

STATE OF ARIZONA
FILED

FEB 1 2001

STATE OF ARIZONA
DEPARTMENT OF INSURANCE

DEPT. OF INSURANCE
BY CO

In the Matter of

**EMPLOYERS HEALTH
INSURANCE COMPANY**

Respondent

Docket No. 01A-031-INS

CONSENT ORDER

A health care appeals audit was made of Employers Health Insurance Company, hereinafter referred to as "Employers Health", by the Health Care Appeals Supervisor ("Examiner") for the Arizona Department of Insurance (the "Department"), covering the time period from July 1, 1998 through December 31, 1999. The desk audit was completed on November 17, 2000. Based upon the audit results, it is alleged that Employers Health has violated the provisions of A.R.S. §§20-461, 20-2533, 20-2534, 20-2535, 20-2536 and 20-2537.

The Examiner reviewed Employers Health's health care appeals procedures, expedited, informal, formal, and external health care appeals files, and other materials sent to the Department in response to a May 1999 health care appeals survey and in response to the audit call letter.

Employers Health wishes to resolve these matters without formal adjudicative proceedings, admits the following Findings of Fact are true and consents to entry of the following Conclusions of Law and Order.

FINDINGS OF FACT

1. Employers Health is a Wisconsin-domiciled life and disability insurer authorized to transact health insurance pursuant to a Certificate of Authority issued by the Director.
2. The Examiner was authorized by the Director to conduct a health care appeals audit of Employers Health and has prepared a Report of Examination of the Health Care Appeals of Employers Health ("the Report").

1 3. The Examiner reviewed Employers Health's response to the Department's
2 survey of May 1999 and found that Employers Health had not distributed any health care
3 appeals packets to its insureds as of June 11, 1999.

4 4. The Examiner reviewed three expedited medical review appeals and found that
5 two files contained deficiencies. The deficiencies are as follows:

6 a. Employers Health failed to render a decision within one business day of
7 receiving the physician certification and supporting documentation.

8 b. Employers Health failed to notice one member of the member's right to
9 immediately request formal appeal after the original denial was upheld.

10 c. Employers Health notified 13 members of a timeframe in which they
11 could appeal that was inconsistent with the timeframe provided by law.

12 5. The Examiner reviewed 43 informal reconsideration appeals, and found that all
13 43 files contained at least one deficiency. The deficiencies are as follows:

14 a. Employers Health failed to send acknowledgment letters to 32
15 members upon receiving the members' requests for informal reconsideration.

16 b. Employers Health failed to send health care appeals information packets
17 along with the informal reconsideration acknowledgment letters to 43 members.

18 c. Employers Health failed to send acknowledgment letters to treating
19 providers in 34 informal reconsideration cases.

20 d. Employers Health failed to send acknowledgement letters within five
21 business days from the date the appeal request was received in two cases.

22 e. Employers Health failed to render 21 informal reconsideration decisions
23 within 30 days of the appeal request.

24 f. Employers Health failed to mail a written notice of decision to the
25 treating provider in 24 informal reconsideration cases.

26 g. Employers Health failed to mail a written notice of decision to the
27 member in nineteen informal reconsideration cases.

1 h. Employers Health failed to inform members in 23 appeal decision letters
2 that the member was entitled to request a formal appeal following the informal reconsideration,
3 and if the formal appeal is upheld, an external independent review.

4 6. The Examiner reviewed six formal appeals, and found that all six files contained
5 at least two deficiencies. The deficiencies are as follows:

6 a. Employers Health failed to complete one formal appeal within 60 days
7 following receipt of the request for formal appeal.

8 b. Employers Health failed to send acknowledgement letters to treating
9 providers in two formal appeals.

10 c. Employers Health failed to send acknowledgment letters to two
11 members upon receiving the requests for formal appeal.

12 d. Employers Health failed to send health care appeals information packets
13 to six members along with formal appeal acknowledgment letters.

14 e. Employers Health failed to send health care appeal information packets
15 to six treating providers along with the formal appeal acknowledgment letters.

16 f. Employers Health failed to properly notify three members of the right to
17 request external independent review in letters upholding Employers Health's earlier denials.

18 7. The Examiner reviewed two external independent reviews and found that both
19 files contained deficiencies. The deficiencies are as follows:

20 a. Employers Health failed to send acknowledgment letters notifying the
21 Director of the request for external independent review in two cases.

22 b. Employers Health failed to send an acknowledgment letter to one
23 member's treating provider notifying the provider of the request for external independent
24 review.

25 c. Employers Health failed to send an acknowledgment letter to one
26 member within five business days of receiving the appeal request.

27 d. Employers Health failed to send notice to the Director of which external
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1 independent reviewer was selected to conduct the review in two cases.

2 e. Employers Health failed to send the Director a summary description of
3 the applicable issues including a statement of the utilization review agent's decision and any
4 transmittal letter that was sent to the independent reviewer in one case.

5 f. Employers Health disclosed the names of the insureds and the treating
6 providers to the external review organizations in two cases.

7 g. Employers Health failed to forward the decision of the external reviewer
8 to the Director within thirty days of receiving the request for external review in one case.

9 h. Employers Health failed to send a decision letter to the Director within
10 three business days of receiving the external reviewer's notification in one case.

11 i. Employers Health failed to send one external review file to an authorized
12 external independent reviewer.

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14 8. Employers Health's deficiencies outlined above indicate that its general
15 business practices do not comply with the provisions of Arizona's health care appeal laws.

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17 **CONCLUSIONS OF LAW**

18 1. Employers Health violated A.R.S. §20-2533(C) by failing to distribute health
19 care appeals information packets with newly issued policies.

20 2. Employers Health violated A.R.S. §20-2534(B) by failing to render expedited
21 medical review decisions within one business day of receiving the request.

22 3. Employers Health violated A.R.S. §20-2534(C) by failing to notice members of
23 their right to immediately request formal appeal after an original denial is upheld.

24 4. Employers Health violated A.R.S. §20-2535(B) by failing to send members and
25 treating providers written acknowledgment letters of requests for informal reconsideration
26 within five business days of receiving the appeal request.

27 5. Employers Health violated A.R.S. §20-2535(B) by failing to send health care
28 appeals information packets to members and their treating providers with the acknowledgment
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1 letters of requests for informal reconsideration.

2 6. Employers Health violated A.R.S. §20-2535(D) by failing to render all informal
3 reconsideration decisions within 30 calendar days of receiving the appeal request.

4 7. Employers Health violated A.R.S. §20-2535(D) by failing to mail written notices
5 of decisions to the members and their treating providers in all informal reconsideration cases.

6 8. Employers Health violated A.R.S. §20-2535(F) by failing to notify members in
7 the informal reconsideration decision letters of their right to request a formal appeal, and if the
8 formal appeal is upheld, and external independent review.

9 9. Employers Health violated A.R.S. §20-2536(E)(2) by failing to complete formal
10 appeals within 60 days of receiving the request for formal appeal.

11 10. Employers Health violated A.R.S. §20-2536(B) by failing to send
12 acknowledgment letters of formal appeal requests to members and their treating providers.

13 11. Employers Health violated A.R.S. §20-2536(B) by failing to include health care
14 appeals information packets with the acknowledgement letters of formal appeal requests to
15 members and treating providers.

16 12. Employers Health violated A.R.S. §20-2536(G) by failing to properly notify
17 members of the option to proceed to an external independent review.

18 13. Employers Health violated A.R.S. §20-2537(C)(1)(a) by failing to send written
19 acknowledgments to the Director, the members and their treating providers notifying them of
20 requests for external independent review within five business days of receiving the appeal
21 requests.

22 14. Employers Health violated A.R.S. §20-2537(C)(1)(b) by failing to send notice to
23 the Director of which external independent reviewer was selected to conduct reviews.

24 15. Employers Health violated A.R.S. §20-2537(E) by failing to forward the
25 reviewer's decision to the Director within three business days of receiving the external
26 reviewer's notification following external reviews.

27 16. Employers Health violated A.R.S. §20-2537(D)(1)(b) by failing to send the
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1 Director in external independent reviews involving medical necessity a summary description of
2 the applicable issues, including a statement of the utilization review agent's decision and any
3 transmittal letter that was sent to the independent reviewer.

4 17. Employers Health violated A.R.S. §20-2537(I)(3) by disclosing the names of
5 insureds and their treating providers to external reviewer organizations.

6 18. Employers Health violated A.R.S. §20-2537(C)(1)(b) by failing to send external
7 review files to authorized external independent reviewers.

8 19. Employers Health violated A.R.S. §20-461(A)(17) by failing to comply with the
9 health care appeals laws with such a frequency as to indicate a general business practice.
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11 **ORDER**

12 **IT IS HEREBY ORDERED THAT:**

13 1. Within 90 days of the filed date of this Order, Respondent shall provide the
14 Department with a copy of Employers Health's written procedures.

15 2. Respondent shall cease and desist from the following acts, as required by the
16 statutes shown:

17 a. failing to issue a copy of the health care appeals information packet to all
18 newly-issued policies (A.R.S. §20-2533(C)).

19 b. failing to render expedited medical review decisions within one business
20 day of receiving the physician certification and supporting documentation (A.R.S. §20-
21 2534(B)).

22 c. failing to notice members of their right to immediately request formal
23 appeal after an original denial is upheld (A.R.S. §20-2534(C)).

24 d. limiting the timeframe provided by law in which members may appeal a
25 denial (A.R.S. §§20-2534, 20-2535 and 20-2536).

26 e. failing to send written acknowledgment letters of requests for informal
27 reconsideration to members and their treating providers within five business days of receiving
28 the request (A.R.S. §20-2535(B)).
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1 f. failing to complete informal reconsideration appeals within 30 days of
2 receiving the appeal requests (A.R.S. §20-2535(D)).

3 g. failing to mail written notices of decisions to members and their treating
4 providers in informal reconsideration cases (A.R.S. §20-2535(D)).

5 h. failing to notify members in informal reconsideration decision letters of
6 their right to request a formal appeal, and if the formal appeal is upheld, an external
7 independent review (A.R.S. §20-2535(F)).

8 i. failing to complete formal appeals involving denied claims within 60 days
9 of receiving the appeal request (A.R.S. §20-2536(E)(2)).

10 j. failing to send written acknowledgment letters of formal appeal to
11 members and their treating providers within five business days of receiving the appeal
12 requests (A.R.S. §20-2536(B)).

13 k. failing to inform members of the option to proceed to an external
14 independent review following an upheld formal appeal (A.R.S. §20-2536(G)).

15 l. failing to send acknowledgment letters of requests for external
16 independent reviews to the Director, the members and their treating providers within five
17 business days of receiving the appeal requests (A.R.S. §20-2537(C)(1)(a)).

18 m. failing to forward the reviewer's decision in all external reviews to the
19 Director within the timeframe provided by law (A.R.S. §20-2537(E)).

20 n. failing to send to the Director in all external review cases involving
21 medical necessity a summary description of the applicable issues, including a statement of the
22 utilization review agent's decision, any transmittal letter that is sent to the independent
23 reviewer, and other documentation provided by law (A.R.S. §20-2537(D)(1)(b)).

24 3. Employers Health shall pay a civil penalty of \$10,000.00 to the Director for
25 remission to the State Treasurer for deposit in the State General Fund in accordance with
26 A.R.S. §20-220(B). Said amount shall be provided to the Health Care Appeals Section of the
27 Department prior to the filing of this Order.

1 4. The Report of Examination dated November 17, 2000, and any objections to the
2 Report submitted by Employers Health, shall be filed with the Department upon the filing of this
3 Order.

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5 31^{rst}
6 DATED this 31 day of January, 2001.

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11 Charles R. Cohen
12 Director of Insurance

CONSENT TO ORDER

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2 1. Respondent, Employers Health Insurance Company, has reviewed the
3 foregoing Order.

4 2. Respondent admits the jurisdiction of the Director of Insurance, State of
5 Arizona, admits the foregoing Finding of Facts are true, and consents to the entry of the
6 Conclusions of Law and Order.

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


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

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

18 6. _____, who holds the office of _____ of
19 Respondent, is authorized to enter into this Order for it and on its behalf.

21 EMPLOYERS HEALTH INSURANCE CO.

22
23 1/8/01
24 (date)

23 By  Todd J. Zachary
24 VICE PRESIDENT

26 **COPY of the foregoing mailed/delivered this 1st day of February, 2001 to:**

27 Sara Begley
28 Deputy Director
29 Vista Brown
Executive Assistant

1 Gerrie Marks
Executive Assistant
2 Catherine O'Neil
Consumer Legal Affairs Officer/Custodian of Records
3 Mary Butterfield
Assistant Director
4 Consumer Affairs Division
5 Alexandra Shafer
Assistant Director
6 Life and Health Division
7 Deloris E. Williamson
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8 Rates & Regulations Division
9 Steve Ferguson
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16 Dan Haney
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