Blue Shield of California Once Again on the Hook for Millions of Dollars in Consumer Rebates

A federal health law known as the "medical loss ratio" requires insurance companies that cover individuals and small businesses to spend at least 80% of collected premiums on medical expenses or other measures that better medical care overall. In other words, under the law, insurers may not put more than 1/5 of premiums toward marketing or administrative costs, nor may they set aside more than that ratio for profits.

Blue Shield of California spokesperson Mia Campitelli reported that the company fell short of that 80% threshold in 2015, only spending 77% of collected premiums on medical care. She attributed this fiscal miss to the fact that many consumers shifted coverage to Affordable Care Act-compliant plans.

"Many groups opted to extend their old plans for an additional year and are now moving to small business [Affordable Care Act] plans for the first time," Campitelli said. "The migration to these new plans … is changing risk dynamics."

What does this mean for Blue Shield of California?

The company was recently required to send refund checks for nearly 240,000 Californians employed by 30,000 small businesses across the state. (This only affects consumers with job-based health coverage, not those who purchased individual health plans through the open market or Covered California.)

Although the average rebate amount per policyholder was under $60, the total bill for Blue Shield comes in at $25 million. And although that is an undeniably hefty amount, it's down from the 2014 plan year, for which the company was required to return over $85 million to customers in individual and small group markets, setting the record for the largest consumer refund of any U.S. insurer.

"The fact that it had to issue rebates again this year shows that … consumers are being overly charged," said Dena Mendelsohn, staff attorney for Consumers Union, the non-profit advocacy branch of Consumer Reports. She opined that Blue Shield "might just be trying to maximize how much money they can bring in" and that the company might be experiencing difficulty in accurately predicting how much will be required for medical claims.

Blue Shield not alone in owing customer refunds

Six other insurers offering coverage in California failed to meet the required 80% threshold, but Blue Shield owes the most—by far—in refunds. For example, OptumHealth (also known as U.S. Behavioral Health Plan), must pay out $326,000 in rebates to customers, and UnitedHealthcare will owe $318,000. There may be other insurers in the state who similarly didn't spend the stipulated percentage on medical care, but a federal rule allows companies to retain group refunds totaling $20 or less.

In the case of employers that pay 100% of their employees' health insurance premiums, the employers will keep the refunds. But in cases where employees are due money, the formula to determine the amount per employee isn't always readily accessible.

Exeter-based Sequoia Solutions assists small businesses in managing employee benefits. Adam Rochon, with Sequoia, noted that the majority of his clients receiving insurer rebates "came to me and said 'what do I do with this?'" He reported that most of his clients eventually returned money to their employees in their paychecks.

For more information/questions regarding any legal matters, please email info@nelsonhardiman.com or call 310.203.2800.