

AUG 12 2002

STATE OF ARIZONA
DEPARTMENT OF INSURANCE
DEPT. OF INSURANCE
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In the Matter of:)	Docket No. 02A-143-INS
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)	
HUMANA HEALTH PLAN, INC., NAIC # 95885,)	CONSENT ORDER
)	
Respondent)	

Examiners for the Department of Insurance ("the Department") conducted a market conduct examination of Humana Health Plan, Inc. ("Humana"). The Report of the Examination of the Market Conduct Affairs of Humana, dated November 8, 2001, alleges that Humana has violated A.R.S. §§ 20-461, 20-1057, 20-2310, 20-2534, 20-2535, 20-2536, A.A.C. R20-6-801, and Consent Order Docket No. 97A-016-INS filed February 3, 1997.

Humana 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. Humana is authorized to transact business as a health care services organization in Arizona 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 Humana. The on-site examination covered the time period from January 1, 2000 through May 31, 2001 and was concluded on November 8, 2001. Based on the findings the Examiners prepared the "Report of Examination of the Market Conduct Affairs of Humana Health Plan, Inc." dated November 8, 2001.
3. Following a market conduct examination of Humana Health Plan, Inc. as

1 of April 7, 1995, the Director entered a Consent Order, Docket No. 97A-016-INS, which
2 was filed on February 3, 1997 (the "1997 Order"). Section 1 of the "Order" portion of
3 the 1997 Order stated as follows:

4 "1. HHP shall cease and desist from:

5 a. Not notifying first party claimants of the acceptance or denial of their
6 claims within 15 working days after the receipt of properly executed proofs of
7 loss;"

8 4. The Examiners reviewed two of two Expedited Medical Reviews received
9 by the Company during the time frame of the examination and found as follows:

10 a. Humana, in one file:

11 i. Failed to notify the member of the availability of a external
12 independent review, and

13 ii. Failed to render a decision within one business day.

14 b. Humana, in one file, failed to render a decision within one
15 business day.

16 5. The Examiners reviewed 44 of 414 requests for an Informal
17 Reconsideration by the Company during the time frame of the examination and found
18 as follows:

19 a. Humana, in three files, failed to provide the policyholder with a
20 letter that described the criteria used to reach the decision.

21 b. Humana, in one file, failed to provide acknowledgement to the
22 member within five business days of receiving the request for an informal
23 reconsideration.

24 c. Humana, in one file, failed to provide acknowledgement to the
25 member's provider within five business days of receiving the request for an informal

1 reconsideration.

2 d. Humana, in one file, failed to send a letter within 30 days to the
3 treating provider, regarding the Company's decision.

4 e. Humana, in two files:

5 i. Failed to provide acknowledgement to the member's
6 provider within five business days of receiving the request for an informal
7 reconsideration, and

8 ii. Failed to include the required information packet in the
9 letter.

10 f. Humana, in two files:

11 i. Failed to provide acknowledgement to the member's
12 provider within five business days of receiving the request for an informal
13 reconsideration, and

14 ii. Failed to send a notice of the decision to the member within
15 30 days.

16 g. Humana, in one file:

17 i. Failed to provide acknowledgement to the member within
18 five business days of receiving the request for an informal reconsideration, and

19 ii. Failed to send a notice of the decision to the member within
20 30 days.

21 h. Humana, in two files:

22 i. Failed to send a notice of the decision to the member within
23 30 days, and

24 ii. Failed to include the required information packet in the
25 letter.

1 i. Humana, in six files:

2 i. Failed to provide acknowledgement to the member's
3 provider within five business days of receiving the request for an informal
4 reconsideration, and

5 ii. Failed to include the required information packet in the
6 letter, and

7 iii. Failed to send a letter within 30 days to the treating
8 provider, regarding the Company's decision.

9 j. Humana, in 11 files:

10 i. Failed to provide acknowledgement to the member's
11 provider within five business days of receiving the request for an informal
12 reconsideration, and

13 ii. Failed to include the required information packet in the
14 letter, and

15 iii. Failed to send a letter within 30 days to the member,
16 regarding the Company's decision.

17 k. Humana, in two files:

18 i. Failed to provide acknowledgement to the member's
19 provider within five business days of receiving the request for an informal
20 reconsideration, and

21 ii. Failed to include the required information packet in the
22 letter, and

23 iii. Failed to provide the policyholder with a letter that
24 described the criteria used to reach the decision.

25 l. Humana, in three files:

1 i. Failed to provide acknowledgement to the member's
2 provider within five business days of receiving the request for an informal
3 reconsideration, and

4 ii. Failed to include the required information packet in the
5 letter, and

6 iii. Failed to send a letter within 30 days to the member,
7 regarding the Company's decision, and

8 iv. Failed to send a letter within 30 days to the treating
9 provider, regarding the Company's decision.

10 m. Humana, in one file:

11 i. Failed to provide acknowledgement to the member's
12 provider within five business days of receiving the request for an informal
13 reconsideration, and

14 ii. Failed to include the required information packet in the
15 letter, and

16 iii. Failed to send a letter within 30 days to the member,
17 regarding the Company's decision, and

18 iv. Failed to send a letter within 30 days to the treating
19 provider, regarding the Company's decision, and

20 v. Failed to provide the policyholder with a letter that
21 described the criteria used to reach the decision.

22 6. The Examiners reviewed 50 of 127 Formal Appeals processed by the
23 Company during the time frame of the examination and found as follows:

24 a. Humana, in seven files, failed to include the required information
25 packet in the letter.

1 b. Humana, in one file, failed to send an acknowledgement letter to
2 the treating provider within five business days.

3 c. Humana, in 12 files:

4 i. Failed to include the required information packet in the
5 letter, and

6 ii. Failed to send an acknowledgement letter to the treating
7 provider within five business days.

8 d. Humana, in two files:

9 i. Failed to include the required information packet in the
10 letter, and

11 ii. Failed to send an acknowledgement letter to the member
12 within five business days.

13 7. The Examiners reviewed three of three External Independent Reviews
14 processed by the Company during the time frame of the examination and found that
15 Humana, in one file:

16 a. Failed to render a decision on a formal appeal within 60 days of
17 receipt of the written appeal.

18 b. Failed to render a decision on an informal reconsideration within
19 30 days.

20 8. The Examiners reviewed 88 policy forms and/or advertising forms used
21 by the Company during the time frame of the examination and found as follows:

22 a. Humana used three Evidence of Coverage forms (HP4-510 02/00,
23 HP4-520 02/00, and HP4-510.1 02/00) that places limits on co-pays by members, but
24 Humana has no mechanism in place to track if and when a member has reached that
25 limit.

1 b. Failing to mail to the treating provider an acknowledgement of the
2 member's request for an informal reconsideration within five business days.

3 c. Prior to 2/28/01, failing to include the appeals information packet
4 with the letter.

5 4. Humana violated A.R.S. §20-2535(D) by:

6 a. Failing to include in the notices mailed to members and their
7 treating providers the criteria used and the clinical reasons for its Informal
8 Reconsideration decisions.

9 b. Failing to mail to the member within 30 days of receipt of the
10 request for reconsideration, a notice of the utilization review agent's decision.

11 c. Failing to mail to the treating provider within 30 days of receipt of
12 the request for reconsideration, a notice of the utilization review agent's decision.

13 5. Humana violated A.R.S. §20-2536(B) by failing to send an appropriate
14 written acknowledgment within five business days of receipt of the request for a Formal
15 Appeal to the member and to the treating provider. Prior to 2/28/01 an appeals
16 information packet must be included with the letter.

17 6. Humana violated A.R.S. §20-2536(E)(2) by failing to render a decision on
18 a Formal Appeal within 60 days of receipt of the written appeal.

19 7. Humana violated A.R.S. §20-1057(F) by using an Evidence of Coverage
20 form that contained provisions or statements that are unjust, unfair, inequitable,
21 misleading or deceptive, that encourage misrepresentation or that are untrue.

22 8. Humana violated A.R.S. §20-1057(D) by failing to file advertising and
23 sales materials for approval by the Department prior to use.

24 9. Humana violated A.R.S. §§ 20-2310(H)(5)(b) and 20-2310(H)(8) by using
25 a Certificate of Creditable Coverage that:

1 a. Failed to contain the information regarding when the individual first
2 sought coverage, and the date that creditable coverage began.

3 b. Failed to contain the "Important Notice" in at least 14-point type.

4 10. Humana violated A.R.S. §20-2310(J) by failing to provide Certificates of
5 Creditable coverage within 30 days after the event that triggered issuance of the
6 Certificate.

7 11. Humana violated A.R.S. §20-461(A)(5), A.A.C. R20-6-801(G)(1)(a), and
8 the 1997 Order by failing to accept or deny claims within 15 working days of receipt of
9 an acceptable proof of loss.

10 12. Grounds exist for the entry of the following Order in accordance with
11 A.R.S. §§ 20-456, 20-1065, and 20-2508.

12 **ORDER**

13 **IT IS HEREBY ORDERED THAT:**

14 1. Humana Health Plan, Inc. shall cease and desist from:

15 a. Failing to comply with the terms of an Order of the Director.

16 b. Failing to notify its members of the availability of an External
17 Independent Review, when the Company affirms the denial of the requested service.

18 c. Failing to render a decision regarding Expedited Medical Reviews
19 within one business day.

20 d. Failing to provide the member and treating provider with an
21 acknowledgement of receipt of a request for an Informal Reconsideration within five
22 business days.

23 e. Failing to provide the member and treating provider with notice of
24 the Company's decision and the criteria used and the clinical reasons for that decision
25 within 30 days of receipt of the request for a Informal Reconsideration.

1 f. Failing to provide the member and treating provider with an
2 acknowledgement of receipt of a request for a Formal Appeal within five business
3 days.

4 g. Failing to render a decision on a Formal Appeal within 60 days of
5 receipt of the written appeal.

6 h. Failing to render a decision on an Informal Reconsideration within
7 30 days of receipt of the request.

8 i. Failing to use Evidence of Coverage forms that do not contain
9 provisions or statements that are unjust, unfair, inequitable, misleading or deceptive,
10 that encourage misrepresentation or that are untrue.

11 j. Failing to file sales and advertising materials prior to their use in
12 Arizona.

13 k. Failing to use a Certificate of Creditable coverage that contains the
14 information regarding when the individual first sought coverage, and the date that
15 creditable coverage began; and the "Important Notice" printed in at least 14-point type.

16 l. Failing to provide Certificates of Creditable coverage within 30
17 days after the triggering event to group members whose coverage had terminated for
18 reasons other than through the replacement of group coverage by their employers.

19 m. Failing to accept or deny a subscriber's claim within 15 working
20 days of receipt of an acceptable proof of loss.

21 2. Within 90 days of this Order's filed date, Humana shall submit to the
22 Director, for approval, evidence that corrections have been implemented and
23 communicated to the appropriate personnel regarding all of the items mentioned in
24 Paragraph 1 of the Order section of this Consent Order. Evidence of corrective action
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1 and communication thereof includes, but is not limited to, memos, bulletins, E-mails,
2 correspondence, procedures manuals, print screens and training materials.

3 3. Within 90 days of the filed date of this Order, Humana shall perform a self-
4 audit of all members of the groups in which there was a provision in the Evidence of
5 Coverage that limited the amount of co-pays to be paid by each member. The self-
6 audit shall encompass the time frame from January 1, 2000 to the filed date of this
7 Order. All members who are found to have overpaid their co-pay requirement shall be
8 refunded the amount of the overpayment, plus interest at the rate of ten percent per
9 annum to be calculated from the date of the overpayment to the date of the refund.
10 Each payment shall be accompanied by a letter to the member in a form previously
11 approved by the Director. A list of the payments, giving the name and address of each
12 party paid, the amount of the refund, the amount of the interest payment, and the date
13 of payment, shall be provided to the Department within 90 days of the filed date of this
14 Order.

15 4. The Department shall be permitted, through authorized representatives, to
16 verify that the Company has complied with all provisions of this Order.

17 5. The Company shall pay a civil penalty of \$39,000 to the Director for
18 remission to the State Treasurer for deposit in the State General Fund in accordance
19 with A.R.S. §§ 20-456 and 20-1065. The civil penalty shall be provided to the Market
20 Conduct Examination Section of the Department prior to the filing of this Order.

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1 CONSENT TO ORDER

2 1. Humana Health Plan, Inc. has reviewed the foregoing Order.

3 2. Humana Health Plan, Inc. admits the jurisdiction of the Director of
4 Insurance, State of Arizona, admits the foregoing Findings of Fact, and consents to the
5 entry of the Conclusions of Law and Order.

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

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

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

18 6. Sharon E. Ware, who holds the office of
19 Vice President of Humana Health Plan, Inc., is authorized to enter
20 into this Order for it and on its behalf.

21
22 **Humana Health Plan, Inc.**

23
24 07/30/02
Date

24 By Sharon E. Ware
Sharon E. Ware, Vice President

1 COPY of the foregoing mailed/delivered
2 this 12th day of August , 2002, to:

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

23
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