



March 30, 2026

Beth Andersen
President, Anthem Blue Cross of California
21215 Burbank Blvd.
Woodland Hills, CA 91367

SUBJECT: Objection and Request for Withdrawal of New Anthem Policy – “Facility Administrative Policy: Use of a Nonparticipating Care Provider”

Dear Ms. Andersen:

California’s hospitals are committed to ensuring timely, high-quality, and compassionate care for every patient who depends on them. However, that commitment is undermined by policies that have the potential to restrict patient access to care, disrupt established care relationships, and unfairly penalize contracted hospitals for factors not lawfully in their control. On behalf of nearly 400 hospitals and health systems, the California Hospital Association (CHA) writes to express strenuous opposition to Anthem Blue Cross of California’s Facility Administrative Policy for Use of a Nonparticipating Care Provider, scheduled to take effect June 1, 2026.

This policy targets participating facilities that provide care to members of self-funded Administrative Services Only plans. Under the proposed terms, facilities that utilize non-participating care providers for any component of an enrollee’s inpatient or outpatient care will be subject to an administrative penalty equal to 10% of the allowed amount of the facility’s claim. Furthermore, Anthem has stated that facilities may be subject to “potential termination” from Anthem networks for the continued use of such out-of-network (OON) providers. **This policy is not just fundamentally flawed — it is legally impermissible under California law and represents an unfair business practice that will adversely impact beneficiaries while enriching Anthem at the expense of contracted providers.**

The substantive problems and CHA’s concerns with this policy are outlined below.

Violation of California State Law Prohibition on Economic Credentialing

Anthem’s policy is designed to coerce hospitals into the illegal practice of economic credentialing. Under Health & Safety Code §1322, California law explicitly prohibits a hospital from conditioning clinical privileges or medical staff membership on a physician’s participation in specific insurance contracts. By penalizing hospitals for the participation status of independent clinicians — which hospitals are statutorily prohibited

from managing in California — Anthem is forcing facilities to choose between significant financial penalties and violating state law.

An Unfair Business Practice

Holding a hospital liable for physician and clinician contracting — including the business decisions of independent providers who the hospital does not employ, own, control, or manage — constitutes an unfair business practice. This is especially true when doing so is statutorily prohibited under state law, as noted above. Furthermore, the threat of termination from Anthem’s provider network for involving OON clinicians in patients’ care is a coercive tactic that disrupts the stability of the entire California health care delivery system, especially amidst statewide health care workforce shortages. Anthem’s policy could expose hospitals to liability by physicians who would be impacted by the policy.

In addition, the requirement for hospitals to verify the real-time network status of every clinician — including those they do not employ, own, control, or manage — is operationally unworkable and represents an unfair shifting of administrative responsibility. While Anthem’s policy suggests that facilities may contact their Provider Services division for a list of participating providers, this places the entire burden of network verification on the hospital rather than the plan. This expectation is particularly problematic given the well-documented shortcomings of Anthem’s provider directories, which have been shown to contain major gaps and errors, routinely confusing patients and providers about network participation status.^{1,2}

Penalizing Hospitals for Anthem’s Inadequate Provider Networks

Hospitals should not be penalized for Anthem’s failure to maintain an adequate physician network or to offer physicians fair rates. The very impetus for this policy suggests that Anthem’s networks may be inadequate. If enough care is being provided OON to warrant such a penalty, the failure lies with the plan’s contracting and business practices, not the participating hospital facilities that have contracted with Anthem in good faith. Furthermore, while this policy applies to self-insured products federally regulated under the Employee Retirement Income Security Act (ERISA), there are clear implications for state-regulated insurance products offered by Anthem in California. Under Health and Safety Code §1367(g) and 28 CCR § 1300.67.2, Anthem is legally mandated to maintain a provider network that is sufficient to ensure all covered services are readily available and accessible to enrollees at in-network facilities. By penalizing facilities for the presence of OON clinicians, Anthem is attempting to shift its own statutory responsibility for network sufficiency onto hospitals. Since health plans typically use the same network of providers and claim processing systems for both fully-insured and self-insured products (and because Anthem threatens termination from its entire provider network as a result of non-compliance with this policy), this policy has the potential to alter the provider networks available to state-regulated plan enrollees, invoking the relevancy of the California state law network adequacy requirements.

¹ Kevin B. O’Reilly, Evidence on Inaccurate Directories Piles Up. It’s Time to Act., Am. Med. Ass’n (May 18, 2023), <https://www.ama-assn.org/health-care-advocacy/access-care/evidence-inaccurate-directories-piles-it-s-time-act>.

² Haeder SF, Zhu JM. Inaccuracies in provider directories persist for long periods of time. Health Aff Sch. 2024 Jun 4;2(6):qxae079. doi: 10.1093/haschl/qxae079. PMID: 38915809; PMCID: PMC11195574.

In addition, under the federal No Surprises Act (NSA), group health plans (including the self-insured ERISA plans to which this policy applies) are mandated to cover ancillary services (e.g., anesthesia, pathology, and radiology) provided by OON providers at an in-network facility as if they were in-network. By penalizing hospitals for the presence of OON providers, Anthem is effectively trying to force hospitals to fix a contracting gap that the NSA and ERISA place squarely on the plan's shoulders.

Adverse Impact on Patients and Their Ability to Use Insurance Benefits

This policy results in a misleading representation of health insurance coverage benefits for California patients. While patients are already protected from many unexpected OON bills by the NSA, this policy creates a hollow network by pressuring hospitals to exclude specialists who are not in Anthem's network. This may mislead patients into believing an in-network facility can provide a full suite of in-network services when, in reality, Anthem's own network gaps may make that impossible.

Furthermore, this policy unfairly precludes patients with PPO products from appropriately utilizing their advertised OON benefits. By penalizing the facility for the presence of an OON provider, Anthem is effectively blocking access to OON care for which PPO members specifically pay higher premiums. At a minimum, this policy penalizes participating facilities for offering access to OON specialists who are covered as a benefit under the plan.

In recognition of the unlawful and deeply flawed elements of this new policy, CHA requests that Anthem immediately rescind the policy. This policy is operationally unworkable and places hospitals in an untenable legal position. It threatens the stability of California's health care delivery system by potentially forcing essential specialists and other providers out of participating facilities, adversely impacting patients, and targeting the very hospitals that have worked in good faith to participate in Anthem's networks.

We look forward to a prompt confirmation that this policy will not be implemented in California.

Sincerely,



Dietmar Grellmann, Esq.
Senior Vice President, Policy
California Hospital Association

cc: Gail Boudreaux, President and Chief Executive Officer, Elevance Health