

COMMONWEALTH OF VIRGINIA
STATE CORPORATION COMMISSION

AT RICHMOND, JULY 28, 2020

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COMMONWEALTH OF VIRGINIA, *ex rel.*

STATE CORPORATION COMMISSION

v.

CASE NO. INS-2019-00200

CAREFIRST BLUECHOICE, INC.,
Defendant

SETTLEMENT ORDER

Based on a target market conduct examination conducted by the Bureau of Insurance ("Bureau"), it is alleged that CareFirst BlueChoice, Inc. ("Defendant"), duly licensed by the State Corporation Commission ("Commission") to transact the business of insurance in the Commonwealth of Virginia ("Virginia"), in certain instances violated §§ 38.2-316 A, 38.2-316 B, and 38.2-316 C 1 of the Code of Virginia ("Code") by failing to use insurance policies or forms on file and approved by the Commission; § 38.2-510 A 1 of the Code by misrepresenting pertinent facts or insurance policy provisions relating to coverages at issue with such frequency as to indicate a general business practice; § 38.2-510 A 5 of the Code by failing to affirm or deny coverage of claims within a reasonable time after proof of loss statements have been completed with such frequency as to indicate a general business practice; § 38.2-510 A 6 of the Code by not attempting in good faith to make prompt, fair and equitable settlements of claims in which liability has become reasonably clear with such frequency as to indicate a general business practice; § 38.2-510 A 15 of the Code by failing to comply with or perform any provider contract provision required by § 38.2-3407.15 with such frequency as to indicate a general business practice; § 38.2-514 B of the Code by failing to make proper disclosures on explanation of benefits; § 38.2-610 A 1 of the Code by failing to provide written notice of an adverse

underwriting decision; § 38.2-610 A 2 of the Code by failing to provide applicants with a summary of the rights established under subsection B of this section and §§ 38.2-608 and 38.2-609 on an adverse underwriting decision; § 38.2-1833 A 1 of the Code by failing to comply with agent appointment requirements; § 38.2-1834 D of the Code by failing to comply with the Commission's notification requirements of the termination of agent appointments; § 38.2-3407.4 A of the Code by failing to file explanation of benefit forms for approval by the Commission; § 38.2-3407.4 B of the Code by failing to accurately and clearly set forth in the explanation of benefits the benefits payable under the contract; §§ 38.2-3407.15 B 1, 38.2-3407.15 B 2, 38.2-3407.15 B 3, 38.2-3407.15 B 4, 38.2-3407.15 B 5, 38.2-3407.15 B 6, 38.2-3407.15 B 8, 38.2-3407.15 B 9, 38.2-3407.15 B 10 and 38.2-3407.15 B 11 of the Code by failing to demonstrate ethics and fairness in carrier business practices and by failing to include required provisions in provider contracts; §§ 38.2-3407.15:2 B 1, 38.2-3407.15:2 B 2, 38.2-3407.15:2 B 3, 38.2-3407.15:2 B 4, 38.2-3407.15:2 B 5, 38.2-3407.15:2 B 6, 38.2-3407.15:2 B 7, and 38.2-3407.15:2 B 8 of the Code by failing to demonstrate ethics and fairness in carrier business practices and by failing to include required provisions in carrier contracts; § 38.2-4306.1 B of the Code by failing to pay interest on claim proceeds; § 38.2-5805 C 10 of the Code by failing to include required provisions in provider contracts; as well as 14 VAC 5-90-55 A of the Commission's Rules Governing Advertisement of Accident and Sickness Insurance, 14 VAC 5-90-10 *et seq.* ("Rules"), by failing to include the required disclosure regarding the exclusions and limitations of the policy; 14 VAC 5-90-60 A 1 of the Commission's Rules by making misleading statements in the advertisements of covered benefits; 14 VAC 5-90-90 C of the Commission's Rules by failing to disclose the source of any statistics used in an advertisement; 14 VAC 5-211-30 C of the Commission's Rules Governing Health Maintenance

Organizations, 14 VAC 5-211-10 *et seq.*, by failing to include the required hold harmless clause in provider contracts; 14 VAC 5-211-80 B of the Commission's Rules by failing to provide or arrange for service prior to seeking coordination of benefits; 14 VAC 5-211-90 B of the Commission's Rules by failing to properly provide notice to an enrollee when his out-of-pocket maximum has been reached; and 14 VAC 5-216-40 E 2 of the Commission's Rules Governing Internal Appeal and External Review, 14 VAC 5-216-10 *et seq.*, by failing to notify the insured of the final benefit determination within the required period of time.

The Commission is authorized by §§ 38.2-218, 38.2-219, 38.2-4316 of the Code to impose certain monetary penalties, issue cease and desist orders, and suspend or revoke a defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that a defendant has committed the aforesaid alleged violations.

The Defendant has been advised of the right to a hearing in this matter whereupon the Defendant, without admitting nor denying any violation of Virginia law, has made an offer of settlement to the Commission wherein the Defendant has agreed to comply with the corrective action plan contained in the target market conduct examination report of CareFirst BlueChoice as of December 31, 2016; has tendered to the Treasurer of Virginia the sum of Ninety Thousand Six Hundred Dollars (\$90,600); and has waived the right to a hearing.

The Bureau has recommended that the Commission accept the offer of settlement of the Defendant pursuant to the authority granted the Commission in § 12.1-15 of the Code.

NOW THE COMMISSION, having considered the record herein, the offer of settlement of the Defendant, and the recommendation of the Bureau, is of the opinion that the Defendant's offer should be accepted.

Accordingly, IT IS ORDERED THAT:

(1) The offer of the Defendant in settlement of the matter set forth herein is hereby accepted.

(2) This case is dismissed, and the papers herein shall be placed in the file for ended causes.

A COPY of this order shall be sent by the Clerk of the Commission by electronic mail to: Jenene Williams, Senior Director, External Audit Coordination, CareFirst BlueChoice, Inc. at jenene.williams@carefirst.com, 1501 South Clinton Street, Room 10147, Baltimore, Maryland 21224; and a copy shall be delivered to the Commission's Office of General Counsel and the Bureau of Insurance in care of Deputy Commissioner Julie Blauvelt.