



JENNIFER KENT  
DIRECTOR

State of California—Health and Human Services Agency  
Department of Health Care Services



EDMUND G. BROWN JR.  
GOVERNOR

January 13, 2017

Mr. Nathaniel Oubre  
Vice President  
Kaiser Permanente  
1800 Harrison Street  
Oakland, CA 94612

Dear Mr. Oubre:

**NOTICE OF INTENT TO IMPOSE SANCTIONS FOR FAILURE TO COMPLY WITH  
CORRECTIVE ACTION PLAN**

On April 20, 2016, the Department of Health Care Services (DHCS) advised Kaiser Permanente (Kaiser) and its Plan Partners of the requirement to submit all outstanding encounter data by June 30, 2016, to the Post Adjudicated Claims and Encounters System (PACES). DHCS further advised all Medi-Cal Managed Care Plans that failure to meet the June 30, 2016, deadline for reporting all outstanding encounter data using the PACES submission process would result in the imposition of a Corrective Action Plan (CAP). On June 28, 2016, Kaiser contacted DHCS and advised that it would not meet the June 30, 2016, deadline for encounter data reporting.

On September 23, 2016, DHCS imposed a CAP on Kaiser for failure to meet its regulatory and contractual obligations for reporting encounter data. The CAP further advised Kaiser that its failure to submit all retrospective encounter data by January 1, 2017, would result in the imposition of monetary sanctions. Kaiser was unable to submit all of the following required encounter data by January 1, 2017:

1. Submit any encounter data for external medical claims to DHCS and Kaiser's 13 Plan Partners in the PACES format for 2014, 2015, and 2016 (CAP deficiency No. 1); and
2. Submit all Physician Administered Drugs (PADs) data with dates of service from March 2010 through March 2015 to DHCS and Kaiser's 13 Plan Partners as required by section 2501(c) of the Affordable Care Act by the January 1, 2017, deadline (CAP deficiency No. 4).

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Under Title 22, California Code of Regulations, section 53862, and its contract with DHCS, Kaiser is required to submit detailed encounter data. Failure to submit the required encounter data warrants the imposition of monetary sanctions under Title 22, California Code of Regulations, section 53872. Therefore, DHCS submits this Notice of Intent to Impose Sanctions in the amount of \$742,500 for Kaiser's failure to submit encounter data for external medical claims from November 2014 through September 2016. This penalty also includes monetary sanctions that DHCS could impose on Kaiser's Plan Partners for encounter data deficiencies caused by Kaiser. Additional penalties relating to this deficiency may be imposed from October 2016 until Kaiser's encounter data deficiencies are corrected.

Additionally, DHCS submits this Notice of Intent to Impose Sanctions in the amount of \$1,792,500 for Kaiser's failure to submit PADs data from March 2010 to March 2015. This penalty also includes monetary sanctions that DHCS could impose on Kaiser's Plan Partners for encounter data deficiencies caused by Kaiser. Additional penalties relating to this deficiency may be imposed from April 2015 until Kaiser's encounter data deficiencies are corrected.

This Notice of Intent to Impose Sanctions is limited to two of Kaiser's five encounter data reporting deficiencies identified in the CAP for the time periods as specified in this letter.

DHCS acknowledges that Kaiser has remediated CAP deficiency No. 5 pertaining to its previous failure to submit lab services encounter data with dates of service from January 1, 2014, to October 31, 2015, and that DHCS will not impose monetary sanctions on Kaiser or its Plan Partners for Kaiser's past failure to timely submit required lab services encounter data.

DHCS reserves its right to impose additional monetary sanctions for failure to meet the January 1, 2017, submission deadline for any other uncorrected deficiencies identified in the December 7, 2016, (approved December 29, 2016) or subsequently approved version of the CAP for retrospective and prospective encounter data reporting.

Additionally, DHCS reserves its right to claim liquidated damages to the extent that Kaiser's encounter data reporting deficiencies result in a requirement to repay federal financial participation to the Centers for Medicare & Medicaid Services.

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If you have any questions, please contact Sarah Brooks at [Sarah.Brooks@dhcs.ca.gov](mailto:Sarah.Brooks@dhcs.ca.gov)  
or (916) 440-7800.

Sincerely,

*Original signed by Jennifer Kent*

Jennifer Kent  
Director

Enclosure