

New York State Department of Financial Services

ISSUED: January 4, 2019

NEW YORK STATE DEPARTMENT OF FINANCIAL SERVICES TAKES DISCIPLINARY ACTIONS AGAINST LICENSEES OR REGISTRANTS UNDER THE INSURANCE LAW

The New York State Department of Financial Services has taken disciplinary action against the following licensees and registrants. Those categorized as stipulations or consent orders have been agreed to by the licensee or registrant. Department actions that result from Department hearings are subject to judicial review and possible stay of enforcement.

COMPANY CONSENT ORDERS

LICENSEE	ADDRESS	PENALTY
Capital District Physicians' Health Plan	500 Patroon Creek Boulevard Albany, NY 12206	\$36,172.70 fine Respondents will correct the violations cited herein, including but not limited to: Making restitution to all affected policyholders with respect to claims regarding coverage for contraceptive drugs and devices from January 1, 2016 through December 31, 2016. Respondents will calculate the amount of cost-sharing inappropriately imposed on members within thirty (30) days of this Consent Order. Respondents will reimburse members who paid inappropriate cost-sharing, including the payment of interest to the member pursuant to Section 3224-a(c) of the New York Insurance Law, where applicable, within sixty (60) days of this Consent Order; updating their claims payment system(s); and re-training claims examiners on the appropriate procedures for the adjudication of claims for contraception coverage; and correcting their formularies within sixty (60) days of this Consent Order; and within ninety (90) days from the date of Respondents' execution of this Consent Order, Respondents shall provide an up-to-date detailed summary of the corrective actions taken, or proposed to be taken, in full compliance with this Consent Order.
CPHPHP Universal Benefits, Inc.	Same as above	

Respondents, for the time period January 1, 2016 through June 30, 2016:
 Violated NYIL §4303(cc) when they denied coverage of required Food and Drug Administration (FDA) approved contraceptives (or generic equivalents);
 Respondents, as of March 20, 2017:
 Violated §4324(b)(6) when they failed to disclose that their formulary included at least one form of contraception within each of the eighteen methods of contraception that the FDA identified must be made available for women at no cost-sharing. [Consent order approved October 31, 2018]

LICENSEE	ADDRESS	PENALTY
CIGNA Health and Life Insurance Company	900 Cottage Grove Road Bloomfield, CT 06002	<p>\$13,000 fine</p> <p>Respondent will correct the violations cited herein, including but not limited to: Making restitution to all affected policyholders with respect to claims regarding coverage for contraceptive drugs and devices from January 1, 2016 through December 31, 2016. Respondent will calculate the amount of cost-sharing inappropriately imposed on members within thirty (30) days of this Consent Order. Respondent will reimburse members who paid inappropriate cost-sharing, including the payment of interest to the member pursuant to Section 3224-a(c) of the New York Insurance Law, where applicable, within sixty (60) days of this Consent Order; updating its claims payment system(s); and re-training claims examiners on the appropriate procedures for the adjudication of claims for contraception coverage; and correcting its formularies within sixty (60) days of this Consent Order; and within ninety (90) days from the date of Respondent execution of this Consent Order, Respondent shall provide an up-to-date detailed summary of the corrective actions taken, or proposed to be taken, in full compliance with this Consent Order. Respondent will also take all necessary steps to comply with the New York Insurance Law and Regulations 11 NYCRR 52.17(a)(37) and 52.18(a)(12) with respect to its insurance products in the future.</p>

Respondent, for the time period January 1, 2016 through June 30, 2016:
 Violated NYIL §§ 3216(i)(17)(E) and 3221(l)(8)(E) & (F) when it failed to appropriately pay claims for contraceptive coverage with no cost-sharing imposed for at least one form of contraception within each of the eighteen methods of contraception that the FDA has identified for women. [Consent order approved October 31, 2018.]

LICENSEE	ADDRESS	PENALTY
<p>Crystal Run Health Plan, LLC</p> <p>Crystal Run Health Insurance Company, Inc.</p>	<p>1098 Rykowski Lane Middletown, NY 10941</p> <p>155 Crystal Run Road Middletown, NY 10941</p>	<p>\$9,458.50 fine</p> <p>Respondents will correct the violations cited herein, including but not limited to: Making restitution to all affected policyholders with respect to claims regarding coverage for contraceptive drugs and devices from January 1, 2016 through December 31, 2016. Respondents will calculate the amount of cost-sharing inappropriately imposed on members within thirty (30) days of this Consent Order. Respondents will reimburse members who paid inappropriate cost-sharing, including the payment of interest to the member pursuant to Section 3224-a(c) of the New York Insurance Law, where applicable, within sixty (60) days of this Consent Order; updating their claims payment system(s); and re-training claims examiners on the appropriate procedures for the adjudication of claims for contraception coverage; and correcting their formularies within sixty (60) days of this Consent Order; and within ninety (90) days from the date of Respondents' execution of this Consent Order, Respondents shall provide an up-to-date detailed summary of the corrective actions taken, or proposed to be taken, in full compliance with this Consent Order. Respondents will also take all necessary steps to comply with the New York Insurance law and Regulations 11 NYCRR 52.17(a)(37) and 52.18(a)(12) with respect to their insurance products in the future.</p>
<p>Respondents, for the time period January 1, 2016 through June 30, 2016: Violated NYIL §§ 3221(1)(16) and 4303(cc) when they denied coverage of required Food and Drug Administration (FDA) approved contraceptives (or generic equivalents); Respondents, as of March 13, 2017: Violated §§ 3217-a(b)(6) and 4324(b)(6) when they failed to disclose that their formulary included at least one form of contraception within each of the eighteen methods of contraception that the FDA identified must be made available for women at no cost-sharing. [Consent order approved October 31, 2018]</p>		

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<p>Empire Healthchoice Assurance, Inc.</p> <p>Empire Healthchoice HMO, Inc.</p>	<p>9 Pine Street New York, NY 10005</p> <p>220 Virginia Avenue Indianapolis, IN 46204</p>	<p>\$85,325.50 fine</p> <p>Respondents will correct the violations cited herein, including but not limited to: Making restitution to all affected policyholders with respect to claims regarding coverage for contraceptive drugs and devices from January 1, 2016 through December 31, 2016. Respondents will calculate the amount of cost-sharing inappropriately imposed on members within thirty (30) days of this Consent Order. Respondents will reimburse members who paid inappropriate cost-sharing, including the payment of interest to the member pursuant to Section 3224-a(c) of the New York Insurance Law, where applicable, within sixty (60) days of this Consent Order; updating their claims payment system(s); and re-training claims examiners on the appropriate procedures for the adjudication of claims for contraception coverage; and correcting their formularies within sixty (60) days of this Consent Order; and within ninety (90) days from the date of Respondents' execution of this Consent Order, Respondents shall provide an up-to-date detailed summary of the corrective actions taken, or proposed to be taken, in full compliance with this Consent Order. Respondents will also take all necessary steps to comply with the New York Insurance law and Regulations 11 NYCRR 52.17(a)(37) and 52.18(a)(12) with respect to their insurance products in the future.</p>
<p>Respondents, for the time period January 1, 2016 through June 30, 2016: Violated NYIL §§ 3221(1)(16) and 4303(cc) when they denied coverage of required Food and Drug Administration (FDA) approved contraceptives (or generic equivalents); Respondents, as of March 20, 2017: Violated §§ 3217-a(b)(6) and 4324(b)(6) when they failed to disclose that their formulary included at least one form of contraception within each of the eighteen methods of contraception that the FDA identified must be made available for women at no cost-sharing. [Consent order approved October 31, 2018]</p>		

LICENSEE	ADDRESS	PENALTY
<p>Excellus Health Plan, Inc.</p>	<p>165 Court Street Rochester, NY 14647</p>	<p>\$228,822 fine Respondent will correct the violations cited herein, including but not limited to: Making restitution to all affected policyholders with respect to claims regarding coverage for contraceptive drugs and devices from January 1, 2016 through December 31, 2016. Respondent will calculate the amount of cost-sharing inappropriately imposed on members within thirty (30) days of this Consent Order. Respondent will reimburse members who paid inappropriate cost-sharing, including the payment of interest to the member pursuant to Section 3224-a(c) of the New York Insurance Law, where applicable, within sixty (60) days of this Consent Order; updating its claims payment system(s); and re-training claims examiners on the appropriate procedures for the adjudication of claims for contraception coverage; and correcting its formularies within sixty (60) days of this Consent Order; and within ninety (90) days from the date of Respondent execution of this Consent Order, Respondent shall provide an up-to-date detailed summary of the corrective actions taken, or proposed to be taken, in full compliance with this Consent Order. Respondent will also take all necessary steps to comply with the New York Insurance Law and Regulations 11 NYCRR 52.17(a)(37) and 52.18(a)(12) with respect to its insurance products in the future.</p>
<p>Respondent, for the time period January 1, 2016 through June 30, 2016: Violated NYIL §4303(j)(3) when it failed to appropriately pay claims for contraceptive coverage with no cost-sharing imposed for at least one form of contraception within each of the eighteen methods of contraception that the FDA has identified for women. Respondent, as of March 13, 2017: Violated §4324(b)(6) when they failed to disclose that its formulary included at least one form of contraception within each of the eighteen methods of contraception that the FDA identified must be made available for women at no cost-sharing. [Consent order approved October 31, 2018]</p>		

LICENSEE	ADDRESS	PENALTY
<p>Healthfirst PHSP, Inc.</p> <p>25 Broadway New York, NY 10004</p> <p>Healthfirst Health Plan, Inc.</p> <p>100 Church Street New York, NY 10007</p>		<p>\$40,000 fine</p> <p>Respondents will correct the violations cited herein, including but not limited to:</p> <p>Making restitution to all affected policyholders with respect to claims regarding coverage for contraceptive drugs and devices from January 1, 2016 through December 31, 2016. Respondents will calculate the amount of cost-sharing inappropriately imposed on members within thirty (30) days of this Consent Order. Respondents will reimburse members who paid inappropriate cost-sharing, including the payment of interest to the member pursuant to Section 3224-a(c) of the New York Insurance Law, where applicable, within sixty (60) days of this Consent Order; updating their claims payment system(s); and re-training claims examiners on the appropriate procedures for the adjudication of claims for contraception coverage; and within ninety (90) days from the date of Respondents' execution of this Consent Order, Respondents will also take all necessary steps to comply with New York Insurance Law and Regulations 11 NYCRR 52.17(a)(37) and 52.18(a)(12) with respect to their insurance products in the future.</p>
<p>Respondents, for the time period January 1, 2016 through June 30, 2016: Violated NYIL §4303(cc) when they denied coverage of required Food and Drug Administration (FDA) approved contraceptives (or generic equivalents); Violated §4303(j)(3) when they failed to appropriately play claims for contraceptive coverage with no cost-sharing imposed for at least one form of contraception within each of the eighteen methods of contraception that the FDA identified for women. [Consent order approved October 31, 2018]</p>		

LICENSEE	ADDRESS	PENALTY
HealthNow New York, Inc.	257 Genesee Street Buffalo, NY 14240	<p>\$118,583 fine</p> <p>Respondent will correct the violations cited herein, including but not limited to:</p> <ul style="list-style-type: none"> making restitution to all affected policyholders with respect to claims regarding coverage for contraceptive drugs and devices from January 1, 2016 through December 31, 2016. Respondent will calculate the amount of cost-sharing inappropriately imposed on members within thirty (30) days of this Consent Order. Respondent will reimburse members who paid inappropriate cost-sharing, including the payment of interest to the member pursuant to Section 3224-a(c) of the New York Insurance Law, where applicable, within sixty (60) days of this Consent Order; updating its claims payment system(s); and re-training claims examiners on the appropriate procedures for the adjudication of claims for contraception coverage; and correcting its formularies within sixty (60) days of this Consent Order; and within ninety (90) days from the date of Respondent execution of this Consent Order, Respondent shall provide an up-to-date detailed summary of the corrective actions taken, or proposed to be taken, in full compliance with this Consent Order. Respondent will also take all necessary steps to comply with the New York Insurance Law and Regulations 11 NYCRR 52.17(a)(37) and 52.18(a)(12) with respect to its insurance products in the future.
<p>Respondent, for the time period January 1, 2016 through June 30, 2016: Violated NYIL §4303(cc) when it denied coverage of required Food and Drug Administration (FDA) approved contraceptives (or generic equivalents).</p> <p>Respondent, as of March 20, 2017: Violated §4324(b)(6) when it failed to disclose that its formulary included at least one form of contraception within each of the eighteen methods of contraception that the FDA identified must be made available for women at no cost-sharing. [Consent order approved October 31, 2018]</p>		

LICENSEE	ADDRESS	PENALTY
Nippon Life Insurance Company of America	655 Third Avenue New York, NY 10017	<p>\$3,673 fine</p> <p>Respondent will correct the violations cited herein, including but not limited to:</p> <p>Making restitution to all affected policyholders with respect to claims regarding coverage for contraceptive drugs and devices from January 1, 2016 through December 31, 2016. Respondent will calculate the amount of cost-sharing inappropriately imposed on members within thirty (30) days of this Consent Order. Respondent will reimburse members who paid inappropriate cost-sharing, including the payment of interest to the member pursuant to Section 3224-a(c) of the New York Insurance Law, where applicable, within sixty (60) days of this Consent Order; updating its claims payment system(s); and re-training claims examiners on the appropriate procedures for the adjudication of claims for contraception coverage; and correcting its formularies within sixty (60) days of this Consent Order; and within ninety (90) days from the date of Respondent execution of this Consent Order, Respondent shall provide an up-to-date detailed summary of the corrective actions taken, or proposed to be taken, in full compliance with this Consent Order. Respondent will also take all necessary steps to comply with the New York Insurance Law and Regulations 11 NYCRR 52.17(a)(37) and 52.18(a)(12) with respect to its insurance products in the future.</p>
<p>Respondent, as of March 10, 2017: Violated NYIL 3217-a(b)(6) when it failed to disclose that its formulary included at least one form of contraception within each of the eighteen methods of contraception that the FDA identified must be made available for women at no cost-sharing. [Consent order approved October 31, 2018.]</p>		

STIPULATIONS

Region: Mid-Island

LICENSEE	ADDRESS	PENALTY
Edmund Tapia (Agent)	389 Birchwood Road Medford, NY 11763	\$1,250 fine
Respondent failed to disclose in his original application for an agent’s license that he had been convicted of a crime, and failed to report to the Superintendent within 30 days of the final disposition of the matter that the Kansas Insurance Department had revoked his Kansas nonresident insurance agent’s license. Respondent also failed to timely repay debit commission balances owed to an insurer. [Stipulation approved October 31, 2018.]		

Region: New York

LICENSEE	ADDRESS	PENALTY
Dinatu J. Kesmen (Broker)	436 East 1616 Street Bronx, NY 10451	\$500 fine
Respondent failed to report to the Superintendent within 30 days of the initial pretrial hearing date that she was the subject of a criminal prosecution. [Stipulation approved October 12, 2018.]		

Region: Out of State

LICENSEE	ADDRESS	PENALTY
Patricia A. Power (Independent Adjuster)	4832 Rushmore Road Palmyra, NY 14522	\$500 fine
Respondent failed to report to the Superintendent within 30 days of the initial pretrial hearing date that Respondent was the subject of a criminal prosecution. [Stipulation approved November 19, 2018.]		