

# COMMONWEALTH OF VIRGINIA

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SCOTT A. WHITE  
COMMISSIONER OF INSURANCE  
STATE CORPORATION COMMISSION  
BUREAU OF INSURANCE



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RICHMOND, VIRGINIA 23219  
TELEPHONE: (804) 371-9741  
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September 5, 2023

**VIA ELECTRONIC MAIL ONLY – Glenn.Zuercher@healthspring.com**

Glenn Zuercher  
Cigna Health and Life Insurance Company  
900 Cottage Grove Road  
Bloomfield, CT 0600-2920

**Re: Alleged Violations of §§ 38.2-515 C, 38.2-3407.4 B, 38.2-3445.01 and 38.2-3445.04 G of the Code of Virginia, and 14 VAC 5-405-70 B 3 of the Virginia Administrative Code Case No. - INS-2023-00065**

Dear Mr. Zuercher:

The Bureau of Insurance ("Bureau") initiated an inquiry into the legality of remark codes on explanation of benefit forms (EOBs) issued by Cigna Health and Life Insurance Company (Cigna) that result in violation of Virginia's balance billing law, specifically as set forth in §§ 38.2-3445.01 and 38.2-3445.04 G of the Code of Virginia ("Code") and 14 VAC 5-405-70 B 3 of the Virginia Administrative Code.

The inquiry into the legality of the remark codes 542 and 544 began in June 2022<sup>1</sup> and Cigna has repeatedly failed to timely provide information in response to the Bureau's requests, in violation of § 38.2-515 C of the Code. The Bureau does; however, acknowledge and appreciate Cigna's efforts beginning in November 2022, to improve responsiveness to the Bureau's request for information in order to resolve our inquiry.

Based on the Bureau's inquiry, Cigna issued 13,668 EOBs with the violative 542 and 544 remark codes from January 1, 2021, through November 2022. Cigna also issued 34 EOBs with the violative 542 and 544 codes from November 2022 through February 2023. As noted above, the 542 and 544 remark code language is unacceptable on EOBs: Cigna must cease and desist issuing all EOBs with these codes, even if the EOB is later corrected.

Pursuant to §§ 38.2-218, 38.2-219, and 38.2-1040 of the Code, violations of §§ 38.2-515 C, 38.2-3407.4 B, 38.2-3445.01 and 38.2-3445.04 G of the Code and 14 VAC 5-405-70 B 3 of the Virginia Administrative Code may result in monetary penalties up to \$5,000 per violation, a Cease and Desist Order, and/or a suspension or revocation of Cigna's license to engage in the business of insurance in Virginia.

<sup>1</sup> These remark codes contain the following language: HEALTH CARE PROFESSIONAL: THE PATIENT SHOULD NOT BE LIABLE IF YOU ACCEPT THE ALLOWABLE AMOUNT. PLEASE CALL CIGNA WITH QUESTIONS.

In view of the above alleged violations, and in recognition of Cigna's willingness to take corrective action, the Bureau is willing to recommend a favorable settlement of this matter to the State Corporation Commission ("Commission"). The Bureau sent Cigna a letter on April 3, 2023, with a Corrective Action Plan ("CAP"). The Bureau has engaged Cigna with numerous conversations about the CAP and an updated plan is included below. This settlement offer is subject to the following conditions:

1. Cigna submits a certified or cashier's check or money order made payable to the Treasurer of Virginia in the amount of \$150,000;
2. Cigna submits a written statement that it agrees to comply with the following CAP:
  - A. Remove remark codes 542 and 544 from use on EOBs or change the language of remark codes 542 and 544 appearing on EOBs to comply with Virginia's balance billing law to indicate that additional information is required to adjudicate the claim without indicating any payment responsibility on the member;
  - B. Develop and implement changes to its claims system that will result in appropriate long-term resolution to appropriately issue EOBs for claims subject to Virginia's balance billing laws (i.e., emergency services at in-network and out-of-network facilities and non-emergency services provided by out-of-network providers at in-network facilities that are considered surgical or ancillary services). EOBs sent to customers for claims subject to Virginia's balance billing laws will state that customers cannot be balance billed and the cost-sharing included will be limited to the in-network cost-sharing. EOPs sent to providers for claims subject to Virginia's balance billing laws will inform providers they cannot balance bill customers and will include only the in-network cost-sharing amount that the provider can bill the customer. Claims that are not subject to Virginia's balance billing laws will result in a customer's liability equal to the out-of-network cost-sharing or up to billed charges depending upon whether the customer's benefit plan includes out-of-network benefits or not, and the cost-sharing amounts included on EOBs and EOPs will reflect the amounts owed;
  - C. Issue a letter for all claims from January 2021 to present that include the remark codes 542 and 544 on EOBs; and
    - i. Cigna shall finalize the customer letter previously provided to the Bureau.
    - ii. Cigna shall reissue EOBs to customers to replace remark codes 542 and 544 with the VCM remark code that informs beneficiaries that they are not subject to balance billing.
    - iii. Cigna shall perform validation testing to ensure that the correct EOBs are enclosed with the correct customer letters.
    - iv. Cigna shall develop and provide talking points or other guidance to its customer call center regarding Virginia's Balance Billing Laws and steps that should be taken if a customer identifies that they were balance billed.
    - v. Cigna shall work with customers and providers to fully investigate any claims of balance billing.

- vi. Cigna shall provide the Bureau with an update as each step outlined is completed.
- D. No later than October 1, 2023, complete all steps in the plan, and any additional steps as may be otherwise necessary, to resolve all issues identified, providing documentation to the Bureau demonstrating completion.
- 3. Cigna agrees to comply with §§ 38.2-515 C, 38.2-3407.4 B, 38.2-3445.01 and 38.2-3445.04 G of the Code and 14 VAC 5-405-70 B 3 of the Virginia Administrative Code going forward; and
- 4. Cigna understands it is entitled to a hearing in this matter and waives that right by offering this settlement.

If Cigna fails to comply with the terms of the Settlement Order, the Bureau may assess additional penalties and/or approach the Commission to seek action against Cigna's license.

For your convenience, we have enclosed a prepared settlement offer for your signature.

Should you decide to accept our recommendation for settlement, please have an authorized representative of the company sign, date and return the enclosed letter written on the company's letterhead, along with a check in the amount of \$150,000 made payable to the Treasurer of Virginia. These items should be sent to Julie Blauvelt, Deputy Commissioner, at 1300 East Main Street, Richmond, Virginia, 23219. Please send an electronic copy of these items to [melissa.hayes@scc.virginia.gov](mailto:melissa.hayes@scc.virginia.gov).

If the Bureau does not receive your settlement offer by September 11, 2023, the Bureau will recommend to the Commission that a proceeding be initiated against Cigna to show cause why its license authority in the Commonwealth of Virginia should not be suspended or revoked; why a Cease and Desist Order should not be entered against Cigna; and why Cigna should not be penalized by the imposition of a fine.

Please note that this letter and any related agreement will become part of the public case file at such time as a Commission Order in the matter is entered.

Any questions or concerns regarding the proposed settlement should be communicated to Julie Blauvelt at [Julie.Blauvelt@scc.virginia.gov](mailto:Julie.Blauvelt@scc.virginia.gov) or at (804) 371-9865.

Sincerely,



Julie Blauvelt  
Deputy Commissioner  
Life & Health Division



230930058

September 5, 2023

Julie Blauvelt  
Deputy Commissioner  
Bureau of Insurance  
1300 East Main Street  
Richmond, VA 23219

**RE: Alleged violations of §§ 38.2-515 C, 38.2-3407.4 B, 38.2-3445.01 and 38.2-3445.04 G of the Code of Virginia, and 14 VAC 5-405-70 B 3 of the Virginia Administrative Code.  
Case No. – INS-2023-00065**

Dear Ms. Blauvelt:

This will acknowledge receipt of the Bureau of Insurance's (the "Bureau") letter dated September 5, 2023, concerning the above-referenced matter.

Cigna Health and Life Insurance Company ("Cigna") makes the below settlement offer for the alleged violations cited above. Further, Cigna agrees to:

1. Enclose with this letter a certified check, cashier's check or money order payable to the Treasurer of Virginia in the amount of \$150,000.
2. Comply with the corrective action plan set forth in the Bureau letter dated September 5, 2023.
3. Acknowledge that Cigna agrees to comply with §§ 38.2-515 C, 38.2-3407.4 B, 38.2-3445.01 and 38.2-3445.04 G of the Code of Virginia and 14 VAC 5-405-70 B 3 of the Virginia Administrative Code going forward.
4. Acknowledge that if Cigna fails to comply with the Settlement Order the Bureau may assess additional penalties or approach the Commission to seek action against Cigna's license.
5. Acknowledge Cigna's right to a hearing before the State Corporation Commission in this matter and waive that right if the State Corporation Commission accepts this offer of settlement.

This offer is being made solely for the purpose of a settlement and does not constitute, nor should it be construed as, an admission of any violation of law.

Sincerely,

Cigna Health and Life Insurance Company



\_\_\_\_\_  
(Signed)

Katie Stewart

\_\_\_\_\_  
(Type or Print Name)

Regional Vice President

\_\_\_\_\_  
(Title)

9/5/2023

\_\_\_\_\_  
(Date)

Enclosure