

September 11, 2015

VIA MAIL and EMAIL

Commissioner Laura Cali
Oregon Insurance Division
Director Patrick Allen
Oregon Department of Consumer and Business Services
PO Box 14480
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RE: Update to 9/2/2015 Letter on Discriminatory Plan Provisions for ESRD Coverage

Dear Commissioner Cali and Director Allen:

I wanted to update you on developments since the submission of our September 2, 2015 letter on Discriminatory Plan Provisions for ESRD Coverage in Oregon.

At the time of that submission we pointed to Moda Health Plan's 2015 Benefit Description for its large group plans¹ as an example of such a discriminatory plan provision. Subsequently, Moda informed us that early in 2015, it determined it would not further operationalize this benefit design for any of its plans, and that it would not pursue any specific outreach to members with ESRD to encourage participation in Medicare. Moda further represented that it was not including the offending benefit design in its 2016 plans for any of its products.

And in fact, within the last few weeks Moda filed its Large Group Medical Plan for review, SERFF ODSV-130168609. That filing removes any offer to pay Medicare premiums for members with ESRD and does not misrepresent to consumers the voluntary nature of Medicare enrollment.

Moda's representations and changes in plan design redress our concerns, and we withdraw our complaint as to Moda. However, our concerns regarding other insurers and plan designs due to go into effect January 1, 2016, which we raised in our September 2, 2015 letter, remain unchanged and urgent.² With marketing preparations and regulatory review for the 2016 plan year well under way, it is vital that these discriminatory and unlawful plan provisions be neither marketed nor enforced.

Sincerely,



Kim Rivera
Chief Legal Officer

Cc: Jeanette Holman, Senior Policy Analyst
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¹ Benefit Description Moda LG-OR-1

² The reference in Paragraph C.5 of the earlier letter regarding violations should be read as specific to the plans' offer to pay **Medicare** premiums; the reference to Medicaid was inadvertent. We know of no plan design issues involving Medicaid.