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DEPT. OF INSURANCE
BY CS

STATE OF ARIZONA

DEPARTMENT OF INSURANCE

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In the Matter of:)	Docket No. 01A-102-INS
)	
CONSECO MEDICAL INSURANCE COMPANY,)	CONSENT ORDER
)	
NAIC #93769)	
)	
Respondent)	
)	

Examiners for the Department of Insurance (the "Department") conducted a market conduct examination of Conseco Medical Insurance Company. The Report of Examination of the Market Conduct Affairs of Conseco Medical Insurance Company alleges that Conseco has violated A.R.S. §§20-448.01, 20-461, 20-462, 20-1379, 20-1401.01, 20-2104, 20-2106, 20-2110, 20-2309, 20-2502, 20-2533, 20-2536 and A.A.C. R20-6-801 and R20-6-1203.

Conseco Medical wishes to resolve this matter without formal proceedings, admits that the following Findings of Fact are true, and consents to the entry of the following Conclusions of Law and Order.

FINDINGS OF FACT

1. Conseco Medical is authorized to transact life and disability insurance pursuant to a Certificate of Authority issued by the Director.
2. The Examiners were authorized by the Director to conduct a market conduct examination of Conseco Medical. The on-site examination covered the time period from June 1, 1999 through May 31, 2000, and was concluded on October 19, 2000. Based on the findings the Examiners prepared the "Report of Examination of the Market Conduct Affairs of Conseco Medical Insurance Company", dated October

1 19, 2000.

2 3. Conseco Medical conducted utilization review, but failed to meet and was
3 not exempt from the statutory requirements for performing utilization review.

4 4. The Examiners reviewed 12 of 12 appeals processed by the Company
5 during the time frame of the examination and found as follows:

6 a. Conseco Medical failed on 12 formal appeals to mail a written
7 acknowledgment, including the information packet described in A.R.S. §20-2533, to
8 the member and the member's treating provider within five business days after the
9 request for appeal.

10 b. Conseco Medical failed on five formal appeals to have a physician
11 or licensed health care professional review the appeal and render a decision.

12 c. Conseco Medical failed on five formal appeals to notify the
13 member in writing of the Company's decision within 60 days of receipt of the written
14 appeal.

15 d. Conseco Medical denied two formal appeals but failed to provide
16 notice to the member of the option to proceed to an external independent review.

17 5. The Examiners reviewed 14 of 14 HIV-related tests performed by the
18 Company during the time frame of the examination and found that Conseco Medical
19 used an HIV-related testing consent form that was not filed or approved by the
20 Director.

21 6. The Examiners reviewed 133 of 133 individual application files that were
22 subject to adverse underwriting decisions and found that Conseco Medical failed to
23 provide 133 applicants with a Summary of Rights.

24 7. The Examiners reviewed 50 of 456 applications for individual major
25 medical policies that were declined and 100 of 8,943 policies that were issued by the

1 Company during the time frame of the examination and found that Conseco Medical
2 had information that 14 of the applicants might be HIPAA eligible but failed to conduct
3 an investigation to determine if the applicants were Eligible Individuals and to advise
4 them of HIPAA and their possible right to a guaranteed issue policy.

5 8. The Examiners reviewed 272 of 92,051 claims under individual major
6 medical policies for services provided by contracted providers, 150 of 10,653 claims
7 under individual major medical policies for services provided by non-contracted
8 providers, 150 of 11,978 claims under group major medical policies for services
9 provided by contracted providers and 100 of 3,710 claims under group major medical
10 policies for services provided by non-contracted providers that were processed during
11 the time frame of the examination and found as follows:

12 a. Conseco Medical failed to notify 42 first party claimants of acceptance
13 or denial of their claim within the 20-day time frame set forth in its contractual
14 agreement with the network.

15 b. Conseco Medical failed to acknowledge receipt of 35 non-contracted
16 provider claims within ten working days of notification of claim.

17 c. Conseco Medical failed to complete the investigation of 19 claims
18 within 30 days after notification of claim.

19 d. Conseco Medical failed to notify 36 first party claimants of acceptance
20 or denial of their claim within 15 working days after receipt of a properly executed proof
21 of loss.

22 e. Conseco Medical failed to pay interest at the legal rate on 45 first
23 party claims not paid within 30 days of receipt of an acceptable proof of loss.

24 9. The Examiners reviewed all group and individual major medical
25 applications, policy forms and riders in use by the Company during the time frame of

1 the examination and found that:

2 a. Conseco Medical utilized one group employee enrollment form
3 and one individual application form that failed to advise the individual that the
4 individual or the individual's authorized representative is entitled to receive a copy of
5 the authorization form.

6 b. Conseco Medical utilized one group policy form and one group
7 certificate form but failed to make copies available to the Director at least 30 days prior
8 to offering the coverage.

9 c. Conseco Medical utilized one group policy form and one group
10 certificate form that failed to provide the required levels of appeal review.

11 10. Conseco Medical failed to provide 1,278 applicants for group health
12 insurance, that was individually underwritten, with a "Notice of Insurance Information
13 Practices".

14 11. Conseco Medical terminated an unknown number of group health benefit
15 plans issued to small employers and failed to offer each employer whose coverage
16 was discontinued the option to purchase all other health benefit plans currently offered
17 by the Company.

18 12. Conseco Medical's failure to pay interest at the legal rate on claims that
19 were not paid within 30 days after receipt of an acceptable proof of loss resulted in 45
20 insureds being underpaid a total of \$499.03.

21 **CONCLUSIONS OF LAW**

22 1. Conseco Medical violated A.R.S. §20-448.01(B) and A.A.C. R20-6-
23 1203(C) by failing to obtain written consent from the subjects of HIV-related tests on a
24 form approved by the Director.

25 2. Conseco Medical violated A.R.S. §20-461(A)(2) and A.A.C. R20-6-

1 801(E)(1) by failing to acknowledge receipt of claims within ten working days after
2 receipt of notification of claim with such frequency as to constitute a general business
3 practice.

4 3. Conseco Medical violated A.R.S. §20-461(A)(3) and A.A.C. R20-6-801(F)
5 by failing to complete claims investigations within 30 days after notification of claim
6 with such frequency as to indicate a general business practice.

7 4. Conseco Medical violated A.R.S. §20-461(A)(5) and A.A.C. R20-6-
8 801(G)(1)(a) by failing to notify insureds of the acceptance or denial of claims within 15
9 working days after receipt of properly executed proof of loss or within 20 days after
10 receipt for claims from contracted providers.

11 5. Conseco Medical violated A.R.S. §20-462(A) by failing to pay interest at
12 the legal rate on individual and group medical claims not paid within 30 days after
13 receipt of properly executed proof of loss.

14 6. Conseco Medical violated A.R.S. § 20-1379(A) by having information
15 indicating that individuals might be HIPAA eligible but failing to conduct an
16 investigation to determine if the applicant was an eligible Individual and to advise him
17 of HIPAA and his possible right to a guaranteed issue policy.

18 7. Conseco Medical violated A.R.S. §20-1401.01(B) by failing to make
19 copies of a policy form and certificate available to the Director at least 30 days prior to
20 offering the coverage.

21 8. Conseco Medical violated A.R.S. §20-2104(A) by failing to provide
22 applicants for group health insurance that was individually underwritten with a "Notice
23 of Insurance Information Practices".

24 9. Conseco Medical violated A.R.S. §20-2106(9) by utilizing application and
25 enrollment forms that failed to advise the individual that the individual or the

1 individual's authorized representative is entitled to receive a copy of the authorization
2 form.

3 10. Conseco Medical violated A.R.S. §20-2110(A) by failing to provide
4 applicants for insurance that were the subjects of adverse underwriting decisions with
5 Summaries of Rights.

6 11. Conseco Medical violated A.R.S. §20-2309(E)(3) by terminating health
7 benefit plans but failing to offer each employer whose coverage was discontinued the
8 option to purchase all other health benefit plans currently offered by the Company.

9 12. Conseco Medical violated A.R.S. §20-2502(A) by performing utilization
10 review but failing to meet or not be exempt from the statutory requirements for
11 performing utilization review.

12 13. Conseco Medical violated A.R.S. §20-2533(A) by utilizing a group policy
13 form and certificate that failed to provide for the required levels of review.

14 14. Conseco Medical violated A.R.S. §20-2536(B) by failing to mail a written
15 acknowledgment, including the information packet, to the member and the member's
16 treating provider within five days after the request for formal appeal.

17 15. Conseco Medical violated A.R.S. §20-2536(D) by failing to have a
18 physician or other licensed health care professional review a formal appeal and render
19 a decision.

20 16. Conseco Medical violated A.R.S. §20-2536(E)(2) by failing to notify the
21 member in writing of their decision within 60 days after receipt of a formal appeal.

22 17. Conseco Medical violated A.R.S. §20-2536(G) by failing to provide the
23 member with notice of the option to proceed to an external independent review.

24 18. Grounds exist for the entry of the following Order, in accordance with
25 A.R.S. §§20-220, 20-456 and 20-2117.

1 ORDER

2 **IT IS ORDERED THAT:**

3 1. Conseco Medical shall cease and desist from:

4 a. Using an HIV-related test form that is not filed or approved by the
5 Director.

6 b. Failing to acknowledge receipt of non-contracted provider claims
7 within ten working days after receipt of notification of claim.

8 c. Failing to complete claims investigations of non-contracted
9 provider claims within 30 days after notification of claim.

10 d. Failing to notify insureds of the acceptance or denial of non-
11 contracted provider claims within 15 working days after receipt of properly executed
12 proof of loss or within the contracted time frame for network providers.

13 e. Failing to pay interest on claims not paid within 30 days after
14 receipt of acceptable proof of loss.

15 f. Failing to determine if applicants are eligible individuals, advise
16 them of HIPAA and their right to a guaranteed issued policy.

17 g. Failing to make copies of policy forms and certificates available to
18 the Director at least 30 days prior to offering the coverage.

19 h. Failing to provide applicants for group health insurance with a
20 "Notice Of Insurance Information Practices".

21 i. Utilizing application and enrollment forms that fail to advise the
22 individual that the individual or the individual's authorized representative is entitled to
23 receive a copy of the authorization form.

24 j. Failing to provide applicants with Summaries Of Rights in the
25 event of adverse underwriting decisions.

1 k. Failing to offer employers whose coverage is discontinued the
2 option to purchase all other health benefit plans currently offered by the Company.

3 l. Performing utilization review but failing to meet or not be exempt
4 from the statutory requirements for performing utilization review.

5 m. Utilizing policy and certificate forms that fail to provide for the
6 required levels of review.

7 n. Failing to mail a written acknowledgment, including the information
8 packet, to the member within five business days after request for appeal.

9 o. Failing to require a physician or other licensed health care
10 professional to review and render formal appeal decisions involving medical necessity.

11 p. Failing to notify members in writing of their decision within 60 days
12 after receipt of formal appeals.

13 q. Failing to provide the member with notice of the option to proceed
14 to an external independent review following the completion of an upheld formal appeal.

15 2. Within 90 days of filed date of this Order, Consecoco shall submit to the
16 Arizona Department of Insurance, for approval, evidence that corrections have been
17 implemented and communicated to the appropriate personnel, regarding all of the
18 items listed in Paragraph one of the Order section of this Consent Order. Evidence of
19 corrective action and communication thereof includes but is not limited to memos,
20 bulletins, E-mails, correspondence, procedures manuals, print screens and training
21 materials.

22 3. Within 90 days of the filed date of this Order, Consecoco Medical shall
23 document to the Department that it has paid interest on claims identified in Exhibit A of
24 this Order. Interest shall be calculated at the rate of ten percent per annum, from the
25 date each claim was received by the Company, to the date of payment.

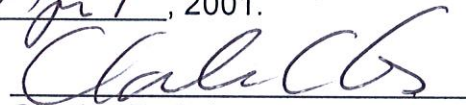
1 4. Each payment made in accordance with Item 3 above shall be
2 accompanied by a letter to the insured in a form previously approved by the Director.
3 A list of payments, giving the name and address of each party paid, the amount of the
4 payment, the amount of interest paid, and the date of payment, shall be provided to
5 the Department within 90 days of the filed date of this Order.

6 6. The Department shall be permitted, through authorized representatives,
7 to verify that Conseco Medical has complied with all provisions of this Order.

8 7. Conseco Medical shall pay a civil penalty of \$26,000 to the Director for
9 deposit in the State General Fund in accordance with A.R.S. §20-220(B). This civil
10 penalty shall be provided to the Market Conduct Examinations Section of the
11 Department prior to the filing of this Order.

12 8. The Report of Examination of the Market Conduct Affairs of Conseco
13 Medical Insurance Company dated October 19, 2000 including the letter submitted in
14 response to the Report of Examination, shall be filed with the Department after the
15 Director has filed this Order.

16 DATED at Phoenix, Arizona this 9th day of April, 2001.

17 
18 _____
19 Charles R. Cohen
20 Director of Insurance
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1 **FAILURE TO PAY INTEREST AT THE LEGAL RATE ON CLAIMS THAT WERE NOT**
2 **PAID WITHIN 30 DAYS AFTER RECEIPT OF ACCEPTABLE PROOF OF LOSS**
3 **A.R.S. § 20-462(A)**

<u>Claim Number</u>	<u>Interest Due</u>
E-B97134-01	\$ 10.54
E-F45823-02	\$ 13.30
E-J70675-01	\$ 8.80
E-J02918-01	\$ 8.77
E-G07972-02	\$405.64
E-L54388-01	\$ 8.01

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18 **EXHIBIT A**
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1 **CONSENT TO ORDER**

2 1. Conseco Medical Insurance Company has reviewed the foregoing Order.

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

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

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

13 5. Conseco Medical Insurance Company acknowledges that the
14 acceptance of this Order by the Director of Insurance, State of Arizona, is solely to
15 settle this matter against it and does not preclude any other agency or officer of this
16 state or its subdivisions or any other person from any other civil or criminal
17 proceedings, whether civil, criminal, or administrative, as may be appropriate now or in
18 the future.

19 6. _____, who holds the office of
20 _____ of Conseco Medical Insurance Company, is
21 authorized to enter into this Order for it and on its behalf.

22 **CONSECO MEDICAL INSURANCE COMPANY**

23 4/2/01
24 Date

By: Bj Conely

1 COPY of the foregoing mailed/delivered
2 This 10th day of April 2001, to:

3
4 Sara Begley
5 Deputy Director
6 Mary Butterfield
7 Assistant Director
8 Consumer Affairs Division
9 Paul J. Hogan
10 Chief Market Conduct Examiner
11 Market Conduct Examinations Section
12 Deloris E. Williamson
13 Assistant Director
14 Rates & Regulations Division
15 Alexandra Shafer
16 Assistant Director
17 Life & Health Division
18 Steve Ferguson
19 Assistant Director
20 Financial Affairs Division
21 Terry Cooper
22 Manager
23 Fraud Unit

24
25 DEPARTMENT OF INSURANCE
2910 North 44th Street, Second Floor
Phoenix, AZ 85018

CONSECO MEDICAL INSURANCE COMPANY
303 North Main Street
Rockford, Illinois 61101

