

**COMMONWEALTH OF MASSACHUSETTS**  
**Office of Consumer Affairs and Business Regulation**  
**DIVISION OF INSURANCE**

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**DANIEL R. JUDSON**  
COMMISSIONER OF INSURANCE

March 4, 2016

William M. Mandell  
Pierce & Mandell, P.C.  
11 Beacon Street, Suite 800  
Boston, Massachusetts 02108

Re: Gold Care's Direct Primary Care Practice

Dear Mr. Mandell:

We are in receipt of your letter dated March 20, 2015, concerning your client, Gold Direct Care, P.C., a solo primary care medical practice owned by Jeffrey Gold, M.D. ("Gold Care"), and your request that Gold Care be permitted to continue to operate a direct primary care practice ("DPCP") in the Commonwealth of Massachusetts. The Division of Insurance ("Division") has been reviewing the DPCP model of providing primary care medical and health care services to patients in the Commonwealth, where a health care professional provides certain enumerated primary care benefits to patients without the use of any insurance or health benefit plan proceeds.

According to your letter and information presented separately to the Division since the receipt of your letter, in return for paying a regular fee to Gold Care, patients will have the right to obtain a specified number and type of routine primary care<sup>1</sup> services that are usually provided in a primary care medical office, including screening, assessment, diagnosis and treatment for the maintenance of health and prevention of illness. Such services are offered within an established contractual timeframe from a Gold Care primary care provider<sup>2</sup> for services that fall within the scope of services of the primary care provider's license. In addition, the contracting patient would not be required to reimburse Gold Care for the cost of any of the delivered services beyond the aforementioned monthly or annual regular payments.

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1 Primary care is routine medical care that does not include urgent or emergency care, procedures requiring anesthesia, high level radiology (CT, MRI, Pet scans or invasive radiology), hospitalization, rehabilitation or advanced procedures.

2 A primary care provider includes general practitioner physicians, family practice physicians, internal medicine physicians, obstetrician/gynecologists, general pediatricians, physician assistants or nurse practitioners.

Based upon this information, and while it continues to review this new model of providing primary medical care to patients under certain circumstances without the use of health insurance proceeds, the Division has determined that Gold Care, as an example of this new model, may continue to operate its DPCP in Massachusetts. If Gold Care offers services that are outside the scope of those reviewed herein, then it is possible that the Division could conclude that Gold Care is in fact offering insurance services that would require Gold Care's licensure as a health insurer.

Subject to the limitations stated in this advisory letter, Gold Care may continue to enter into written contracts signed by both a representative of Gold Care and a patient to provide direct primary care services ("direct contracts"). Such direct contracts may be payable on either a monthly or annual basis. In addition, Gold Care direct contracts should continue to include provisions that enable either the patient or Gold Care to terminate the contract at any time and that address any pro-rata reimbursement of prepaid fees.

The Division believes that Gold Care is responsible for establishing appropriate consumer protections for its contracting patients. The Division expects that Gold Care will employ appropriate written disclosures – available to both prospective and existing patients – in order to prevent misunderstandings about what is expected from both Gold Care and the contracting patient under the DPCP arrangement and the limitations that apply. Gold Care should keep a signed acknowledgment from the contracting patient of receipt of the disclosure form.

Such disclosures should clearly and conspicuously highlight the following information:

- The Gold Care contract is *not* a health benefit plan as otherwise described by law as it only pertains to a limited set of services provided through Gold Care's health care practitioners;
- The Gold Care contract does not satisfy minimum essential coverage standards for health insurance under state law or under the federal Affordable Care Act and there may be tax consequences for Gold Care patients who do not have qualified comprehensive health coverage in addition to the Gold Care contract;
- If the contract terminates for any reason, and the patient has not already purchased health care insurance coverage that will satisfy state and federal minimum coverage standards, the patient will not be able to purchase new individual health insurance until the next Massachusetts health insurance open enrollment period has begun;
- Gold Care and Gold Care's providers are *not* affiliated with any health insurance plan, and none of the medical services being provided under Gold Care will be covered by the patient's health insurance;
- Gold Care only covers those services specifically identified in the Gold Care contract when delivered or arranged by Gold Care's health care practitioners according to the terms of the contract. Gold Care's providers may refer a patient to a non-Gold Care provider for medical services, prescription drugs or supplies, but in that circumstance a patient will need to contact his or her health insurance provider and follow the health plan's managed care procedures in order to obtain coverage for the referred services, prescription drugs or supplies under the health plan's benefits.

William M. Mandell

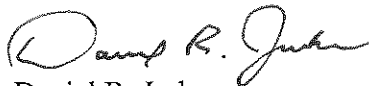
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- Certain services identified in the Gold Care direct contract may already be covered under a patient's health plan at no additional cost when provided by non-Gold Care providers. The patient will need to contact his or her health plan to understand the benefits and limitations of the patient's health insurance plan and any overlap between the services offered under the Gold Care direct contract and the coverage under the patient's health insurance plan.

In order that Gold Care continue its business without health insurance licensure, it is imperative that Gold Care remain in compliance with the provisions of this letter. Additionally, as you know, statutory and regulatory provisions governing health care providers and health insurance are subject to change over time. Any such statutory or regulatory changes could impact the Gold Care direct contracts and may require that Gold Care change its DPCP operation in Massachusetts to satisfy those provisions. To the extent that Gold Care complies with the requirements enumerated herein, however, for the present time Gold Care may continue to provide primary care services through its DPCP to patients under direct contracts in the Commonwealth.

Sincerely,



Daniel R. Judson

Commissioner of Insurance