

Government of the District of Columbia
Department of Insurance, Securities and Banking



Thomas E. Hampton
Commissioner

IN THE MATTER OF

CO # IB-CO-04-09

Kaiser Foundation Health Plan of the
Mid-Atlantic States, Inc.
Kaiser Permanente Insurance Company

ORDER APPROVING SETTLEMENT AGREEMENT

WHEREAS, the settlement agreement (the "Agreement") was entered into by: Kaiser Foundation Health Plan of the Mid-Atlantic States, Inc. and Kaiser Permanente Insurance Company (collectively the "Respondent"), and the Insurance Commissioner of the State of Maryland, the Commissioner for the Virginia State Corporation Commission Bureau of Insurance, and the Commissioner of the District of Columbia Department of Insurance, Securities and Banking (herein referred to as "the Commissioners") on February 10, 2009;


WHEREAS, the Agreement provides for the resolution of all matters specifically contained therein and incorporated by reference herein;

WHEREAS, nothing in the Agreement shall be deemed a waiver of the Commissioners' rights to proceed in an administrative action or civil action for violations of statutes or regulations that are not specifically included in the Agreement;

WHEREAS, having considered and agreed to the terms of the Agreement;

IT IS SO ORDERED

SEAL


Thomas E. Hampton, Commissioner
2/26/2009
Date

IN THE MATTER OF THE *
 THE COMMISSIONERS OF THE *
 DISTRICT OF COLUMBIA, THE *
 COMMONWEALTH OF VIRGINIA, AND *
 THE STATE OF MARYLAND *
 KAISER FOUNDATION HEALTH PLAN *
 OF THE MID-ATLANTIC STATES, INC. *
 2101 E. Jefferson Street *
 Rockville, MD 20852 *

And; *
 KAISER PERMANENTE INSURANCE *
 COMPANY *
 One Kaiser Plaza *
 Oakland, CA 94612 *

* * * * *

SETTLEMENT AGREEMENT

This Settlement Agreement (the "Agreement") is entered into by Kaiser Foundation Health Plan of the Mid-Atlantic States, Inc. ("KFHP-MAS") and Kaiser Permanente Insurance Company ("KPIC") (collectively the "Respondent") and the Insurance Commissioner of the State of Maryland, the Commissioner for the District of Columbia Department of Insurance, Securities and Banking and the Insurance Commissioner for the Virginia State Corporation Commission Bureau of Insurance (collectively referred to "the Commissioners").

EXPLANATORY STATEMENT

1. At all times relevant to this Agreement, Kaiser Foundation Health Plan of the Mid-Atlantic States, Inc. held a Certificate of Authority from the Maryland Insurance Administration, the District of Columbia Department of Insurance, Securities and Banking, and the Commonwealth of Virginia Bureau of Insurance (collectively "the

States") to operate as a Health Maintenance Organization. At all times relevant to this Agreement Kaiser Permanente Insurance Company held a Certificate of Authority from the States to operate as an Insurance Company.

2. Respondent issues health benefit plans in licensed service areas in the States.

3. In mid June 2008, Respondent notified the States of a problem regarding the timely issuance of Evidence of Coverage ("EOC") to subscribers in the States.

4. The States conducted an investigation into the activities of the Respondent as it relates to the issuance of Evidence of Coverage ("EOC").

5. As a result of the investigation, the States, in cooperation with the Respondent, determined that Respondent failed to issue or make available EOCs to a majority of its subscribers from January 1, 2008 until approximately September 30, 2008.

6. Respondent has determined that the failure to issue EOCs timely was largely the result of transitional issues related to a new vendor which began producing EOCs effective January 1, 2008. Respondent notified the States that it had engaged a corrective action plan to correct the problem with respect to timely issuance of EOCs and to assure that EOCs are timely issued in the future.

7. The States have determined that by failing to timely deliver EOCs, Respondent, either collectively or individually violated:

- 31.12.07.04J of the Code of Maryland Regulations
- 31.11.10.04J of the Code of Maryland Regulations
- D.C. Official Code § 31-3407 (2001)
- Subsection 3504.1 of Title 26 of the District of Columbia Municipal Regulations
- Section 38.2-4306 of the Code of Virginia
- 14 VAC 5-211-210 of the Virginia Administrative Code

8. As of December 31, 2008, Respondent has issued or made EOCs available to its subscribers in compliance with the applicable laws and regulations of the States.

9. In order to assure Members were not adversely impacted by Respondent's failure to timely issue EOCs, Respondent is conducting a review of its complaints to determine if any Members were subject to a reduced benefit and not notified of the reduced benefit. Respondent has applied and/or will apply the more generous benefit to any Member identified by the review based on the criteria noted below.

WHEREFORE, the Commissioners and Respondent agrees to the following terms:

A. Respondent shall enter into Orders with the individual Commissioners, and;

B. Within 30 days of this Agreement, Respondent shall pay an administrative penalty for the violations in an amount of \$125,000 to each of the States (an aggregate amount of \$375,000) pursuant to paragraph I below. The administrative penalty shall be allocated between KFHP-MAS and KPIC as follows: \$375,000 to KFHP-MAS and \$0 to KPIC.

C. Respondent agrees that it shall adjust claims to pay the more generous 2007 benefit for any Member for whom Kaiser is unable to demonstrate that the Member had notice of the change in benefit, and the member:

- Has experienced a reduction in benefits; and
- Filed or files a complaint with Kaiser or the States

D. This Agreement shall be binding on Respondent and the States.

E. Each of the signatories to this Agreement, on behalf of his/her State, hereby gives express assurance that under their applicable state laws, regulations and judicial rulings, they have the authority to enter into this Agreement and bind that party now and in the future. By execution of this Agreement with Respondent, each signatory acknowledges that he/she has reviewed and agrees with the terms and conditions set forth herein.

F. For the purposes of the States and for any subsequent administrative or civil proceedings concerning Respondent, whether related or unrelated to the foregoing paragraphs, and with regard to requests for information made under the State's respective Public Information Act, or properly made by governmental agencies, this Agreement will be kept and maintained in the regular course of business by the States. For the purposes of the business of the States, the records and publications of the States will reflect this Agreement, and Consent Orders subsequently entered into based on this Agreement.

G. Nothing herein shall be deemed a waiver of the Commissioners' rights to proceed in an administrative action or civil action for violations of statutes or regulations that are not specifically included in this Agreement.

H. Respondent has had the opportunity to have this Agreement reviewed by legal counsel of its choosing, and is aware of the benefits gained and obligations incurred by the execution of the Agreement. Respondent waives any and all rights to any hearing or judicial review of this Agreement to which it would otherwise be entitled under the Insurance laws with respect to the determinations made or actions ordered by this Consent Order.

I. Administrative penalties shall be made as follows:

- Maryland – Made payable to the Maryland Insurance Administration, sent to the attention of Sharon Kraus, Appeals Clerk, 525 St. Paul Place, Baltimore, MD 21202-2272.
- Virginia – Made payable to the Treasurer of Virginia, sent to the attention of Jacqueline K. Cunningham, Deputy Commissioner, Bureau of Insurance, 1300 E. Main St., Richmond, VA 23219
- District of Columbia – Made payable to the D.C. Treasurer, sent to the attention of William McCune, Insurance Examiner Manager, 810 First Street, Suite 701, N.E., Washington, DC 20002.

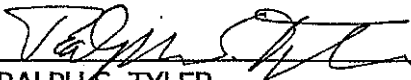
J. This Agreement contains the entire agreement between the parties relating to the administrative actions addressed herein. This Agreement supersedes any and all earlier agreements or negotiations, whether oral or written with regard to those actions

K. The undersigned representative of Respondent affirms that he or she has taken all necessary steps to obtain the authority to bind Respondent to the obligations stated herein and has the authority to bind Respondent to the obligations stated herein.

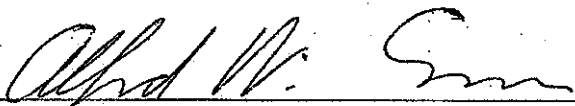
L. This Agreement shall be effective upon signature of the Commissioners or their designee.

M. Failure to comply with the terms of this Agreement may subject Respondent to further legal and/or administrative action.

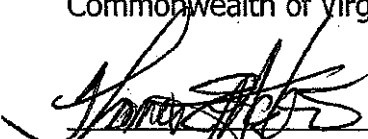
This Agreement is **Entered** into on the 10th day of February,
2009, by and among the following:



RALPH S. TYLER
INSURANCE COMMISSIONER
State of Maryland



Alfred W. Gross, Commissioner
Bureau of Insurance
Commonwealth of Virginia



Thomas E. Hampton
Commissioner
District of Columbia Department of Insurance,
Securities and Banking

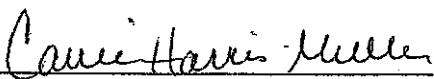
RESPONDENT hereby CONSENTS to the representations made in, and to the terms of the above Agreement.

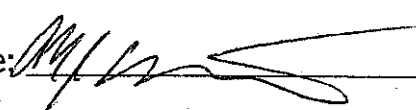
KAISER FOUNDATION HEALTH PLAN OF
THE MID-ATLANTIC STATE, INC.

KAISER PERMANENTE INSURANCE CO.

Name: Carrie Harris-Muller

Name: Mitch Goodstein, President

Signature: 

Signature: 

Title: Chief Administrative Officer

Title: _____

Date: 1/28/09

Date: 1/27/09