



JENNIFER KENT
DIRECTOR

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



EDMUND G. BROWN JR.
GOVERNOR

May 25, 2017

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

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

Dear Mr. Oubre:

On April 20, 2016, the Department of Health Care Services (DHCS) notified 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 also notified 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 notified DHCS that it was unable to meet the June 30 encounter data submission deadline.

On September 23, 2016, DHCS imposed a CAP on Kaiser for failure to meet its regulatory and contractual obligations for reporting encounter data. DHCS' CAP notification letter informed Kaiser that its inability to submit all retrospective encounter data by January 1, 2017, would result in the imposition of monetary sanctions. Kaiser failed to meet the January 1, 2017, deadline for submitting its retrospective encounter data. On January 13, 2017, DHCS informed Kaiser that it would impose monetary sanctions in the amount of \$2,535,500 for:

- Failure to submit encounter data for external medical claims from November 2014 through September 2016 (CAP deficiency number one).
- Failure to submit Physician Administered Drugs (PAD) data from March 2010 to March 2015 (CAP deficiency number four).

In the January 13, 2017, Notice of Intent to Impose Monetary Sanctions Letter, DHCS informed Kaiser that additional monetary sanctions relating to its continued inability to submit external medical claims from October 2016 to present could result in additional monetary sanctions. DHCS also informed Kaiser that additional monetary sanctions

could be imposed for Kaiser's continued failure to submit PAD data from April 2015 to present.

DHCS and Kaiser have engaged in extensive communications pertaining to Kaiser's encounter data submission deficiencies and the CAP. This communication includes, but is not limited to:

- In person meetings held on October 18, 2016, and January 9, 2017, and April 11, 2017.
- Conference calls held on September 23, 2016, November 10, 2016, November 23, 2016, November 29, 2016, December 2, 2016, and February 27, 2017.
- DHCS' emails confirming Kaiser's CAP submissions on December 7, 2016, which was acknowledged and accepted by DHCS on December 29, 2016, and January 6, 2017, which was acknowledged and accepted by DHCS on March 6, 2017; and
- The aforementioned Notice of Intent to Impose Monetary Sanctions Letter dated January 13, 2017.

Throughout the CAP and sanctioning process, DHCS has maintained that Kaiser would be held to the January 1, 2017, compliance date for submitting missing encounter data. Additionally, DHCS has been consistent in communicating its approach to evaluate monetary sanctions quarterly until Kaiser is compliant with all encounter data submission reporting requirements identified in the CAP.

As of March 31, 2017, Kaiser was out of compliance with the following CAP requirements:

1. Submission of 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 number one).
2. Submission of correct paid claim information in the 837 Institutional encounter data format for encounters with dates of service of January 1, 2016, or later (CAP deficiency number two).
3. Submission of all institutional, professional, and pharmacy encounter data that failed to pass Kaiser's internal data quality validation process to DHCS and Kaiser's 13 Plan Partners (CAP deficiency number three).
4. Submission of all PAD data with dates of service from March 2010 through March 2015 to DHCS and Kaiser's 13 Plan Partners (CAP deficiency number four).

Under Title 22, California Code of Regulations, Section 53862, and its contract with DHCS, Kaiser is required to submit encounter data to DHCS on a monthly basis.

Kaiser's inability to submit the required encounter data warrants the imposition of monetary sanctions. Therefore, DHCS submits this Notice of Intent to Impose Sanctions as follows:

- Monetary sanctions in the amount of \$99,000 for Kaiser's failure to submit encounter data for external medical claims from October 2016 through December 2016.
- Monetary sanctions in the amount of \$379,500 for Kaiser's failure to submit encounter data for correct paid claim information in the 837 Institutional encounter data format from January 2016 through December 2016 (CAP deficiency number two).
- Monetary sanctions in the amount of \$940,500 for Kaiser's failure to submit all institutional, professional, and pharmacy encounter data that failed to pass Kaiser's internal data quality validation process from November 2014 through March 2017 (CAP deficiency number three).
- Monetary sanctions in the amount of \$792,000 for Kaiser's failure to submit all PAD data with dates of service from April 2015 through March 2017 to DHCS.

The total amount of monetary sanctions to be imposed is \$2,211,000, which includes monetary sanctions that DHCS could impose on Kaiser's Plan Partners for encounter data deficiencies caused by Kaiser.

Kaiser informed DHCS that deficiency item number one (for retrospective data and dates of services beginning January 1, 2017, and all prospective data), number two (retrospective and prospective data), and number five (retrospective and prospective data) have been ameliorated. Subject to DHCS validating that these three items have been remediated, DHCS will impose no additional monetary or other sanction or penalty of any type against Kaiser or any of the Plan Partners based on or related to Kaiser's failure to submit the required encounter data as described in CAP deficiency number one, two, and five. However, if DHCS finds that these CAP deficiencies have not been remediated, additional sanctions may be assessed.

DHCS acknowledges that Kaiser is making efforts to resolve all deficiencies and that, to date, Kaiser has complied with the deliverable deadlines set forth in the January 6, 2017, CAP.

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DHCS will continue to evaluate Kaiser's progress toward ameliorating its encounter data submission deficiencies related to CAP deficiency numbers three and four on a quarterly basis. The evaluation process includes the potential to impose monetary sanctions on a quarterly basis for any period of time that Kaiser has not been previously sanctioned for the deficiencies.

DHCS reserves the right to claim liquidated damages to the extent that Kaiser's encounter data reporting deficiencies causes DHCS to repay federal financial participation to the Centers for Medicare & Medicaid Services.

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

Sincerely,

Original Signed by Jennifer Kent

Jennifer Kent
Director

Enclosure