Final Report: Federal Targeted Market Conduct Examination of
School Board of Broward County Employee Health Plan

As of July 23, 2024

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I. Scope of Examination

The Center for Consumer Information and Insurance Oversight (CCIIO) conducted a targeted market conduct examination (Examination) of the School Board of Broward County employee health plan in Florida, (the Plan), a self-funded, non-Federal governmental plan, pursuant to 45 C.F.R. § 150.313, based on complaints submitted to CCIIO.

The Examination period was January 1, 2022 through December 31, 2022 (Examination Period). The purpose of the Examination was to assess the Plan's compliance with the Federal requirements under section 2799A-1(a)(2)(B)(ii) of the Public Health Service Act (PHS Act) and the following implementing regulations:

- 45 C.F.R. § 149.140(d) – Information to be Shared About Qualifying Payment Amount (QPA).

CCIIO contracted with Examination Resources, LLC to assist CCIIO with conducting this Review.

During this Examination, CCIIO requested information, records, and data related to claims submitted to the Plan for emergency services furnished to Plan participants and beneficiaries. CCIIO requests included:

- Electronic claim records for the 210 claims associated with the complaints submitted to CCIIO; and

- For each complaint sample, the Explanation of Payment (EOP) (also known as provider remittances), and any other document the Plan used to convey required QPA disclosures to nonparticipating providers or emergency facilities with an initial payment or notice of denial of payment.

This report is by exception; therefore, the only areas indicated in the report are areas where findings were noted. Any additional practices, procedures, and files subject to review during the Examination are omitted from this report if no violations are indicated. Some non-compliant practices may not have been discovered or noted in this report. Failure to identify or address business practices that do not comply with Federal statutes and regulations or those of other applicable jurisdictions does not constitute acceptance of such practices.

Please note: this report describes the Plan's compliance during the Examination Period with applicable regulations and guidance as modified by *Texas Medical Association et al. v. U.S. Department of Health and Human Services et al.* Case No. 6:22-cv-450-JDK (TMA III). We acknowledge that, since the completion of CCIIO's Examination of the Plan, the United States District Court for the Eastern District of Texas issued a ruling in TMA III. The ruling vacated certain provisions of the regulations regarding the calculation of the QPA. This Examination takes into consideration the Plan's compliance with applicable regulations as modified by the court's ruling in TMA III. However, the court's decision did not impact the findings nor scope of this Examination.

The Examination and testing methodologies followed standards established by the National Association of Insurance Commissioners[1] and procedures developed by CCIIO. The Examination's claim sample was comprised of 210 complaints submitted to CCIIO which alleged non-compliance with the requirements cited above. The claim sample is summarized in the table below:

Area Reviewed	Population	Sample Size
Complaints submitted to CCIIO	210	210

[1] Market Regulation Handbook Examination Standards Summary 2022. https://content.naic.org/sites/default/files/publication-mes-hb-market-handbook-examination.pdf

II. Plan Profile

The School Board of Broward County, Florida oversees Broward County Public Schools.

Broward County Public Schools offer employee health benefits to approximately 25,000 employees and dependents (enrollees) during the 2021 - 2022 academic school year, on a self-funded basis.

The School Board of Broward County contracts with Aetna Life Insurance Company (Aetna) as its third-party administrator to process claims.

III. Examination Results

A. Failing to Provide Required QPA Disclosures with Each Initial Payment or Notice of Denial Payment.

Violation of section 2799A-1(a)(2)(B)(ii) of the PHS Act, as implemented at 45 C.F.R. § 149.140(d)(1)(i) and (iv)

Plans and issuers must make certain disclosures about the QPA with each initial payment or notice of denial of payment and provide certain additional information in a timely manner upon request of the provider or facility. This information must be provided in writing, either on paper or electronically, to a nonparticipating provider, facility, or provider of air ambulance services, as applicable, when the QPA serves as the recognized amount (or in the case of air ambulance services, the amount on which cost sharing is based).

CCIIO identified a violation of this provision in the following instances:

Finding 1 – The Plan failed to provide certain required QPA disclosures with an initial payment or notice of denial of payment.

CCIIO received and reviewed 210 complaints and electronic claim records submitted to the Plan. CCIIO identified 264 occurrences in which the Plan failed to provide required disclosures regarding the QPA. CCIIO determined the following information was not provided:

- The QPA for each item or service involved, in violation of 45 C.F.R. § 149.140(d)(1)(i): 151 occurrences; and
- A statement advising how to initiate a 30-day open negotiation period and a statement that the provider or facility, generally, may initiate the Independent Dispute Resolution (IDR) process within four days after the end of open negotiation period, in violation of 45 C.F.R. § 149.140(d)(1)(iv): 113 occurrences

During the examination, the Plan explained that these violations occurred due to a variety of factors including procedures that excluded QPAs from certain claim processing results and omissions of forms.

Corrective Action:

The Plan is directed to update its claim processing procedures and claims system, as applicable, to ensure that all required disclosures are provided with each initial payment or notice of denial of payment for all applicable No Surprises Act-eligible claims. Within 30 calendar days of the receipt of this final report, provide a copy of the updated procedure(s), an explanation as to why these violations occurred and an explanation of any claim system updates needed to address the violations to CCIIO.

Plan Response:

The School Board of Broward County, Florida (SBBC) concurs with the Draft Report Federal Targeted Market Conduct Examination ("Report") dated, April 22, 2024.

SBBC's Medical Plan Third-Party Administrator (TPA), Aetna, has implemented corrective actions to address the finding identified in the Report.

The School Board of Broward County, Florida (SBBC) concurs with the Draft Report Federal Targeted Market Conduct Examination ("Report") doted, April 22, 2024.

SBBC's Medical Plan Third-Party Administrator (TPA), Aetna, has implemented corrective actions to address the finding identified in the Report.

- A field displaying the Qualifying Payment Amount (QPA) was added to the Explanation of Benefits (EOB) on November 3, 2022. Although the EOB did not contain a stand-alone field explicitly displaying the QPA prior to November 3, 2022, Aetna felt that its disclosure of the QPA was compliant because the information needed to determine the QPA paid on the claim h[a]d been present on the EOB since January l, 2022. In a further effort to eliminate confusion, Aetna updated the EOB to align more clearly to the QPA disclosure requirements, pursuant to 45 C.F.R. § 149.140(d) by adding a new field.

- The disclosures that appear on EOBs for No Surprise Act (NSA)-eligible claims, contained a statement regarding the initiation of the open negotiation period and the Independent Dispute Resolution process since January 1, 2022. Aetna viewed the original statement as compliant until they received feedback from the Center for Consumer Information and Insurance Oversight (CCIIO) that the language may/could cause confusion and subsequently revised the statement to improve clarity.

- On December 8, 2023, the statement was revised as follows:
  "You have four (4) business days following the conclusion of the Open Negotiation period, to initiate the independent resolution process."

CCIIO Response:

CCIIO concurs with the Plan’s response and acknowledges the corrective actions described have been completed.

- The plan is directed to, within 30 calendar days of the receipt of this final report provide an example of the new QPA field added to the EOB CCIIO.

IV. Closing

CCIIO conducted an Examination of the Plan based on 210 complaints submitted to CCIIO. CCIIO used these complaints as the sample for this Examination. CCIIO reviewed claim samples and identified one finding that totaled 264 occurrences.

Findings included:

- Failing to provide certain required disclosures regarding the QPA with an initial payment or a notice of denial of payment: 264 occurrences.

V. Examination Report Submission

The courtesy and cooperation extended by the officers and employees of the Plan during the course of the Examination are hereby acknowledged.

Jeffrey C. Wu -S Digitally signed by Jeffrey C. Wu -S
Date: 2024.07.23 13:24:24 -04'00'

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In addition, the following individuals participated in this Examination and in the preparation of this report:

- Center for Consumer Information and Insurance Oversight
- Nicole McClain, MCM
- Examination Resources, LLC