

STATE OF OREGON
DEPARTMENT OF CONSUMER AND BUSINESS SERVICES
DIVISION OF FINANCIAL REGULATION

In the Matter of:

Case Nos. INS-21-0019

REGENCE BLUECROSS BLUESHIELD
OF OREGON, a Domestic Nonprofit
Corporation,

ORDER TO CEASE AND DESIST,
FINAL ORDER ASSESSING CIVIL
PENALTY, AND CONSENT TO
ENTRY OF ORDER

Respondent.

The Director of the Department of Consumer and Business Services for the State of Oregon (“Director”), acting in accordance with Oregon Revised Statutes (“ORS”) chapters 731, 732, 733, 734, 735, 737, 742, 743, 743A, 743B, 744, 746, 748 and 750 (“Insurance Code”), has conducted an investigation into the activities of Regence BlueCross BlueShield of Oregon (“Respondent”) and determined that Respondent engaged in violations of the Insurance Code.

Respondent wishes to resolve and settle this matter with the Director.

Now, therefore, as evidenced by the signature(s) subscribed on this Order, Respondent hereby CONSENTS to entry of this Order.

FINDINGS OF FACT

The Director FINDS that:

1. Respondent’s principal place of business is 100 SW Market St., Portland, Oregon 97201.
2. Respondent has been licensed in Oregon as a health care service contractor since May 5, 1942. Respondent’s NAIC number is 64933.
3. Effective January 1, 2019, the Director adopted a series of rules to establish reimbursement rates for out-of-network health care services provided at in-network health

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1 care facilities. These rules addressed consumer harms caused by the practice of “surprise
2 balance billing” (“SBB”).

3 4. SBB occurs when patients seek care at in-network health care facilities but
4 receive treatment from out-of-network health care providers, or when patients receive
5 emergency health care services and are unable to choose to seek care from in-network
6 providers. The patients’ insurance reimburses the out-of-network providers at the out-of-
7 network rate, which is lower than the in-network rate, and the providers bill the patients
8 the balance of the bill. Because the patients sought care at in-network facilities, these bills
9 present them with unexpected expenses.

10 5. Oregon Administrative Rules (“OAR”) 836-053-1600 through 836-053-1615
11 (“SBB Rules”) mandate particular reimbursement rates that are intended to mitigate the
12 economic burden SBB, and related out-of-network billing, places on patients.

13 6. From in or around January 1, 2019 through in or around January 23, 2019,
14 Respondent reimbursed providers of 117 claims subject to the SBB Rules at rates different
15 from those mandated by the OAR. After reprocessing the claims, Respondent had to make
16 additional payments on 82 claims. The additional payments totaled \$20,468.79 with an
17 additional \$309.13 in interest.

18 7. On December 27, 2020, the No Surprises Act was signed into law as part of
19 the Consolidated Appropriations Act of 2021. The No Surprises Act, amongst other
20 purposes, addresses SBB on a federal level. Most provisions of the legislation go into
21 effect on January 1, 2022.

22 CONCLUSIONS OF LAW

23 The Director CONCLUDES that:

24 8. By reimbursing out-of-network providers of services subject to the SBB Rules
25 at rates different from those mandated by the OAR, Respondent violated ORS 743B.287(3)
26 and (6) in 117 instances.

1 9. Because the Director has reason to believe that Respondent has been engaged
2 in violations of the Insurance Code, the Director may issue an order to Respondent to cease
3 and desist, under ORS 731.252(1).

4 10. The Director may impose a civil penalty of up \$10,000 *per violation* upon any
5 person who violates a provision of the Insurance Code, under ORS 731.988(1).

6 **ORDERS**

7 Now therefore, the Director issues the following Orders:

8 11. As authorized by ORS 731.252(1), the Director ORDERS Respondent to
9 CEASE AND DESIST from violating ORS 743B.287(3) and (6).

10 12. As authorized by ORS 731.988(1), the Director hereby ORDERS that
11 Respondent be subject to a CIVIL PENALTY of \$30,000 for violating ORS 743B.287(3)
12 and (6) in 117 instances.

13 13. The CIVIL PENALTY assessed herein (\$30,000) is due and payable at the time
14 Respondent returns this signed Order to the Division.

15 14. This Order is binding upon Respondent's successors and assigns.

16 SO ORDERED this 3rd day of June, 2021.

17
18 ANDREW R. STOLFI, Director
19 Department of Consumer and Business Services

20
21 /s/ Dorothy Bean
22 Dorothy Bean, Chief of Enforcement
23 Division of Financial Regulation

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CONSENT TO ENTRY OF ORDER

I, Angela Dowling, state that I am an officer of Respondent and am authorized to act on its behalf. I have read the foregoing Order and know and fully understand the contents hereof. I have been advised of Respondent’s right to a hearing and right to be represented by counsel in this matter. Respondent voluntarily consents to the entry of this Order without any force or duress, expressly waiving any right to a hearing in this matter, as well as any rights to administrative or judicial review of this Order. Respondent understands that the Director reserves the right to take further actions against it to enforce this Order or to take appropriate action upon discovery of other violations of the Insurance Code with the terms and conditions stated herein.

Respondent further assures the Director that neither Respondent nor its officers, directors, employees, or agents will effect insurance services in Oregon unless such activities are in full compliance with the Insurance Code. Respondent understands that this Consent Order is a public document.

Signature: /s/ Angela Dowling

Position Held: President

State of Oregon

County of Washington

Signed or attested before me on this 14th day of May, 2021

by Angela Dowling.

/s/ Paul Michael Pistey

Notary Public

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