



# CONSUMER NEWS

## SAN DIEGO CITY ATTORNEY'S OFFICE

### Health Insurance

September 2010

California law regulates health insurance companies and health care providers who bill for services. The California Dept. of Managed Health Care (DMHC) is the regulatory agency that oversees these laws. The DMHC maintains a helpful website for consumers: [www.hmohelp.ca.gov](http://www.hmohelp.ca.gov).

#### *BEWARE OF PHONEY INSURANCE COMPANY OFFERS:*

Anyone operating a health care service plan in California must be licensed by the DMHC. A health care service plan is one that, for a fee, arranges to provide health care services to subscribers or enrollees.

Beware of offers for discounted health care programs. Usually, the companies or individuals who make these offers are really selling a discount health card which is falsely advertised. Sellers offer memberships to networks of medical providers

whom they claim have agreed to accept discounted rates for anyone carrying the company's discount card.

Victims who buy the cards often learn that the cards have no value; the doctors who are listed as being in the network know nothing about it; and the issuer will not refund their money.

Depending on how these discount health cards are marketed, they may not come within the jurisdiction of the DMHC. For this reason, the DMHC is proposing new laws requiring these companies to be licensed in order to afford consumers the protections available to purchasers of other health insurances.

To avoid being a victim of fraud:

- Read the terms and conditions of any health insurance offer carefully.

- Call the medical providers you will use and make sure they have agreed to a discount. If so, find out the amount of the discount.
- Make sure the promised discount saves you more than the price of the card.
- Get cancellation and refund information before you buy.
- Do not give out your personal information (e.g. Social Security Number).
- Do not agree to have your credit card or checking account automatically charged unless you are sure the company is legitimate.
- Check the DMHC website to see if there

has been action against this business.

- Check with the Better Business Bureau to see if there are unresolved consumer complaints.

*PAYERS' BILL OF RIGHTS:*

There is a Payers' Bill of Rights that requires hospitals to post information about their charges for services so customers can see them. Hospitals must also provide this information to the DMHC. If a hospital fails to comply with this law, consumers can file a claim with the DHMC.

This Bill of Rights also requires hospitals to provide any person without health coverage, upon request, the following: (1) a written estimate of the amount the hospital will require the person to pay for services, (2) the hospital's financial assistance and charity care policies for the uninsured, and (3) an application form for financial assistance or charity care.

*BALANCE BILLING:*

When a person who has health insurance obtains emergency services from a hospital or other provider, the hospital or provider must seek payment from the health insurance company. A hospital or provider who tries to collect from the patient more than the amount that the insurance company agrees to pay for these services, engages in "balance billing," which is prohibited in California.

Anyone who has health insurance and receives bills for services that are covered by health insurance should refer the provider to their insurance carrier. If the insurer refuses to cover the expense, the consumer should appeal that decision with the insurer. If that appeal is unsuccessful, the consumer should file a complaint with the DMHC. DMHC has successfully sued providers who have engaged in balance billing.

*POSTCLAIMS UNDERWRITING:*

State law also prohibits "postclaims underwriting" by health insurers. This is the practice of limiting, rescinding or canceling health insurance coverage after it has been issued because the company failed to do a complete check into the current health of the insured. For example, if a person applies for health insurance and completes the application, but the health insurer does not make any investigation into the matter to determine whether the person should be insured, the company cannot later determine that it should have denied coverage based on facts that were available to it at the time it issued the policy.

Some companies have a list of medical diagnoses that they have determined are associated with conditions whose treatment is costly. Whenever the companies receive a claim of this nature, they automatically suspend payment of the claim and investigate whether the insured failed to disclose the condition on his/her application.

This delays payment of the claim and possible postponement of needed medical care. Health insurers sometimes deny coverage even after their investigation shows that the insured did not willfully misrepresent his/her medical condition at the time of the application.

In 2008, the DMHC brought actions against the operators of five major health plans in California for postclaims underwriting and were able to secure reinstatement of insurance for thousands of people whose insurance coverage had been illegally rescinded.

The City Attorney's Office encourages consumers to educate themselves on their rights by visiting the DMHC website at [www.hmoHELP.ca.gov](http://www.hmoHELP.ca.gov). The DMHC complaint line is (888) 466-2219.

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This newsletter was written by Assistant City Attorney Tricia Pummill.

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Sources: California Health and Safety Code sections 1345, 1349, 1399.50-1399.59, 1379 and 1389.3. The information provided in this newsletter is intended to convey general information and is not intended to be relied upon as legal advice.