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STATE OF ARIZONA
DEPARTMENT OF INSURANCE

DEPT. OF INSURANCE
BY CB

In the Matter of
**UNICARE LIFE AND HEALTH
INSURANCE COMPANY**
Respondent

Docket No. 00A-170-INS

CONSENT ORDER

A health care appeals audit was made of UNICARE Life and Health Insurance Company, hereinafter referred to as "UNICARE", by the Health Care Appeals Supervisor 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 May 11, 2000. Based upon the audit results, it is alleged that UNICARE has violated the provisions of A.R.S. §§ 20-461, 20-2533, 20-2535, and 20-2536.

The Examiner reviewed UNICARE's appeals procedure manual, the expedited, informal and formal appeal files, and forms, brochures and other materials sent to the Department.

UNICARE 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. UNICARE Life and Health Insurance Company is a Delaware domiciled life and disability insurer authorized to transact health insurance business 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 UNICARE and has prepared a Report of Examination of the Health Care Appeals of UNICARE ("the Report").

1 3. The Examiner reviewed UNICARE's health care appeals handling
2 procedures and found the following:

3 a. UNICARE did not have an approved health care appeals
4 information packet during the audit time period.

5 b. UNICARE did not include an approved information packet when
6 issuing a new policy, evidence of coverage or similar document.

7 4. UNICARE filed an information packet with the Department and received
8 approval on May 15, 2000, although information as to the specific contact person and
9 the person responsible for processing appeals at each level of review was omitted.

10 5. The Examiner reviewed UNICARE's appeals policy and procedure
11 manual for Arizona and found the following deficiencies:

12 a. UNICARE's procedures incorrectly allow written notification of
13 expedited medical review decisions to be made more than one business day after
14 receipt of the physician certification and supporting documentation.

15 b. UNICARE's procedures for expedited medical review do not
16 specifically provide that, in cases in which a denial is upheld, the insured will be
17 notified of the right to request formal appeal.

18 c. UNICARE's procedures for informal reconsideration do not
19 indicate that a written acknowledgment and an appeals information packet will be sent
20 to the treating provider.

21 d. UNICARE's procedures for informal reconsideration do not provide
22 that criteria and clinical reasons will be provided in all notification letters, but incorrectly
23 limit such information to non-authorized letters only.

24 e. UNICARE's procedures for informal reconsideration fail to indicate
25 that non-authorization decision letters will include a specific notice of the right to
26 request formal appeal, as well as external independent review following an adverse
27 formal appeal.
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1 f. UNICARE's procedures for Reconsideration Committee Review,
2 the apparent equivalent to formal appeal review, do not indicate that written
3 acknowledgment and the appeals information packet will be sent to the member and
4 the member's treating provider within 5 business days of receipt of the appeal request.

5 g. UNICARE's procedures incorrectly provide a mechanism for an
6 appeal file to be closed within 10 or 20 business days, depending upon the level of
7 review, if a signed authorization for release of medical information form is not returned.

8 h. UNICARE's procedures incorrectly allow formal appeal coverage
9 issue decisions to be rendered by non-physicians or non-health care professionals.

10 i. UNICARE's procedures do not indicate that criteria and clinical
11 reasons will be provided in all letters notifying the insured and the insured's treating
12 provider of the Reconsideration Committee's decision.

13 j. UNICARE's procedures do not indicate that in cases in which a
14 denial has been upheld, the decision letter will inform the insured of the specific right to
15 request external independent review.

16 k. UNICARE's procedures incorrectly provide a mechanism for an
17 additional internal review following a formal appeal determination to deny an
18 authorization.

19 l. UNICARE's procedures do not include the statutory requirements,
20 effective August 6, 1999, which require UNICARE to send to the Department a copy of
21 the transmittal letter sent to an external reviewer, the utilization review agent's
22 decision, and a summary of the case.

23 m. UNICARE's procedures do not provide a separate process for
24 cases involving issues of coverage to be forwarded to the Department.

25 n. UNICARE's procedures incorrectly allow the Medical Director to
26 reject the final determination of one external reviewer and refer the case to another
27 external independent reviewer.
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1 o. UNICARE's organ transplant policy for reconsideration does not
2 include Arizona-specific appeals procedures.

3 6. The Examiner reviewed two informal reconsideration appeals, and found
4 that one file contained four deficiencies. The deficiencies are as follows:

5 a. UNICARE failed to send an acknowledgment letter to the member
6 upon receiving the member's request for informal reconsideration.

7 b. UNICARE failed to indicate that an acknowledgment letter was
8 sent to the treating provider.

9 c. UNICARE failed to indicate that an appeals packet was sent to the
10 member.

11 d. UNICARE failed to indicate that the treating provider was sent a
12 health care appeals packet along with the informal reconsideration acknowledgment
13 letter.
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15 7. The Examiner reviewed two formal appeals, and found that both files
16 contained the following deficiencies:

17 a. UNICARE failed to include the criteria used and the clinical
18 reasons for its determinations in two formal appeals.

19 b. UNICARE failed to indicate that health care appeals packets were
20 sent to two members along with formal appeal acknowledgment letters.

21 c. UNICARE failed to indicate that health care appeal packets were
22 sent to treating providers in two files.

23 d. UNICARE failed to notify one member of the right to request
24 external independent review when the member's prior denial was upheld.
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26 8. UNICARE's deficiencies outlined above indicate that its general business
27 practices do not comply with the provisions of Arizona's health care appeal laws.
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CONCLUSIONS OF LAW

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2 1. UNICARE violated A.R.S. §20-2533(C) by failing to file a health care
3 appeals information packet for approval with the Department from the inception of the
4 health care appeals law on July 1, 1998, through the end of the examination period on
5 December 31, 1999.

6 2. UNICARE violated A.R.S. §20-2533(C) by failing to distribute an
7 approved appeals information packet with each newly issued policy, evidence of
8 coverage, or similar document.

9 3. UNICARE violated A.R.S. §20-2535(B) by failing to send an
10 acknowledgment letter to one member when informal reconsideration was requested.

11 4. UNICARE violated A.R.S. §20-2535(B) by failing to send one treating
12 provider written acknowledgment of a request for informal reconsideration.

13 5. UNICARE violated A.R.S. §20-2536(E) by failing to include the criteria
14 and clinical reasons for its decisions in two formal appeals.

15 6. UNICARE violated A.R.S. §20-2536(G) by failing to properly notify one
16 member of an upheld decision of the right to request an external independent review.

17 7. UNICARE violated A.R.S. §20-461(A)(17) by failing to comply with the
18 health care appeals laws with such a frequency as to indicate a general business
19 practice.
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ORDER

IT IS HEREBY ORDERED THAT:

1. Within 90 days of the filed date of this Order, Respondent shall do the following:

a. amend its appeals information packet so that the information provided in the packet complies with Arizona law and is consistent with the Respondent's internal procedures.

b. provide approved appeals information packets with all newly issued policies, evidences of coverage or similar documents sent to Arizona residents.

c. amend its written procedures manual to comply with A.R.S. §§20-2533 through 2539.

d. provide the Department with a copy of the Respondent's revised written internal procedures.

2. The Respondent, upon filing a revised information packet with the Department to reflect compliance with the 2001 changes to the health care appeal laws, will include the title, department, telephone number and telefacsimile number of the specific person to contact for each level of review, as well as the same information for the person responsible for processing an appeal at each level of review, to comply with A.R.S. §20-2533(C)(3) and A.R.S. §20-2533(C)(4).

3. The Respondent shall cease and desist from the following acts, as required by the statutes shown:

a. failing to send written acknowledgements to members and treating providers within five business days of receiving requests for informal reconsideration (A.R.S. §20-2535(B)).

b. failing to provide the criteria used and the clinical reasons for the decision in all decision letters of all formal appeals (A.R.S. §20-2536(E)).

c. failing to inform members of the right to request external independent review following an upheld formal appeal (A.R.S. §20-2535(F)).

1 d. permitting additional levels of appeal that can exceed the
2 prescribed time period limitations (A.R.S. §20-2533(B)).

3 4. UNICARE shall pay a civil penalty of \$5,000 to the Director for remission
4 to the State Treasurer for deposit in the State General Fund in accordance with A.R.S.
5 §20-220(B). Said amount shall be provided to the Health Care Appeals Section of the
6 Department prior to the filing of this Order.

7 5. The Report of Examination dated May 11, 2000, and any objections to
8 the Report submitted by UNICARE, shall be filed with the Department upon the filing of
9 this Order.

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11 DATED this 2nd day of November, 2000.

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15 Charles R. Cohen
16 Director of Insurance

17 **CONSENT TO ORDER**

18 1. Respondent, UNICARE Life and Health Insurance Company, has
19 reviewed the foregoing Order.

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

23 3. Respondent is aware of the right to a hearing, at which it may be
24 represented by counsel, present evidence and cross-examine witnesses. Respondent
25 irrevocably waives the right to such notice and hearing and to any court appeals
26 related to this Order.
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1 4. Respondent states that no promise of any kind or nature whatsoever was
2 made to it to induce it to enter into this Consent Order and that it has entered into this
3 Consent Order voluntarily.

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

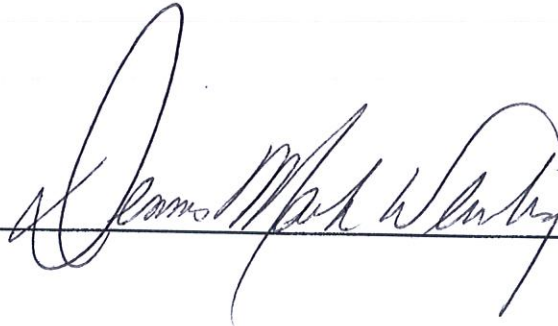
9 6. DENNIS MARK WEINBERG, who holds the office of PRESIDENT AND CEO
10 of Respondent, is authorized to enter into this Order for it and on its behalf.

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13 UNICARE LIFE AND HEALTH INSURANCE COMPANY

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17 11/27/00

18 (date)

By



19
20 **COPY of the foregoing mailed/delivered this 2nd day of November, 2000 to:**

21 Sara Begley

22 Deputy Director

23 Vista Brown

24 Executive Assistant

25 Gerrie Marks

26 Executive Assistant

27 Paul Hogan

28 Chief Market Conduct Examiner

29 Market Conduct Examinations Division

Catherine O'Neil

Consumer Legal Affairs Officer/Custodian of Records

Mary Butterfield

Assistant Director

1 Consumer Affairs Division
Alexandra Shafer
2 Assistant Director
Life and Health Division
3 Deloris E. Williamson
Assistant Director
4 Rates & Regulations Division
5 Steve Ferguson
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