

Xxx  
San Francisco, CA 94123

Tel.  
Fax  
Email

July 13, 2002

Ms. xxx  
Benefits Analyst  
Membership Division  
Health Service System  
1146 Market Street  
2<sup>nd</sup> Floor  
San Francisco, CA 94103-1523

Subject: Wrongful Denial of Coverage  
Xxx  
HSS # xxx

Dear Ms. xxx,

This is my formal written request for an appeal, per your 7/11/2002 letter.

I disagree with your wrongful denial for the following reasons.

- I. Paragraph 2 you mention the **instructions for # C** - Indicate a company or NO company
  - A. Take a look at the instructions for # D - Delete Persons Covered
    1. Then look at the application dated 4/17/2002 section D
      - a. **Is xxx listed there?**
  - B. Are you aware that general legal principles show that where there is confusion on a form or definitions that it's construed in favor of the person who didn't write it? Walsh v. Walsh (1941) 18 Cal.2d 439, 443-444 (116 P.2d 62)
    1. Take a look at Health Net's Small Business Employee Application Page 3 Section 9 note how careful they are to make sure the employee and dependents understand the rights and benefits they are giving up.
  - c. At best, your denial letter alleges a CLERICAL error on my part, as I thought # C only referred to those people who were checked off to be deleted in # D.
    1. Please review Elliott v. Occidental Life Insurance Co. 225 Cal.App.2d 510 where coverage was denied as Elliot's husband transferred from

Oroweat Baking of San Francisco to Orowheat of Oakland and due to clerical error was not continued on the Group Life Coverage. The Appeals court found that this fit into the Clerical Error clause of the contract.

a. Should this case go to court, Insurance Commissioner, Dept. of Managed Care, San Francisco City Council... I will have my attorney find more cases and we will ask that HSS pay our legal expenses.

II. I NEVER received your alleged **confirmation letter** and am prepared to testify to this under oath and penalty of perjury, by signing at the bottom of this letter, at the appeal and in open court if we are not able to resolve this issue by then

A. I did receive your 7/11/2002 Denial Letter and the letter from Health Net on 7/6/2002 stating that I had no coverage, so obviously I do receive mail and respond it a timely manner

B. This is an **INFORMAL request** for ALL documentation that you have, that a confirmation letter was actually deposited in US Mail and any proof that you might have that I actually received it.

1. If we do not receive it within 10 days, we will ask that it not be allowed at the appeal or the court system.

C. Your Board Meeting minutes indicate a serious problem this year with the confirmation statements

1. Confirmation statements will be completed and picked up by the mail house by Monday, May 13, 2002. All changes must be entered by June 6, 2002. Yvonne Hudson reported that Source One, the mail house, notified HSS just two weeks ago and announced that they are going out of business right away. Staff immediately went and picked up unprocessed checks and other documents. Deliverex, the record storage company, picked up remaining envelope inventory. The Purchaser's Office helped locate an emergency vendor to handle checks pending to be mailed and outstanding open enrollment mailings. <http://parks.sfgov.org/dhr/hsb/m050902.htm>

III. It was **CERTAINLY not my intent** to cancel myself from coverage

A. The coverage was too expensive for me to cover my children and estranged husband.

1. Here's a copy of the application where I applied to Blue Cross for my children

2. My estranged husband .....

B. I did not apply anywhere else for myself as I was to be covered by HSS

a. I am willing to testify to this under penalty of perjury.

C. Please review *Raffles v. Wichelhaus* Court of Exchequer, 1864 2 H & C 906, 159 Eng. Rep 375 where the parties were talking about two totally different ships even though they both were named Peerless, sailing from India. The court held that there was no meeting of the minds and the contract was not enforceable.

IV. **Duty of Care**

A. I wasn't informed about coverage that might be available through HIPAA <http://www.hcfa.gov/medicaid/hipaa/online/default.asp>

B. We request that you reimburse the consultant fees and the monthly individual medical coverage cost.

C. Open enrollment form says the "benefits" are pre-tax, they are NOT taxed at

all!

1. Web Site no longer works to contact membership  
<http://sfgov.org/hss/contact.htm>

D. Guide to coverage

1. <http://www.sfgov.org/dhr/downloads/hss/plan2active.pdf>
- 2.

cc: xxx - Deputy Director