

**Final Report: Federal Targeted Market Conduct Examination of
State of Florida's State Group Insurance 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 State of Florida's State Group Insurance Health Plan (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 306 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 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), which was issued by the United States District Court for the Eastern District of Texas after completion of CCIIO's examination of the Plan. The ruling vacated certain provisions of the regulations and guidance under the No Surprises Act, including provisions regarding the methodology

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for calculation of the QPA. The court’s decision did not impact the findings or scope of this Examination.

The examination and testing methodologies followed standards established by the National Association of Insurance Commissioners¹ and procedures developed by CCIIO. The Examination’s claim sample was comprised of 306 complaints submitted to CCIIO and 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	306	306

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

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II. Plan Profile

The Florida Department of Management Services serves Florida state agencies. As the business arm of the Florida state government, the Department of Management Services supports customers by providing workforce and business operational support to the Florida state government.

The Division of State Group Insurance (a division of the Department of Management Services), offers and manages a comprehensive package of health and welfare insurance benefits for active and retired state employees and their families.

Employee health benefits are self-funded by the State of Florida.

The Florida Department of Management Services contracts with Aetna Life Insurance Company (Aetna) as its third-party administrator to process claims.

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III. Examination Results

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

In general, 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, emergency 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 identified 676 occurrences on 306 electronic claims records in which the Plan failed to provide certain 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): 370 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 the open negotiation period, in violation of 45 C.F.R. § 149.140(d)(1)(iv): 306 occurrences.

Corrective Action:

The Plan is directed to update its claim processing procedures and claims systems, 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 update(s) needed to address the violations to CCIIO.

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Plan Response

The Plan's TPA, Aetna, has implemented corrective actions to address the findings identified in the Report:

- A field displaying the QPA was added to the Explanation of Benefits (EOB) on 11/3/2022.
- The disclosures that appear on EOBs for NSA-eligible claims contained a statement regarding the initiation of the open negotiation period and the Independent Dispute Resolution process since 1/1/2022. Aetna viewed the original statement as compliant until they received feedback from CCIIO that the language may/could cause confusion and subsequently revised the statement to improve clarity. On 12/8/2023, the statement was revised as follows: "You have 4 business days following the conclusion of the Open Negotiation period to initiate the independent resolution process." The statement was revised again on 4/26/2024 to add a missing word and now reads: "You have 4 business days following the conclusion of the Open Negotiation period to initiate the Independent Dispute Resolution process."

CCIIO Response

- CCIIO concurs with the Plan's response and acknowledges the corrective actions described have been completed. As such, no further action is required from the plan at this time.

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IV. Closing

CCIIO conducted an Examination of the Plan based on 306 complaints submitted to CCIIO. CCIIO used these complaints to identify the claims sampled for this Examination. CCIIO reviewed claim samples and identified one finding that totaled 676 occurrences.

Findings included:

- Failing to provide certain required disclosures regarding the QPA with an initial payment or a notice of denial of payment: 676 occurrences.

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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 13:23:06 -04'00'

Jeff Wu,
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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

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