

**BEFORE THE INSURANCE COMMISSIONER OF THE
STATE OF OKLAHOMA**

FILED
OCT 27 2011
INSURANCE COMMISSIONER
OKLAHOMA

STATE OF OKLAHOMA, ex rel.)
 JOHN D. DOAK, Insurance Commissioner,)
)
 Petitioner)
)
 v.)
)
 Aetna Health Inc.,)
 a Health Maintenance Organization)
 authorized in the State of Oklahoma,)
)
 Respondent.)

Case No. 11-0749-DIS

CONSENT ORDER

The Petitioner, the State of Oklahoma, ex rel. John D. Doak, and the Respondent, Aetna Health Inc. (Aetna Health), enter into this Consent Order as a voluntary settlement of the issues raised in the above styled matter.

JURISDICTION

1. John D. Doak is the Insurance Commissioner of the State of Oklahoma and as such is charged with the duty of administering and enforcing all provisions of the Oklahoma Insurance Code, 36 O.S. § 101 et seq., including 36 O.S. § 987(A).
2. Respondent is a foreign Health Maintenance Organization, domiciled in the State of Pennsylvania, holding Oklahoma Certificate of Authority number 0345, NAIC number 95109.

3. Respondent has been informed of its rights, including its right to a public hearing, and has knowingly and freely waived said rights and enters into this Consent Order.

FINDINGS OF FACT

1. On October 19, 2009, Respondent received approval of two new pharmacy benefit riders, form HI OK RRXDRUGPLAN V001 and HI OK RRXGENERICO V002, which made various revisions to language in Respondent's Group HMO Prescription Plan Riders. One of the revisions added a new coinsurance provision applicable to specialty drugs.

2. According to the filing approved on October 19, 2009, forms HI OK RRXDRUGPLAN V001 and HI OK RRXGENERICO V002 superseded prior prescription plan rider forms HI GE RRXDRUGPLAN V001 and HI GE RRXDRUGPLAN V001.

3. Respondent marketed HI OK RRXDRUGPLAN V001 and HI OK RRXGENERICO V002 to employers as a part of its 2010 health benefit plans.

4. On or about May 12, 2011, Respondent submitted a letter to the Oklahoma Insurance Department (OID) Consumer Assistance Division regarding an insured member's complaint about her plan's coverage of specialty drugs. In that letter, Respondent advised the insured member's claims were paid correctly pursuant to the pharmacy benefit rider attached to the contract issued to the insured's employer; Respondent further advised that the terms of the pharmacy benefit rider had changed when the employer's contract renewed on December 1, 2010.

5. During the investigation of the complaint, Respondent advised OID that it had discovered that, due to an inadvertent publishing error,

a. HI OK RRXDRUGPLAN V001 and HI OK RRXGENERICO V002 were not printed in conjunction with the certificates of coverage issued to insured members of some employer plans;

b. Instead, some insured members, including the insured member referenced in finding number 4 above, were issued the pharmacy benefit rider forms HI GE RRXDRUGPLAN V001 and HI GE RRXDRUGPLAN V001.

c. Claims for those affected members had been adjudicated in accordance with HI OK RRXDRUGPLAN V001 and HI OK RRXGENERICO V002 rather than in accordance with the form actually issued; that is, HI GE RRXDRUGPLAN V001 and HI GE RRXDRUGPLAN V001.

6. Respondent agreed with OID to run reports to identify the affected groups and members who were negatively impacted, change the pharmacy plan benefit in the claims payment system to reflect the pharmacy benefit that was used in the prior year, reprocess any claims that were paid incorrectly, advise members that due to the error they might receive refunds for copayments paid in error, communicate with the plan sponsors and brokers explaining the situation, and to mail communications advising that the correct pharmacy benefit rider would be implemented upon renewal for each impacted plan sponsor.

7. Sixty-five groups situated in Oklahoma received contracts that included the superseded pharmacy benefit riders.

8. Between October 1, 2010 and August 1, 2011, four members of those groups had 11 claims that were processed incorrectly because they were processed according to the pharmacy benefit riders approved by OID on October 19, 2009. Those claims have been reprocessed in accordance with the pharmacy benefit rider that was actually issued to the insured member.

CONCLUSIONS OF LAW

1. Respondent's conduct violated 36 O.S. § 1204, in that Respondent misrepresented the terms of the health benefit plan that it issued to employer groups and their employees.

2. Respondent's conduct violated 36 O.S. § 1250.5, in that Respondent failed to fully disclose to claimants the terms of the contract pertinent to pharmacy claims although it could have, with reasonable diligence, discovered the terms of the contract that was issued to claimants.

3. Pursuant to 36 O.S. § 619, the penalty for violation of a statute or rule over which the Insurance Commissioner has jurisdiction may result in revocation or suspension of an insurer's certificate and/or in a civil penalty of not more than Five Thousand Dollars (\$5,000.00) for each occurrence.

ORDER AND CONSENT

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED by the Insurance Commissioner and consented to by Aetna Health that Respondent shall:

1. receive a public censure; and
2. make any and all efforts to prevent the activity detailed in the

Finding of Facts from occurring in the future.

WITNESS My Hand and Official Seal this 27th day of October, 2011.



JOHN D. DOAK
INSURANCE COMMISSIONER
STATE OF OKLAHOMA

Susan D. Dobbins

Susan D. Dobbins
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APPROVED BY AND CONSENTED TO:

Eliese Wolff - Senior Compliance Director

Eliese Wolff, Senior Compliance Director
Aetna Health, Inc.
980 Jolly Road
Blue Bell, PA 19422-1904

CERTIFICATE OF MAILING

I hereby certify that a true and correct copy of the above and foregoing Order was mailed certified, return receipt requested on this 27th day of October, 2011, to:

Mark Chulick, Regional Counsel
Aetna Health Inc.
2777 Stemmons Freeway, Suite 300
Dallas, Texas 75207

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Susan D. Dobbins

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Aetna Health Inc.
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1. Article Addressed to:

Mark Chulick, Reginal Counsel
 Aetna Health Inc.
 2777 Stemmons Freeway, Suite 300
 Dallas, TX 75207

11-0749-DIS/SDD(mt)Cons. Ord.

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