

JUN 21 2006

DEPT OF INSURANCE  
BY *J.P.*

STATE OF ARIZONA  
DEPARTMENT OF INSURANCE

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In the Matter of:

**PACIFICARE LIFE ASSURANCE COMPANY,**  
NAIC # 84506,  
Respondent

) Docket No. 06A-096-INS  
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) **CONSENT ORDER**  
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Examiners for the Department of Insurance (the "Department") conducted a market conduct examination of PacifiCare Life Assurance Company ("PLAC"). The Report of Examination of the Market Conduct Affairs of PacifiCare Life Assurance Company alleges that PLAC has violated A.R.S. § 20-461(B).

PLAC wishes to resolve this matter without formal proceedings, neither admits nor denies that the following Findings of Fact and Conclusions of Law are true, and consents to the entry of the following Order.

**FINDINGS OF FACT**

1. PLAC is authorized to transact life and disability insurance pursuant to a Certificate of Authority issued by the Director.
2. The Director authorized the Examiners to conduct a targeted market examination of PLAC. The examination covered the time period from September 1, 2002 through August 31, 2004, and concluded on July 20, 2005. Based on the examination findings, the Examiners prepared the "Report of Targeted Examination of PacifiCare Life Assurance Company", dated August 31, 2004.
3. The Examiners reviewed PLAC's policy forms that were used by the Company during the time frame of the examination and found as follows:

1 a. PLAC used three policy forms (PAZ 0189 POSC 600AZ.2-Tier,  
2 PAZ 0190 POSC 600AZ 3-Tier, and POSC -600.AZ-20) that included a section titled  
3 "Rehabilitation Services," which limited chiropractic nonsurgical/nonevasive treatment  
4 of neck and back to 12 office visits per year.

5 b. PLAC used six policy forms (PAZ3000-001 GHC 500.AZ,  
6 PAZ3000-002 GHC 500.AZ, PAZ 3002-003 GHC 500.AZ, PAZ 3079-SDHP GHC  
7 500.AZ, PAZ 3080 SDHP GHC 500.AZ, AND PAZ 3096 GHC 500.AZ) that limited  
8 benefits for treatment of neuromuscular skeletal disorders to \$500 or \$1,000 combined  
9 calendar year maximum.

10 c. PLAC used one policy form (PAX3003 PPO Certificate Individual  
11 Plan) that excluded benefits for treatment of neuromuscular skeletal disorders.

12 4. The Examiners reviewed 65 of 244 denied claims (EOB Code L8)  
13 processed by the Company during the time frame of the examination and found that  
14 PLAC denied 51 claims per the terms of non-compliant policy forms.

#### 15 CONCLUSION OF LAW

16 PLAC violated A.R.S. § 20-461(B) by imposing the terms of non-compliant  
17 indemnity health benefit policies on claims for spinal services/treatment for covered  
18 benefits provided by licensed providers.

#### 19 ORDER

#### 20 **IT IS ORDERED THAT:**

- 21 1. PacifiCare Life Assurance Company shall cease and desist from:
- 22 a. Using health benefit policy forms that limit benefits for spinal  
23 treatment/services for covered benefits provided by licensed providers; and  
24 b. Paying claims in a manner consistent with non-compliant policy  
25 forms.

1           2.     Within 90 days of filed date of this Order, PLAC shall submit to the  
2 Arizona Department of Insurance, for approval, evidence that corrections have been  
3 implemented and communicated to the appropriate personnel, regarding all of the  
4 items listed above in Paragraph 1 of the Order section of this Consent Order.  
5 Evidence of corrective action includes but is not limited to memos, bulletins, E-mails,  
6 correspondence, procedures manuals, print screens and training materials.

7           3.     PLAC shall reprocess the 51 claims that were denied, and pay the  
8 appropriate amount of the claim. In addition, the Company shall also pay interest, at  
9 the rate of ten percent per annum, calculated from the time the claim was received by  
10 the Company, to date of the payment.

11          4.     PLAC shall perform a self-audit of the remaining 179 denied claims that  
12 were classified by EOB code L8. Claims eligible for payment shall be reprocessed and  
13 paid the appropriate amount. In addition, the Company shall also pay interest, at the  
14 rate of ten per cent per annum, calculated from the time the claim was received by the  
15 Company, to the date of the payment.

16          5.     PLAC shall perform a self-audit of all claims that were classified by EOB  
17 code L8 that were processed after August 31, 2004 to the date that compliant claims  
18 processing procedures are implemented by the Company. Claims eligible for payment  
19 shall be reprocessed and paid the appropriate amount. In addition, the Company shall  
20 also pay interest, at the rate of ten percent per annum, calculated from the date that  
21 the claim was received by the Company, to the date of the payment.

22          6.     Each payment made in accordance with Items 3, 4, and 5 above shall be  
23 accompanied by a letter to the insured in a form previously approved by the Director.  
24 A list of payments, giving the name and address of each party paid, the amount of the  
25 payment, the amount of interest paid, and the date of payment, shall be provided to

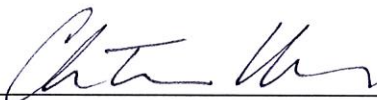
1 the Department within 90 days of the filed date of this Order, or as soon as reasonably  
2 possible.

3 7. The Department shall be permitted, through authorized representatives,  
4 to verify that PLAC has complied with all provisions of this Order.

5 8. PLAC shall pay a civil penalty of \$25,000.00 to the Director for deposit in  
6 the State General Fund in accordance with A.R.S. § 20-220(B). This civil penalty shall  
7 be provided to the Market Conduct Examinations Section of the Department prior to  
8 the filing of this Order.

9 9. The Report of Examination of the Market Conduct Affairs of PacifiCare  
10 Life Assurance Company dated August 31, 2004, including the letter submitted in  
11 response to the Report of Examination, shall be filed with the Department after the  
12 Director has filed this Order.

13 DATED Arizona this 19<sup>th</sup> day of June, 2006.

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16 Christina Urias  
17 Director of Insurance  
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**CONSENT TO ORDER**

1. PacifiCare Life Assurance Company has reviewed the foregoing Order.

2. PacifiCare Life Assurance Company admits the jurisdiction of the Director of Insurance, State of Arizona, admits the foregoing Findings of Fact, and consents to the entry of the Conclusions of Law and Order.

3. PacifiCare Life Assurance Company is aware of its right to a hearing, at which it may be represented by counsel, present evidence, and cross-examine witnesses. PacifiCare Life Assurance Company irrevocably waives its right to such notice and hearing and to any court appeals related to this Order.

4. PacifiCare Life Assurance Company states that no promise of any kind or nature whatsoever was made to it to induce it to enter into this Order and that it has entered into this Consent Order voluntarily.

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

6. Susan L. Berkel, who holds the office of President of PacifiCare Life Assurance Company, is authorized to enter into this Order for it and on its behalf.

**PACIFICARE LIFE ASSURANCE COMPANY**

6/5/06  
Date

By: Susan L. Berkel

1 COPY of the foregoing mailed/delivered  
2 this 21th day of June , 2006, to:

- 3 Gerrie Marks  
4 Deputy Director  
5 Mary Butterfield  
6 Assistant Director  
7 Consumer Affairs Division  
8 Paul J. Hogan  
9 Market Oversight Administrator  
10 Market Oversight Division  
11 Dean Ehler  
12 Assistant Director  
13 Property and Casualty Division  
14 Steve Ferguson  
15 Assistant Director  
16 Financial Affairs Division  
17 Alan Griffieth  
18 Chief Financial Examiner  
19 Alexandra Schafer  
20 Assistant Director  
21 Life and Health Division  
22 Terry L. Cooper  
23 Fraud Unit Chief

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26 J. Michael Low, Esq.  
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31 Linda Light