

January 5, 2016

Ms. Towanda David
Bureau Chief
Field Claims Bureau
California Department of Insurance
300 South Spring Street, 10th Floor
Los Angeles, CA 90013

Dear Ms. David,

We disagree with nearly all of the alleged violations outlined in the California Department of Insurance market conduct report covering the period of June 2011 to May 2012.

The CDI's review of electronic claims data as an audit method is unsound.

- The audit method pursued has built-in biases and did not allow for Blue Shield Life to respond to invalid assumptions about the timeliness of claims processing.
- Among the claims allegedly paid late, many were paid within 30 working days once legitimate processing delays such as late premium payments or missing provider information were taken into account.

The CDI failed to demonstrate that the alleged violations were indicative of general business practices.

- Of the more than two million claims paid during the audit period, about 33,000 — fewer than 2 percent — are alleged to have been paid late.
- No alleged violation was shown to be performed knowingly or with any frequency to indicate a general business practice, which is the threshold required to prove a violation of statute.
- During the audit period, millions of claims were paid on-time without error.

The CDI cites alleged violations for business practices no longer in use as of January 1, 2014, due to Affordable Care Act changes.

- Blue Shield Life no longer asks about health status during the enrollment process, in accordance with the Affordable Care Act (ACA) rules on guaranteed issue.
- Blue Shield Life no longer rescinds coverage for misrepresentation of health status, in accordance with the ACA on guaranteed issue.
- Despite these changes in law and company policy, the CDI continues to seek additional corrective action for a rescission process that is no longer in place as of January 1, 2014.

The CDI fails to account for the rationale behind Blue Shield Life's ERISA notices.

- Federal ERISA law requires a specific notice for products subject to ERISA, and an individual plan can be subject to ERISA if an employer pays any part of the premium of an individual's plan.
- Because individual plans may be subsidized by an employer, it is appropriate for ERISA notices to be placed on the back of all explanation of benefit forms, regardless of plan type.
- The ERISA notice clearly states that it applies to an employer's health plan, so no individual member can be misled by the notice.

The CDI cites alleged violations for issues previously resolved with Blue Shield Life.

- In the few cases in which we agree with the CDI's assessment, Blue Shield Life has already taken corrective action. This includes the payment of claims and interest in several cases.
- The alleged violation regarding notices on the Explanation of Benefits form was resolved in a December 2008 settlement agreement with the CDI.
- We are eager to reach resolution with the CDI on the outstanding items.

Sincerely,



Michelle Simpson
Vice President