



June 5, 2009

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James G. McIntire

Mr. Jim Atterholt  
Commissioner  
Indiana Department of Insurance  
311 W. Washington Street  
Indianapolis, IN 46204

Dear Commissioner Atterholt:

Thank you again for the opportunity to meet May 7 and share with you and members of your staff our observations and concerns about how Anthem's ongoing claims processing and payment problems are significantly affecting Indiana patients and physicians. As noted in our May 7 letter, we sincerely appreciate the time and effort you have dedicated to this issue. The primary purpose of this letter is to follow up on our substantive discussions.

As discussed in the meeting, the comprehensive materials we provided illustrate in great detail the scope and significance of Anthem's failure to properly and timely pay claims. We are pleased it appears you do not disagree that Anthem created and failed to resolve in a timely manner significant problems for Indiana patients and physicians. We understand that your efforts to date toward resolving these issues have been private discussions with Anthem representatives and that those talks did not result in any "urgency" on their part to resolve the payment problems. This has been our observation as well.

Aside from the October 20, 2008, *Indianapolis Business Journal (IBJ)* article stating your enforcement staff was in discussions with Anthem executives to resolve the issues, there appears to have been no public comments from IDOI about Anthem's problems – or the resolution thereof. We believe one logical and appropriate next step would be for IDOI to publicly state its frustration and disappointment over Anthem's failure to address its problems more quickly and effectively. Along with that, we see a need for your assurance that patients and providers will be made whole and that Anthem will be appropriately punished, to the fullest extent of the law, for its conduct.

We took note of your recent public statements in the May 15, 2009, *IBJ* criticizing an attorney for a memo to ISTA Insurance Trust customers written just weeks prior. The article notes you were "deeply troubled" by the memo and felt you needed to "fully expose what you knew." Although we understand the circumstances are different here, IDOI is the regulating body for insurance companies in Indiana. Therefore, we think a similar article criticizing Anthem's conduct and the company's failure to achieve resolution over 18+ months seems the least that could be done under the circumstances. Patients are being affected and are blaming their physicians' offices for billing issues caused by Anthem's errors. At present, IDOI appears to the public to be doing nothing and, in fact, no results of private meetings with Anthem are apparent.

In addition to a public statement, we believe it would be appropriate and helpful for IDOI to post information about the Anthem complaints and investigation on the IDOI Web site. This should include IDOI's investigative report. Also, the ISMA requests receipt of such information directly.

We are very concerned about comments made by several of your staff, both in public and at the May 7 meeting, indicating IDOI has very little regulatory authority over insurance companies. On the contrary, IDOI has both the statutory ability and the responsibility to regulate and alter illegal and unacceptable conduct by the insurance companies it is statutorily charged to regulate. This includes, but is not limited to, the prompt pay law, take-back law, overpayment adjustments, unfair competition and deceptive acts, unfair claim settlement practices, and internal controls and financial dealings. Certainly public censure or criticism is part of the array of tools available to the IDOI. Such action would give some assurance to Indiana patients and physicians that the IDOI will act to try to change unacceptable conduct by its regulated entities. Of course, IDOI has effective enforcement tools available, including monetary fines for Anthem's repeated and ongoing violations of numerous Indiana laws, as evidenced by the materials we provided you and the hundreds of complaints filed with IDOI. To our dismay, no daily or one-time fines appear to have been imposed at this time, despite your awareness and acknowledgment of the problems. However, we took note of the May 20, 2009, *IBJ* article reporting your \$275,000 fine of State Farm Insurance for their failure to pay hail claims after receiving 425 complaints.

We noted in our meeting that IDOI had reported the Anthem complaints to the National Association of Insurance Commissioners. ISMA hopes that you will also report these systemic Anthem claims processing and payment problems to NAIC. We understand that NAIC has a Market Regulation and Consumer Affairs (D) Committee and a Market Actions Working Group which are charged with identifying and reviewing insurance companies which exhibit characteristics indicating a current or potential market regulatory issue that may impact multiple jurisdictions. This issue seems appropriate for their review.

We continue to request clarification and enforcement of the prompt pay law, as originally requested in our letter of May 27, 2008. The IDOI should issue a bulletin and provide information on its Web site explaining how to apply the law and calculate the appropriate interest. This process should be transparent. We remain concerned that, despite Anthem's assurances, the law is not being followed in all circumstances.

At the May 7 meeting, we also requested IDOI immediately remove the dollar amount thresholds from the provider complaint form, allow multiple complaints against the same payer to be included on the same form, and allow physicians to submit the form electronically (currently only fax or mail). We received a voice mail from your staff on May 19 indicating no decision has been made in response to our request. According to that message, a decision will not be made until Carol Cutter returns around May 26 or 27 – or until someone else makes the decision. As of the date of this letter, we have still received no response to our request. We renew our request that you make these changes immediately and without further delay. This is consistent with your

statutory obligation to issue an annual report totaling all complaints against each insurance company. Additionally, those complaint forms provide you with critical insight into how the industry you regulate is operating.

As we promised in the May 7 meeting, ISMA would be happy to work with IDOI staff to help identify reasons why complaints are submitted for nominal dollar amounts and to find solutions to their root causes. However, until we know more about why those nominal complaints are submitted and how frequently, we cannot help identify solutions. The ISMA was advised by your staff that there are unfortunately no statistics available on the age or dollar value of the complaints filed with your office. We cannot obtain this information unless we personally and manually review the hundreds of complaints you have on file. This is not a productive solution. We assume your staff utilized some data or report to justify changing the provider complaint form. Please provide that information to the ISMA as a starting point for our discussions. We hope that you will modernize your complaint tracking process.

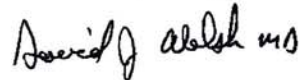
We were pleased to learn that you have hired Noble Consulting to investigate these Anthem claims processing and payment issues further. We view this as a positive step. We have welcomed the opportunity to provide them with information from the provider community and will continue to assist them in any way possible. We hope that they will be permitted to fully investigate these issues in order to reach complete answers.

ISMA leaders and staff welcome further opportunities to discuss self-funded plans and to find ways you might assist Indiana physicians with complaints. This is particularly important when 60-70% of Indiana insureds are in those plans. Currently, your complaint response letters refer providers to the U.S. Department of Labor, which has no relationship to provider issues.

We will have our next internal meeting on Friday, June 19, to evaluate ISMA's next steps and determine what information to provide to Indiana physicians. It would be helpful to us if you could respond to the issues raised in this letter by June 19 so we can incorporate your information in our discussions.

Please contact Julie Reed at the ISMA if you have any questions about this letter.

Yours Very Truly,



David Welsh, M.D.  
ISMA President