

FEB 23 2001

STATE OF ARIZONA  
DEPARTMENT OF INSURANCE

DEPT. OF INSURANCE  
BY CB

In the Matter of:  
**HUMANA INSURANCE COMPANY**  
**(NAIC #62189),**  
Respondent

Docket No. 01A-051-INS

CONSENT ORDER

A health care appeals audit was made of Humana Insurance Company, hereinafter referred to as "Humana," 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 reconsideration and formal appeals from July 1, 1998, through December 31, 1999. Based upon the audit results, it is alleged that Humana has violated the provisions of A.R.S. §§20-461, 20-2533, 20-2535, and 20-2536.

The Examiner reviewed Humana's 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.

Humana 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. Humana is a Missouri 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 Humana and has prepared a Report of Examination of the Health Care Appeals of Humana ("the Report").

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

3               a.     Humana failed to distribute an approved appeals packet until after September  
4 24, 1998.

5               b.     Humana identified two cases as formal appeals that were not processed first  
6 as informal reconsiderations or expedited medical reviews. Humana's health care appeals  
7 information packet provides that claim denials begin the appeals process at the informal  
8 reconsideration level. Humana's appeals packet conflicts with the way Humana, in fact,  
9 processes appeals involving denied claims.

10           4.     The Examiner reviewed six informal reconsideration appeals that involved  
11 denials as defined under Arizona law, and found that all six files contained at least two  
12 deficiencies. The deficiencies are as follows:

13               a.     Humana failed to distribute a health care appeals packet to the member and  
14 treating provider in six cases.

15               b.     Humana failed to send written acknowledgment of the request for appeal to  
16 the treating provider in five cases.

17               c.     Humana failed to send written notice of the decision to the treating provider  
18 following the informal reconsideration appeal in two cases.

19               d.     Humana failed to inform members in two 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               e.     Humana informed members in two cases where the original denials had been  
23 overturned that the member was entitled to request a formal appeal.

24               f.     Humana informed one member that the appeal must be requested only in  
25 writing.





1 e. failing to inform members of the right to request a formal appeal following an  
2 informal reconsideration, and if the informal appeal is upheld, an external independent review  
3 (A.R.S. §20-2535(F));

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

6 g. advising members that they are entitled to request a formal appeal following  
7 informal reconsiderations where the denial was fully overturned (A.R.S. §20-2535(F));

8 h. advising members that informal reconsideration appeals must be requested  
9 in writing (A.R.S. §20-2535(A)).

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

14 4. The Report of Examination dated December 11, 2000, and any objections to the  
15 Report submitted by Humana, shall be filed with the Department upon the filing of this Order.

16 DATED this 22<sup>nd</sup> day of February, 2001.

18 

19 \_\_\_\_\_  
20 Charles R. Cohen  
21 Director of Insurance  
22  
23  
24  
25

CONSENT TO ORDER

1  
2 1. Respondent, Humana Insurance Company, has reviewed the foregoing Order.

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

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

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

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

17 6. Walter E. Neely, who holds the office of Vice President of  
18 Respondent, is authorized to enter into this Order for it and on its behalf.

19  
20 HUMANA INSURANCE COMPANY

21  
22 2/14/01  
(date)

23 By   
Walter E. Neely, Vice President

24  
25 **COPY of the foregoing mailed/delivered this 23rd day of February, 2001 to:**

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  
10 Nancy Howse  
Chief Financial Examiner  
11 Financial Affairs Division

12 DEPARTMENT OF INSURANCE  
2910 North 44th Street, Suite 210  
13 Phoenix, AZ 85018

14  
15 Judy Erwin  
Senior Regulatory Affairs Analyst  
HUMANA INSURANCE COMPANY  
16 500 West Main Street  
Louisville, KY 40201-1438

17  
18   
19 \_\_\_\_\_

20  
21  
22  
23  
24  
25