

FEB 16 2001

STATE OF ARIZONA  
DEPARTMENT OF INSURANCE

DEPT. OF INSURANCE  
BY CB

In the Matter of:

Docket No. 01A-045-INS

**AMERITAS LIFE INSURANCE  
CORPORATION (NAIC #61301),**

CONSENT ORDER

Respondent

A health care appeals audit was made of Ameritas Life Insurance Corporation, hereinafter referred to as "Ameritas," by the Health Care Appeals Examiner for the Arizona Department of Insurance (the "Department") and was completed on December 11, 2000. The audit covered informal and formal appeals that occurred between July 1, 1998, and June 30, 2000, as well as appeals during that period that were treated as formal appeals rather than external independent review appeals. Based upon the audit results, it is alleged that Ameritas has violated the provisions of A.R.S. §§20-461, 20-2533, 20-2535, 20-2536, and 20-2537.

The Examiner reviewed Ameritas' health care appeals procedures, expedited, informal, formal, and external health care appeals files, and other materials sent to the Department in response to a May 1999 health care appeals survey and in response to the audit call letter.

Ameritas wishes to resolve these matters without formal adjudicative proceedings, admits the following Findings of Fact are true and consents to entry of the following Conclusions of Law and Order.

**FINDINGS OF FACT**

1. Ameritas is a Nebraska domiciled life and disability insurer authorized to transact health insurance business pursuant to a certificate of authority issued by the Director.

2. The Examiner was authorized by the Director to conduct a health care appeals audit of Ameritas and has prepared a Report of Examination of the Health Care Appeals of Ameritas ("the Report").

1           3.       The Examiner reviewed Ameritas' health care appeals information packet and  
2 found the following deficiencies:

3           a.       Ameritas failed to issue an approved health care appeals information packet  
4 with all newly issued policies until after November 16, 1998.

5           b.       Ameritas failed to include descriptions of expedited medical review and  
6 informal reconsideration appeals in its health care appeals information packet, which are  
7 appropriate levels of appeal following pre-treatment reviews.

8           4.       The Examiner reviewed nine appeals involving denied services, which should  
9 have been treated as informal reconsideration appeals, and found that all nine files contained at  
10 least four deficiencies. The deficiencies are as follows:

11           a.       Ameritas failed to send written acknowledgment letters of the requests for  
12 appeal to members and their treating providers in five cases.

13           b.       Ameritas failed to distribute a health care appeals packet along with the  
14 acknowledgment letter to the member in eight cases.

15           c.       Ameritas failed to distribute a health care appeals packet along with the  
16 acknowledgment letter to the treating provider in nine cases.

17           d.       Ameritas informed the member in three cases that service denials could be  
18 appealed only in writing and must be requested within sixty days.

19           e.       Ameritas failed to inform the member in eight cases of the right to request a  
20 formal appeal following the informal reconsideration, and if the formal appeal is upheld, an  
21 external independent review.

22           5.       The Examiner reviewed 117 formal appeals that were within the scope of the  
23 audit examination and found that 115 contained deficiencies. The deficiencies are as follows:

24           a.       Ameritas failed to include the criteria used and clinical reasons for its decision  
25 in four formal appeal decision letters.

1           b. Ameritas failed to send the treating provider an acknowledgment of the formal  
2 appeal request in sixty cases.

3           c. Ameritas failed to send a health care appeals information packet along with  
4 the acknowledgment letter to the treating provider in 102 cases.

5           d. Ameritas failed to send written acknowledgment of the formal appeal request  
6 to the member in thirty-two cases.

7           e. Ameritas failed to send the member a health care appeals information packet  
8 along with the acknowledgment of the formal appeal request in seventy-six cases.

9           f. Ameritas informed members in nineteen cases that the member had only  
10 sixty days to request a claims review.

11           g. Ameritas failed to inform members in ninety-six cases where the formal  
12 appeal was upheld or partially upheld of the member's right to request external independent  
13 review.

14           h. Ameritas failed to have decisions in seventy-two cases rendered by an  
15 appropriately licensed health care professional.

16           5. The Examiner reviewed seven appeals that were requested following completion  
17 of the formal appeals that should have been treated as external independent reviews under  
18 Arizona law. The deficiencies are as follows:

19           a. Ameritas failed to forward four appeals involving questions of coverage to the  
20 Director within five business days of receiving the requests for review.

21           b. Ameritas failed to forward acknowledgments of the appeal requests in four  
22 cases to the Director within five business days of receiving the appeal requests.

23           c. Ameritas failed to send the treating provider an acknowledgment of the  
24 appeal request in one case involving an issue of coverage.

25           d. Ameritas failed to send a decision letter to the treating provider following the  
completion of the review in one case.

1 e. Ameritas failed to send three cases involving dental necessity questions to  
2 external independent reviewers selected from the Department's list of reviewers.

3 f. Ameritas failed to send to the Director an acknowledgment of the request for  
4 external review in three cases.

5 g. Ameritas failed to notify the Director of both the external reviewer selected  
6 and the results of the external independent review in three cases.

7 h. Ameritas failed to notify the member of the appeal result in one case.

8 6. Ameritas' deficiencies outlined above indicate that its general business practices  
9 do not comply with the provisions of Arizona's health care appeal laws.

10  
11 **CONCLUSIONS OF LAW**

12 1. Ameritas violated A.R.S. §20-2533(C) by failing to distribute approved health  
13 care appeals information packets that included all four levels of available appeals to members  
14 with newly issued policies.

15 2. Ameritas violated A.R.S. §20-2535 by failing to treat appeals involving denied  
16 services as informal reconsiderations before processing the cases as formal appeals.

17 3. Ameritas violated A.R.S. §20-2535(B) by failing to send written acknowledgment  
18 letters of informal reconsideration appeal requests, along with health care appeals information  
19 packets, to members and treating providers within five business days of receiving the request.

20 4. Ameritas violated A.R.S. §20-2535(F) by failing to advise members in decision  
21 letters of the right to request formal appeal, and if the formal appeal is upheld, external  
22 independent review.

23 5. Ameritas violated A.R.S. §20-2536(E) by failing to include in decision letters the  
24 criteria used and clinical reasons for its determinations of formal appeals.

- 1           6.       Ameritas violated A.R.S. §20-2536(B) by failing to send acknowledgment letters  
2 of formal appeal requests, along with health care appeals information packets, to members and  
3 treating providers within five business days of receiving the appeal requests.
- 4           7.       Ameritas violated A.R.S. §20-2536(G) by failing to inform members of the right to  
5 request external independent review following formal appeals.
- 6           8.       Ameritas violated A.R.S. §20-2536(D) by failing to have formal appeal decisions  
7 rendered by appropriately licensed health care professionals.
- 8           9.       Ameritas violated A.R.S. §20-2537 by failing to treat appeals received  
9 subsequent to the completion of formal appeals as requests for external independent review.
- 10          10.       Ameritas violated A.R.S. §20-2537(C)(2)(b) by failing to forward external  
11 independent review appeal cases to the Director within five business days of receiving the  
12 external independent review request.
- 13          11.       Ameritas violated A.R.S. §§20-2537(C)(1)(a) and (C)(2)(a) by failing to send  
14 acknowledgment letters of external review requests to the Director, members and treating  
15 providers.
- 16          12.       Ameritas violated A.R.S. §20-2537(D)(2) by failing to send notice of the decision  
17 to treating providers following external review.
- 18          13.       Ameritas violated A.R.S. §20-2537(C)(1)(b) by failing to send cases to external  
19 independent reviewers selected from the Department's list of reviewers.
- 20          14.       Ameritas violated A.R.S. §20-2537(C)(1)(c) by failing to notify the Director of the  
21 external reviewer selected in external independent review appeals.
- 22          15.       Ameritas violated A.R.S. §20-2537(E) by failing to notify the Director of the  
23 independent reviewer's decision in external independent review appeals.
- 24          16.       Ameritas violated A.R.S. §20-2537(D)(1)(b), as amended A.R.S. §2537(E) (1999)  
25 by failing to notify members of the results of external independent review appeals.

1 17. Ameritas violated A.R.S. §20-461(A)(17) by failing to comply with the health care  
2 appeal laws with such a frequency as to indicate a general business practice.

3  
4 **ORDER**

5 IT IS HEREBY ORDERED THAT:

6 1. Within 90 days of the filed date of this Order, Respondent shall do the following:

7 a. amend its health care appeals information packet to reflect the appropriate  
8 levels of Arizona's health care appeals process and file its amended packet with the  
9 Department;

10 b. revise its written procedures to reflect compliance with A.R.S. §§20-2530 *et*  
11 *seq.* and provide the Department with a copy of the written procedures.

12 2. Respondent shall cease and desist from the following acts, as required by the  
13 statutes shown:

14 a. failing to initially treat appeals involving denied services as expedited medical  
15 reviews or informal reconsideration appeals consistent with the requirements of Arizona law  
16 (A.R.S. §§20-2534 and 2535);

17 b. failing to send written acknowledgment letters of requests for informal  
18 reconsideration appeals, along with health care appeals information packets, to members and  
19 treating providers (or as otherwise required by law) (A.R.S. §20-2535(B));

20 c. failing to inform members of the right to request a formal appeal, and if the  
21 formal appeal is upheld, an external independent review (A.R.S. §20-2535(F));

22 d. failing to include the criteria used and clinical reasons for the decision in  
23 formal appeal decision letters (A.R.S. §20-2536(E));

24 e. failing to send written acknowledgment letters of formal appeals to members  
25 and treating providers within five business days of receiving the appeal request (A.R.S. §20-  
2536(B));

1 f. failing to notify members in formal appeal decision letters of the right to  
2 request external independent review (A.R.S. §20-2536(G));

3 g. failing to have formal appeal decisions rendered by appropriately licensed  
4 health care professionals (or as otherwise required by law) (A.R.S. §20-2536(D));

5 h. failing to treat requests for further appeals after completion of the formal  
6 appeal stage as external independent review appeals (A.R.S. §20-2537);

7 i. failing to comply with the external independent review requirements provided  
8 under Arizona law (A.R.S. §20-2537).

9 3. Ameritas shall pay a civil penalty of ten thousand dollars (\$10,000.00) to the  
10 Director for remission to the State Treasurer for deposit in the State General Fund in  
11 accordance with A.R.S. §20-220(B). Said amount shall be provided to the Health Care  
12 Appeals Section of the Department prior to the filing of this Order.

13 4. The Report of Examination dated December 29, 2000, and any objections to the  
14 Report submitted by Ameritas, shall be filed with the Department upon the filing of this Order.

15 DATED this 15<sup>th</sup> day of February, 2001.

17 

18 \_\_\_\_\_  
19 Charles R. Cohen  
20 Director of Insurance

1 **CONSENT TO ORDER**

2 1. Respondent, Ameritas Life Insurance Corporation, has reviewed the foregoing  
3 Order.

4 2. Respondent admits the jurisdiction of the Director of Insurance, State of Arizona,  
5 admits the foregoing Findings of Fact are true, and consents to the entry of the Conclusions of  
6 Law and Order.

7 3. Respondent is aware of the right to a hearing, at which it may be represented by  
8 counsel, present evidence and cross-examine witnesses. Respondent irrevocably waives the  
9 right to such notice and hearing and to any court appeals related to this Order.

10 4. Respondent states that no promise of any kind or nature whatsoever was made  
11 to induce it to enter into this Consent Order and that it has entered into this Consent Order  
12 voluntarily.

13 5. Respondent acknowledges that the acceptance of this Order by the Director of  
14 the Arizona Department of Insurance is solely for the purpose of settling this matter and does  
15 not preclude any other agency or officer of this state or its subdivisions or any other person  
16 from instituting proceedings, whether civil, criminal, or administrative, as may be appropriate  
17 now or in the future.

18 6. Robert C. Lange, who holds the office of Vice President of  
19 Respondent, is authorized to enter into this Order for it and on its behalf.

20 AMERITAS LIFE INSURANCE CORPORATION

21  
22 Feb. 13, 2001

23 (date)

By

Robert C. Lange

24 **COPY of the foregoing mailed/delivered this 16th day of February, 2001 to:**

25 Sara Begley  
Deputy Director



1 Vista Brown  
Executive Assistant  
2 Gerrie Marks  
Executive Assistant  
3 Catherine O'Neil  
Consumer Legal Affairs Officer/Custodian of Records  
4 Mary Butterfield  
Assistant Director  
5 Consumer Affairs Division  
Alexandra Shafer  
6 Assistant Director  
Life and Health Division  
7 Deloris E. Williamson  
Assistant Director  
8 Rates & Regulations Division  
Steve Ferguson  
9 Assistant Director  
Financial Affairs Division  
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