KAISER PERMANENTE®

Kaiser Foundation Health Plan, Inc.
Member Case Resolution Center
PO Box 939001, San Diego, CA 92193-9001

October 3, 2017

William Lusk
1138 Peach St
Alameda, CA 94501-5563

RE: William Lusk
MRN: 11-7825275

Dear Mr. Lusk:

Thank you for contacting us on September 8, 2017, to share your experience. We deeply regret that we did not meet your expectations and will use your experience as an opportunity to learn how we may better serve you and our other valued members.

When you contacted us, you submitted a request for:

- A $10,000 reimbursement for the fraud committed by Kaiser Permanente Information Technology employee, Fran Lager from August 16, 2013.

Additional Concerns
In addition to your request, you also shared the following concern with us:

- Fran Lager retrived two $5,000 claims checks made out to you for payment of your son's health care from 2013.

You indicated that Ms. Lager, (which was your wife at the time) forged claim documents, and had the checks written in your name (she shared a joint account with you at that time). She had the checks held from mailing and the member's name removed from the checks. She lied about being the member's mother.

Furthermore, Ms. Lager asked that the checks be changed to your name, so she could cash them in the joint account. She took the money before the you came home from Denver. She told Kaiser she paid the amounts for the member's medical expenses and needed the reimbursement.

You then obtained a subpoena and have all the documents to prove this was fraud. The documents prove Ms. Lager used the funds to pay off her bills and cash advancements, not to pay the member's medical bills. Ms. Lager was never authorized to do anything with the member's money because the you have always been the conservator not Ms. Lager.

We carefully reviewed your records and other relevant information to come to our decision and we are denying your request. We do want you to understand why we came to this decision and have explained it below.

We denied your request for $10,000 because it was not able to be resolved through the Kaiser Permanente Member Services grievance process.

I shared your concern with the Compliance Officer of the Kaiser Permanente East Bay Service Area Compliance Department for investigation and follow up. The Compliance Officer reported that this matter and entire investigation process has been transferred to the Kaiser Permanente Medical Legal Department for resolution outside of the Kaiser Permanente Member Services grievance process.

On behalf of the Compliance Officer, please accept our apology for any frustration or inconvenience this matter has caused you.

Your request for $10,000 is for a payment to compensate you for your experience. That kind of payment is not a benefit under the terms of your Health Plan *Evidence of Coverage*, so we cannot properly evaluate and decide on your request through this process. There is another way to ask for compensation if you feel that you should receive such a payment. In order to address your specific request(s), you can pursue the matter through our Legal Department.

You may contact the Legal Department by sending your request in writing to:

Kaiser Permanente
Legal Department – PPL
1950 Franklin Street, Oakland, CA 94612

Our Legal Department will address your issue promptly.

The following individual evaluated your request:

- Team Manager, Member Services

You may also contact the Regional Privacy Officer at 1800 Harrison Street, 16th Floor, Oakland, CA 94612 with your concerns about our privacy practices. You may also file a complaint with the United States Department of Health and Human Services Office for Civil Rights (OCR), which is charged with investigating complaints and enforcing the Health Insurance Portability and Accountability Act of 1996 (HIPAA) privacy regulation. You can find out more information about filing a complaint with OCR at **http://www.hhs.gov/ocr/privacy** or by calling **(800) 368-1019**. For the hearing impaired, please contact them at the toll free (TDD) line at **800-537-7697**. In California, the contact information for the Office for Civil Rights is:

Office for Civil Rights
DHHS Region IX
90 7th Street, Suite 4-100
San Francisco, CA 94103
(800) 368-1019; (800) 537-7697 (TDD)
(415) 437-8329 FAX

You may receive additional copies of the Kaiser Permanente Notice of Privacy Practices by calling our Member Service Contact Center at **1-800-464-4000** (English), **1-800-788-0616** (Spanish), **1-800-757-7585** (Chinese dialects), or **711** (TTY) 24 hours a day, 7 days a week, excluding holidays.

This completes our response to your grievance through Kaiser Foundation Health Plan's internal grievance process. If I can provide any additional assistance, please contact me at 916-872-1375, Monday through Friday between 9 a.m. and 5 p.m.

Sincerely,

Nikhil Chabra

Mr. Nikhil Chabra
Senior Case Manager
Member Services Department

Enclosures: Your Rights
Independent Medical Review Application
Independent Medical Review Application Instructions
DMHC addressed envelope

The following "Your Rights" information explains the process for requesting additional review of the concerns and/or requests you shared with us in the event that you are not satisfied with the outcome of our review.

YOUR RIGHTS

HOW TO DISPUTE THIS DETERMINATION

Department of Managed Health Care Complaint Process

The California Department of Managed Health Care is responsible for regulating health care service plans. If you have a grievance against your health plan, you should first telephone Kaiser Foundation Health Plan at **1-800-464-4000** and use your health plan's grievance process before contacting the department. Utilizing this grievance procedure does not prohibit any potential legal rights or remedies that may be available to you. If you need help with a grievance involving an emergency, a grievance that has not been satisfactorily resolved by your health plan, or a grievance that has remained unresolved for more than 30 days, you may call the department for assistance. You may also be eligible for an Independent Medical Review (IMR). If you are eligible for IMR, the IMR process will provide an impartial review of medical decisions made by a health plan related to the medical necessity of a proposed service or treatment, coverage decisions for treatments that are experimental or investigational in nature and payment disputes for emergency or urgent medical services. The department also has a toll-free telephone number **(1-888-HMO-2219)** and a **TDD line (1-877-688-9891)** for the hearing and speech impaired. The department's Internet Web site **http://www.hmohelp.ca.gov** has complaint forms, IMR application forms and instructions online.

If you have an issue that involves an imminent and serious threat to your health (such as severe pain or potential loss of life, limb, or major bodily function), you can contact the California Department of Managed Health Care directly at any time without first filing a grievance with us.

Independent Medical Review

If you qualify, you or your authorized representative may have your issue reviewed through the Independent Medical Review (IMR) process managed by the California Department of Managed Health Care (DMHC). The DMHC determines which cases qualify for IMR. If you decide not to request an IMR, you may give up the right to pursue some legal actions against us. Additional information about IMR can be obtained from your *Evidence of Coverage* or California's Department of Managed Health Care at **www.hmohelp.ca.gov.**

Following completion of your IMR review, the DMHC will notify you and us of its final determination. If the DMHC decision is in your favor, we will reimburse you or notify you promptly regarding how to obtain services.

Binding Arbitration

Except for Small Claims Court cases and certain benefit-related disputes, any dispute between members, their heirs, or associated parties (on the one hand) and Health Plan, its health care providers, or other associated parties (on the other hand) for alleged violation of any duty arising out of or related to your Health Plan membership, must be decided by binding arbitration under California law and not by lawsuit or resort to court process, except as applicable law provides for judicial review of arbitration proceedings. This includes claims for medical or hospital malpractice, for premises liability, or relating to the coverage for, or delivery of, services or items, irrespective of legal theory. Both sides give up all rights to a jury or court trial, and both sides are responsible for certain costs

associated with binding arbitration. This is a summary; please refer to your *Evidence of Coverage* for the complete arbitration provision.

Please be advised that whether your arbitration provisions are enforceable or are unenforceable will be determined by the application and interpretation of various laws. These include California Health & Safety Code Section 1363.1, which pertains to required disclosures of arbitration provisions. Additional information regarding the California laws pertaining to arbitration of healthcare claims can be accessed on the internet at the California Department of Managed Health Care's web site **(http://www.hmohelp.ca.gov).**

Access to Relevant Materials Used by the Plan

You have a right to access and receive a free copy of any materials (documents, records or other information) relevant to your case. Relevant materials are those that:

- We relied on to inform us when making our decision;
- Materials that we received, or that we considered or generated, when making our decision, whether or not we actually relied on them in making our final decision; and
- Materials concerning your request that may show that we used appropriate administrative processes and safeguards in making our benefit decisions.

You may obtain a copy of the actual benefit provision, guideline, protocol or other similar criterion, as applicable, on which the denial decision was based, upon request, by calling 916-872-1375.

ERISA APPEAL RIGHTS ALSO INCLUDE THE FOLLOWING:

Civil Actions Under ERISA

You may have certain additional rights if you remain dissatisfied after you have exhausted all levels of review including external review. If you are enrolled through a plan that is subject to the Employee Retirement Income Security Act (ERISA), you may file a civil action under section 502(a) of the federal ERISA statute. To understand these rights, you should check with your benefits office or contact the Employee Benefits Security Administration (part of the U.S. Department of Labor) at 1-866-444-EBSA (3272). Alternatively, if your plan is not subject to ERISA (for example, most state or local government plans and church plans or all individual plans), you may have a right to request review in state court. The California Department of Managed Health Care Help Center should be able to help you understand any further review rights available to you.