



October 1, 2007

**PBGH**  
Pacific Business  
Group on Health  
221 Main Street  
Suite 1500  
San Francisco  
CA 94105  
www.pbqh.org  
Tel: 415.281.8660  
Fax: 415.281.0960

Department of Managed Health Care  
Regulation Development Division  
980 Ninth Street, Suite 500  
Sacramento, CA 95814  
Attn: Emilie Alvarez

Dear Ms. Alvarez:

The Pacific Business Group on Health hereby submits the following comments on the Department's proposed regulation 1300.71 concerning claim settlement practices.

Pacific Business Group on Health ("PBGH") is a coalition of 50 of the nation's largest purchasers of health care. PBGH members collectively cover millions of Californians in HMOs and PPOs. PBGH focuses on ensuring quality health care while moderating costs. Our members include public and private purchasers who spend billions of dollars annually to provide health care coverage to more than three million employees, retirees and dependents in California. A non-profit established in 1989 and based in San Francisco, PBGH partners with leading health plans, provider organizations, consumer groups and other stakeholders to promote higher value — higher quality care delivered more cost effectively — in health care.

Your draft regulation proposes an amount equal to 150% of the Medicare rate(s) for the services rendered be paid as an expedited payment for out-of-network care delivered by a hospital or hospital-based physicians See at section 1300.71(a)(3)(B)(ii).

This amount is consistent with an August 2007 analysis by Milliman Inc. on this subject. A copy of Milliman's report is attached. We requested that Milliman analyze what would be a fair payment formula that would adequately compensate an out of network hospital for its services, while at the same time providing to a plan or to a purchaser (in the case of a self-insured plan) predictability in cost. Milliman calculated an average rate of 165% of Medicare as an appropriate amount for inpatient out-of-network services. (See Milliman report, page 7.)

Creating a system that ensures adequate payment without ongoing dispute between providers and plans ensures predictable cost for the payers. This, in turn, will help alleviate pressure on plans and employers to include in their networks every possible hospital.

We believe that this is an appropriate step forward, and applaud the Department's proposed regulation in this regard. We also hope that other state agencies undertake the same approach for care not overseen by the Department.

Sincerely,

Lucia C. Savage  
General Counsel  
Enclosure