

LAWRENCE G. WASDEN
Attorney General

JOHN C. KEENAN
Deputy Attorney General
Idaho Department of Insurance
700 W. State St.
PO Box 83720
Boise, Idaho 83720-0043
Telephone No. (208) 334-4283
Facsimile No. (208) 334-4298
I.S.B. No. 3873

FILED *AM*
DEC 19 2018
Department of Insurance
State of Idaho

Attorneys for Idaho Department of Insurance

BEFORE THE DIRECTOR OF THE DEPARTMENT OF INSURANCE

STATE OF IDAHO

In the Matter of:

SELECTHEALTH, INC. a Utah nonprofit
corporation, doing business in Idaho under
Idaho Certificate of Authority No. 2766

Docket No. 18-3565-18

**STIPULATION AND
FINAL ORDER**

STIPULATION

The Idaho Department of Insurance (hereinafter the "Department") and SelectHealth, Inc. (hereinafter "SelectHealth"), a Utah nonprofit corporation, do hereby agree and stipulate as follows:

1. The Director of the Department ("Director") has jurisdiction in the state of Idaho over matters involving insurance regulation and licensing, in accordance with title 41, Idaho Code.
2. SelectHealth is a licensed insurance company in Idaho, holding Idaho Certificate of Authority No. 2766 since July 27, 1995. SelectHealth is licensed to engage in the business of insurance in Idaho in the lines of disability including managed care.

3. Commencing in late 2016 into 2018, the Department performed a targeted desk examination of, and submitted interrogatories to, SelectHealth relating to denials of out-of-network preauthorization requests for treatment of mental illness and/or substance use disorder (hereinafter “MI/SUD”) at psychiatric residential treatment centers (hereinafter “RTC”).

4. The Department learned that, for the years 2015, 2016, and through September 2017, SelectHealth had in place its internal Medical Policy No. 475, that established standards for coverage of MI/SUD treatment at RTCs when certain criteria were met.

5. One of the criteria listed on Medical Policy No. 475 is that the RTC be in reasonable proximity to a member’s community of residence and support system, hereinafter known as the “reasonable proximity” standard.

6. In a letter to SelectHealth dated July 7, 2017, the Department alleged that, during years 2015 and 2016, SelectHealth had wrongfully denied twenty-one (21) preauthorization requests for MI/SUD treatment at an RTC.

7. After concluding its investigation, including a review of claims data received through September 2017, the Department alleged that SelectHealth had wrongfully denied thirty-four (34) out-of-network preauthorization requests for RTC benefits based in part on the Medical Policy No. 475 reasonable proximity standard for the period of time identified hereinabove.

8. SelectHealth contended these out-of-network denials were appropriate based on all criteria related to RTC preauthorizations. Notwithstanding, SelectHealth agreed to conduct a second physician review of the thirty-four (34) alleged violations.

9. In February 2018, SelectHealth provided the second physician review, from which the Department identified twenty-five (25) alleged violations where SelectHealth noted that “the initial review did not look at medical need” and that the original case notes stated in part, “Deny

out-of-state services nmn [not medically necessary], appropriate for local services,” or similar language. Based on this second review, the Department removed from its list of alleged violations nine (9) incidents where at least one other criteria was noted as a reason for the initial denial.

10. The Department alleged that SelectHealth’s actions constituted the following violations of: a.) Section 41-1813, Idaho Code, as misleading and prejudicial; b.) Section 41-1846(1), Idaho Code, for failing to render or provide good quality health care services readily available and accessible to SelectHealth’s insureds within and outside the state of Idaho; and, c.) The Mental Health Parity and Addiction Equity Act of 2008, as provided in 29 U.S.C. § 1185a and other applicable sections of U.S. Code.

11. SelectHealth disputes and denies the Department’s allegations.

12. SelectHealth asserts that its coverage policies are designed to support evidence-based treatment options and the best health outcomes for its members.

13. SelectHealth asserts that the criteria in Medical Policy #475 was designed for the purposes identified in paragraph 12 and that nothing in this Medical Policy #475 established state and/or geography-based criteria that inappropriately limited access or coverage for SelectHealth members under either federal or state law.

14. In support of the position asserted in paragraphs 12. and 13. above, SelectHealth was able to demonstrate that, during the relevant time-period referenced earlier in this stipulation and order, it approved more out-of-network/out-of-state benefit claims for RTC services than it denied.

15. Notwithstanding SelectHealth’s disagreement with the Department over the specific allegations, SelectHealth agreed to administer its plan in conformance with the Department’s interpretation of Idaho state law and, in October 2017, SelectHealth took corrective

action to change its Medical Policy No. 475 to remove its proximity standards for out-of-network preauthorization requests for the treatment of mental illness and/or substance abuse/dependency at psychiatric residential treatment centers.

16. In July 2018, SelectHealth took corrective action to update, review and reevaluate its internal policies and procedures.

17. The purpose of this Stipulation is, and the parties hereby agree, to settle the differences between them as follows:

- a. SelectHealth agrees that it shall continue to follow such previously implemented corrective actions as described herein.
- b. SelectHealth will pay to the Department a settlement payment in the amount of Forty Thousand Dollars (\$40,000) within thirty (30) days of entry of the Final Order adopting this Stipulation.

18. The parties acknowledge that the terms of this Stipulation are appropriate and proper under the circumstances referenced herein, and that the parties have entered into this Consent Order knowingly, voluntarily, and with full knowledge of any rights it may be waiving thereby.

19. The parties waive their right to notice and hearing at which they may be represented by counsel, present evidence, and examine witnesses.

20. The parties hereto knowingly and voluntarily waive any rights they would otherwise have if they had not entered into this Stipulation, including the rights as stated in Idaho Code § 41-232A, which provides for: the right to a hearing; the right to be represented at hearing by counsel chosen and retained by the parties; the right to present a defense, oral and documentary evidence and to cross-examine witnesses at such hearing; and the right to seek judicial review.

21. This Stipulation constitutes full and final resolution of all matters addressed herein, and the Department agrees that, upon execution of Stipulation, the Department shall seek no further sanctions for the violations addressed herein.

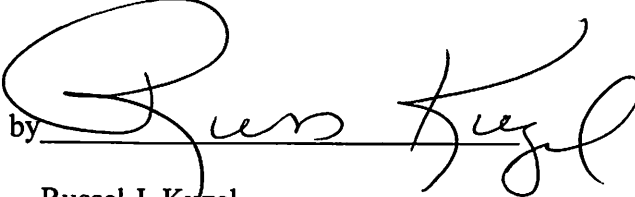
22. This Stipulation is subject to approval by the Director, and shall become effective and binding upon the Department and SelectHealth upon such approval. Should the Director decline to approve this Stipulation, the Department and SelectHealth shall retain all of their rights, claims and/or defenses, and any factual and/or legal admissions made by SelectHealth herein shall be withdrawn.

23. The parties hereto have reviewed the proposed Final Order and agree as to its form and that said Final Order may be submitted to the Director of the Department for his review and signature.

IT IS SO AGREED.

DATED THIS 10 day of Dec, 2018.

SELECTHEALTH, INC.,
a Utah corporation

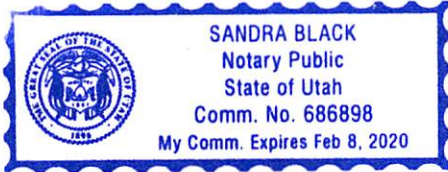
by 

Russel J. Kuzel
Its Vice President and Chief Medical Officer

STATE OF UTAH)
County of Salt Lake)
SS.

On this 10 day of December, 2018, before me, the undersigned Notary Public, personally appeared Russe / J Kutzal, proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument, and acknowledged to me that s/he executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.



Sandra Black
Notary Public of Utah
Residing at 2505 W Bennion Pines Ct, Taylorsville, VT
My commission expires 2/8/2020

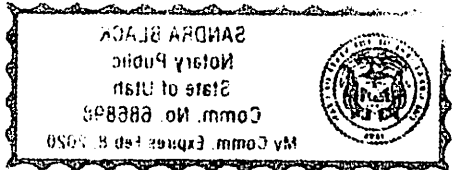
Approved as to form:

[Signature]
Kristin McCullagh
Attorney for SelectHealth, Inc.

Handwritten text at the top of the page, possibly a name or date, which is mostly illegible due to blurring.

Handwritten text in the middle of the page, possibly a signature or name, which is mostly illegible due to blurring.

Handwritten text at the bottom left of the page, possibly a name or address, which is mostly illegible due to blurring.



DATED THIS 18th day of December, 2018.

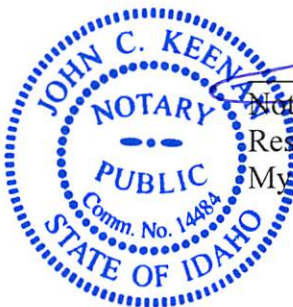
STATE OF IDAHO
DEPARTMENT OF INSURANCE

by Nathan Faragher
NATHAN FARAGHER
Bureau Chief
Company Activities

STATE OF IDAHO)
) : ss.
County of ADA)

On this 18 day of December, 2018, before me, the undersigned Notary Public, personally appeared NATHAN FARAGHER, proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument, and acknowledged to me that he executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.



[Signature]
Notary Public of Idaho
Residing at BOISE
My commission expires 30 OCT 2019

Approved as to form:
OFFICE OF THE ATTORNEY GENERAL

[Signature]
John C. Keenan
Deputy Attorney General
Attorneys for the Idaho Department of Insurance



FINAL ORDER

The parties hereto, namely the Idaho Department of Insurance and SelectHealth, Inc., having entered into the STIPULATION hereinabove, the form of the Order having been approved, and the Director having reviewed the same, and having found that there is a factual basis for the matter as stated herein, does hereby enter his Findings of Fact and Conclusions of Law as follows:

1. That the Department of Insurance has established a factual and legal basis for its allegations regarding SelectHealth as set forth hereinabove.
2. That SelectHealth has denied any wrongdoing and has established a factual and legal basis in its response to the allegations as set forth hereinabove.
3. That both parties have agreed to settle their differences without the necessity of hearing.

NOW, THEREFORE, based on the foregoing and in consideration of the premises,

IT IS HEREBY ORDERED that the STIPULATION is APPROVED and ADOPTED as an Order of the Director, and is incorporated herein as if set forth in full and made a part hereof;

IT IS FURTHER ORDERED that SelectHealth shall pay a settlement payment to the Department in the amount of Forty Thousand Dollars (\$40,000) within thirty (30) days of entry of this Final Order;

IT IS FURTHER ORDERED that SelectHealth shall continue with already implemented corrective actions as described in the Stipulation.

IT IS SO ORDERED.

DATED this 18 day of December, 2018.

STATE OF IDAHO
DEPARTMENT OF INSURANCE

by 
DEAN L. CAMERON
Director

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 19th day of December, 2018, I caused a true and correct copy of the foregoing STIPULATION and FINAL ORDER to be served upon the following by the designated means:

Kristin McCullagh, Esq.
Senior Counsel, SelectHealth
5381 Green Street
Murray, UT 84123

- first class mail
- certified mail
- hand delivery
- via facsimile
- via email

John Keenan
Deputy Attorney General
Idaho Department of Insurance
700 W. State Street, 3rd Floor
P.O. Box 83720
Boise, ID 83720-0043

- first class mail
- certified mail
- hand delivery
- via facsimile
- via email


Pamela Murray