

AUG 18 2006

STATE OF ARIZONA
DEPARTMENT OF INSURANCE

DEPT OF INSURANCE
BY pas

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

In the Matter of:)
)
PACIFICARE OF ARIZONA, INC.)
NAIC #95617)
)
Respondent.)

Docket No. 06A-170-INS

CONSENT ORDER

On December 12, 2005 the Arizona Department of Insurance ("Department") called a healthcare insurance compliance examination ("Examination") of PacifiCare of Arizona, Inc., ("PacifiCare HCSO") covering the time period from July 1, 2004 through December 31, 2005 ("Examination Period"). The Examination Period was divided into three six-month periods ("Partial Examination Periods" or "PEPs") as follows:

- PEP 1: July 1, 2004 – December 31, 2004
- PEP 2: January 1, 2005 – June 30, 2005
- PEP 3: July 1, 2005 – December 31, 2005

The Report of the Compliance Examination of PacifiCare of Arizona, Inc., dated March 31, 2006 ("Report"), which is included herein by reference, alleges that PacifiCare HCSO violated A.R.S. §§ 20-2533 through 20-2536, and A.R.S. § 20-1051. PacifiCare HCSO wishes to resolve this matter without formal proceedings. PacifiCare HCSO admits the following Findings of Fact are true and consents to the entry of the following Conclusions of Law and consents to the entry of the following Order.

1 **FINDINGS OF FACT**

2 I. Jurisdiction.

3 PacifiCare HCSO is, and throughout the Examination Period was, authorized to
4 operate as a health care services organization pursuant to a Certificate of
5 Authority issued by the Arizona Insurance Director ("Director").

6 II. Utilization Review and Health Care Appeals.

7 A. During PEP 3, PacifiCare HCSO failed in 8% of health care appeals to
8 provide a health care appeals information packet to members within five
9 business days of the members initiating an appeal.

10 B. During the Examination Period, PacifiCare HCSO failed in 100% of health
11 care appeals to send members correct member appeal information at the
12 time PacifiCare HCSO issued an EOB.

13 C. During PEP 1 and 3, in 12% of appeals PacifiCare HCSO failed to inform the
14 member and the member's treating provider of the expedited decision within
15 one business day.

16 D. During PEP 1 and 2, PacifiCare HCSO failed in 13% of appeals to notify the
17 member and the member's treating provider by telephone and mail of the
18 adverse decision and of the member's option to immediately proceed to an
19 expedited appeal.

20 E. During the Examination Period, PacifiCare HCSO failed in 100% of appeals
21 to allow members to file an appeal verbally.

22 F. During the Examination Period, in 61% of appeals, PacifiCare HCSO failed
23 to mail a written acknowledgment to the member within five business days
24 after receiving the request, or failed to mail a written acknowledgment to the
25 member's treating provider within five business days after receiving the

1 request or failed to do either.

2 G. During PEP 2 and 3, in 17% of appeals, PacifiCare HCSO failed to mail
3 notice of its decision to the member within thirty days after receiving a
4 request for informal reconsideration, or to mail notice of its decision to the
5 member's treating provider within thirty days after receiving a request for
6 informal reconsideration or to include the criteria used and the clinical
7 reasons for the decision.

8 H. During the Examination Period, when handling formal appeals, PacifiCare
9 HCSO failed in 84% of appeals to mail a written acknowledgment letter to
10 the member and the member's treating provider within five business days
11 after receiving the formal appeal.

12 I. During PEP 1 and 3, in 7% of appeals, PacifiCare HCSO failed to provide
13 written notice of its adverse decision to the member within sixty business
14 days after receiving the written appeal, or failed to include the criteria used
15 and the clinical reasons for the decision.

16
17 **CONCLUSIONS OF LAW**

18 I. Jurisdiction.

19 The Director has the authority to enter and enforce this Order. A.R.S. § 20-142.

20 II. Utilization Review and Health Care Appeals.

21 A. During PEP 3, PacifiCare HCSO violated A.R.S. § 20-2533(C) by failing in
22 8% of appeals to provide a health care appeals information packet to
23 members within five business days of the members initiating an appeal.

24 B. During the Examination Period, PacifiCare HCSO violated A.R.S. § 20-
25 2533(D) by failing in 100% of appeals to send members correct member

1 appeal information at the time PacifiCare HCSO issued an EOB.

2 C. During PEP 1 and 3, PacifiCare HCSO violated A.R.S. § 20-2534(B) by
3 failing in 12% of appeals to inform the member and the member's treating
4 provider of the expedited healthcare appeal decision within one business
5 day.

6 D. During PEP 1 and 2, PacifiCare HCSO violated A.R.S. § 20-2534(C) by
7 failing in 13% of appeals to notify the member and the member's treating
8 provider by telephone and mail of the adverse decision and of the member's
9 option to immediately proceed to an expedited appeal.

10 E. During the Examination Period, PacifiCare HCSO violated A.R.S. § 20-
11 2535(A) by failing in 100% of appeals to allow members to file an appeal
12 verbally.

13 F. During the Examination Period, PacifiCare HCSO violated A.R.S. § 20-
14 2535(B) by failing in 61% of appeals to mail a written acknowledgment to
15 the member within five business days after receiving a request for an
16 informal reconsideration, or failing to mail a written acknowledgment to the
17 member's treating provider within five business days after receiving the
18 request or failing to do either.

19 G. During PEP 2 and 3, PacifiCare HCSO violated A.R.S. § 20-2535(D) by
20 failing in 17% of appeals to mail notice of its informal reconsideration
21 decision to the member within thirty days after receiving a request for
22 informal reconsideration, or to mail notice of its decision to the member's
23 treating provider within thirty after receiving a request for informal
24 reconsideration or to include the criteria used and the clinical reasons for
25 the decision.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

H. During the Examination Period, PacifiCare HCSO violated A.R.S. § 20-2536(B) by failing in 84% of appeals to mail a written acknowledgment letter to the member and the member's treating provider within five business days after receiving the formal appeal.

I. During PEP 1 and 3, PacifiCare HCSO violated A.R.S. § 20-2536(E)(2) by failing in 7% of appeals to provide written notice of its adverse decision, in formal appeals relating to claims for services that already had been provided to the member, within sixty days after receiving the written appeal, or failed to include the criteria used and the clinical reasons for the decision.

1 ORDER

2 **IT IS HEREBY ORDERED THAT:**

3 1. Health Care Appeals Practices. Within 120 days of the filed date of this Order,
4 PacifiCare HCSO shall submit to the Arizona Department of Insurance for the
5 Director's approval a Corrective Action Plan (CAP 1) that provides specific steps
6 PacifiCare HCSO will take by certain dates to assure that by a specified
7 implementation date, PacifiCare HCSO is:

- 8 a. Providing a health care appeals information packet to members within five
9 business days of the members initiating an appeal.
- 10 b. Sending members correct member appeal information at the time PacifiCare
11 HCSO issued an EOB.
- 12 c. Informing members and the members' treating provider of the expedited
13 healthcare appeal decision within one business day.
- 14 d. Notifying the member and the member's treating provider by telephone and
15 mail of the adverse decision and of the member's option to immediately
16 proceed to an expedited appeal.
- 17 e. Allowing members to file an appeal verbally.
- 18 f. Mailing a written acknowledgment to the member and the member's treating
19 provider within five business days after receiving a request for an informal
20 reconsideration.
- 21 g. Mailing notice of its informal reconsideration decision to the member and the
22 member's treating provider within thirty days after receiving a request for
23 informal reconsideration. The notice is to include the criteria used and the
24 clinical reasons for the decision.
- 25 h. Mailing a written acknowledgment letter to the member and the member's

1 treating provider within five business days after receiving a formal appeal.

- 2 i. In formal appeals relating to claims for services that already had been
3 provided to the member, providing written notice of the adverse decision,
4 including the criteria used and the clinical reasons for the decision within sixty
5 days after receiving the written appeal.

6 3. Progress in Development of CAP. Until the Director approves the CAP, PacifiCare
7 HCSO shall report to the Director each month on its progress in developing that
8 CAP. Each such monthly report shall include a current draft of that CAP.

9 4. Corrective Action Plan Requirements. The CAP described above shall:

- 10 a. Contain enough detail to allow the Director to determine whether the CAP will
11 accomplish its purpose.
- 12 b. Include testing before final implementation of the CAP.
- 13 c. Include Quality Improvement review and follow-up.
- 14 d. Identify one individual responsible and accountable for implementation of the
15 CAP.
- 16 e. Provide for PacifiCare HCSO to report to the Director each month regarding
17 implementation of the CAP, in a form that includes documentation and is
18 approved by the Director.
- 19 f. Provide that within 10 business days of receiving notice that the Director has
20 approved the CAP, PacifiCare HCSO shall submit to the Director evidence
21 that PacifiCare HCSO has communicated the CAP to the appropriate
22 personnel and begun implementation. Evidence of communication and
23 implementation includes, without limitation, memos, bulletins, e-mails,
24 correspondence, procedure manuals, print screens and training materials.
- 25

1 5. PacifiCare HCSO shall pay a civil penalty of \$35,000 to the Director for deposit in
2 the State General Fund for violations cited above as Conclusions of Law.
3 PacifiCare HCSO shall remit this civil penalty to the Life & Health Division of the
4 Department prior to the Department filing of this Order.

5
6 The Department will file the Report of the Compliance Examination of PacifiCare of
7 Arizona, Inc. upon the filing of this order.

8
9 DATED at Phoenix, Arizona this 14th day of August, 2006.

10
11 
12 _____
13 Christina Urias
14 Director of Insurance
15
16
17
18
19
20
21
22
23
24
25

1
2 **CONSENT TO ORDER**

- 3 1. PacifiCare HCSO has reviewed the foregoing Order and carefully considered it in
4 conjunction with its other business and regulatory requirements. PacifiCare HCSO
5 believes that it is able and prepared to comply fully with the Order, notwithstanding
6 any of its other business and regulatory requirements.
- 7 2. PacifiCare HCSO admits the jurisdiction of the Director of Insurance, State of
8 Arizona, admits the Findings of Fact and consents to the entry of the Conclusions
9 of Law and consents to entry of the Order.
- 10 3. PacifiCare HCSO is aware of the right to a hearing, at which it may be represented
11 by counsel, present evidence and cross-examine witnesses. PacifiCare of Arizona
12 irrevocably waives the right to such notice and hearing and to any court appeals
13 related to this Order.
- 14 4. PacifiCare HCSO states that no promise of any kind or nature whatsoever was
15 made to it to induce it to enter into this Consent Order and that it has entered into
16 this Consent Order voluntarily.
- 17 5. PacifiCare HCSO acknowledges that the acceptance of this Order by the Director
18 of the Arizona Department of Insurance is solely for the purpose of settling this
19 matter. This Order does not preclude any other agency or officer of this state or its
20 subdivisions or any other person from instituting proceedings, whether civil,
21 criminal, or administrative, as may be appropriate now or in the future and does not
22 preclude the Department from instituting proceedings as may be appropriate on
23 other matters now or in the future.
- 24 6. Brendan Baker, who holds the office of President of PacifiCare of Arizona, Inc. is
25 authorized to enter into this Order for PacifiCare HCSO and on its behalf.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

PACIFICARE OF ARIZONA, INC.

7-28-06

Date

By Brendan Baker
Brendan Baker, President
PacifiCare of Arizona, Inc.

RECEIVED
AUG - 4 2006
AZ DEPT OF INSURANCE
LIFE & HEALTH DIVISION

1 COPY of the foregoing mailed/delivered
this 18th day of Aug., 2006, to:

2
3 Gerrie Marks
4 Deputy Director
5 Mary Butterfield
6 Assistant Director
7 Consumer Affairs Division
8 Paul J. Hogan
9 Market Oversight Division Chief
10 Dean Ehler
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 Shafer
19 Assistant Director
20 Life and Health Division
21 Terry L. Cooper
22 Fraud Unit Chief

23 ARIZONA DEPARTMENT OF INSURANCE
24 2910 North 44th Street, Suite 210
25 Phoenix, AZ 85018

PacifiCare of Arizona, Inc.
Brendan Baker, President
410 N 44th Street
Phoenix, Arizona 85008

Patricia A. Saenz

