this proceeding without a hearing by entering into this stipulation pursuant to ORS 183.417(3).

Kaiser Permanente waives all rights relative to an administrative hearing and judicial review thereof.

Kaiser Permanente stipulates to the following facts, conclusions, action, and to the issuance of a final order incorporating this stipulation.

Facts and Conclusions

Licensing Information

Kaiser Permanente has been licensed in Oregon as a domestic health care service contractor since 12/30/81. Kaiser Permanente's last recorded principal business address is located in Portland, Oregon.

Failed to Promptly Provide Proper Explanation for Basis of Denial

Kaiser Permanente is subject to enforcement action pursuant to ORS 746.230(1)(m) because of the following circumstances. ORS 746.230(1)(m) prohibits an insurer or other person from failing to promptly provide the proper explanation of the basis relied upon in the insurance policy in relation to the facts or applicable law for denial of a claim. ORS 750.055(1)(g) makes ORS 746.230(1)(m) applicable to health care service contractors like Kaiser Permanente. Kaiser Permanente did not intend to provide bariatric health care to persons insured under

its health benefit plans issued to small employers in 2006, but failed to expressly exclude such care in the Explanation of Coverage (EOC) provided to the employers. However, on 6/1/06, 3/6/07 and 4/3/07, Kaiser Permanente informed three insureds that their requests to for bariatric health care were denied because the care was excluded under the insureds' health care benefit plans. This explanation was incorrect. Subsequently, in December 2007, after the director investigated the denials, Kaiser Permanente reviewed the denials and determined that it was medically necessary for one of three insureds to receive the care.

Action

Pursuant to ORS 731.988, Kaiser Permanente is assessed a civil penalty of \$9,000. The payment shall be made in the form of a check payable to the "Department of Consumer and Business Services" for the full amount due. The payment shall be delivered to the Insurance Division at the Labor and Industries Building, 350 Winter Street NE, Room 440 (4th Floor), Salem, Oregon; or mailed to the Insurance Division at PO Box 14480, Salem, OR 97309-0405. The payment shall be *received* by the Insurance Division by the date of the final order.

Dated January 6, 2009

/s/ Maryann Schwab

[Signature of Representative]

Maryann Schwab

[Printed Name of Representative]

Regional Compliance Officer

[Printed Title of Representative]

Kaiser Foundation Health Plan of the Northwest
dba Kaiser Permanente

FINAL ORDER

The director incorporates herein the above stipulation, adopts it as the director's final decision in this proceeding, and orders that the action stated therein be taken.

Dated 1/26/09

/s/ Cory Streisinger

Cory Streisinger

Director

Department of Consumer and Business Services