

FEB 8 2001

STATE OF ARIZONA
DEPARTMENT OF INSURANCE

DEPT. OF INSURANCE
BY CB

In the Matter of

**CONSECO MEDICAL
INSURANCE COMPANY**

Respondent

Docket No. 01A-035-INS

CONSENT ORDER

A health care appeals audit was made of Conseco Medical Insurance Company, hereinafter referred to as "Conseco Medical," 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 September 29, 2000. Based upon the audit results, it is alleged that Conseco Medical has violated the provisions of A.R.S. §§ 20-461, 20-2533, 20-2535, and 20-2536.

The Examiner reviewed Conseco Medical's health care appeals procedures manual, informal and formal appeal files, and other materials sent to the Department in response to the May 1999 health care appeals survey and in response to the audit call letter.

Conseco Medical 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. Conseco Medical is an Illinois-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 Conseco Medical and has prepared a Report of Examination of the Health Care Appeals of Conseco Medical ("the Report").

3. The Examiner reviewed Conseco Medical's health care appeals information

1 packet and found the following:

- 2 a. Conseco Medical did not have an approved health care appeals
3 information packet from July 1, 1998, to August 23, 1999.
- 4 b. Conseco Medical did not distribute approved appeals information
5 packets to all new and in-force business until August 1999.
- 6 c. Conseco Medical filed an information packet with the Department and
7 received approval on August 23, 1999, although information as to the specific contact person
8 and the person responsible for processing appeals at each level of review was omitted.

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10 4. The Examiner reviewed Conseco Medical's procedures for Arizona and found
11 the following deficiencies:

- 12 a. Conseco Medical's procedures limit the timeframe provided by law in
13 which a member may request an expedited medical review.
- 14 b. Conseco Medical's procedures fail to indicate the timeframes in which
15 expedited medical reviews, informal reconsiderations and formal appeals are processed.
- 16 c. Conseco Medical's procedures fail to indicate that health care appeals
17 information packets will accompany the written acknowledgments of informal reconsiderations
18 and formal appeals.
- 19 d. Conseco Medical's procedures limit the timeframe provided by law in
20 which a member may request a formal appeal of a denial that did not go through informal
21 reconsideration.

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

- 25 a. Conseco Medical failed to include the clinical reasons and criteria it used
26 in rendering decisions in three informal reconsideration appeals.
- 27 b. Conseco Medical provided in its decision letters in six informal
28 reconsideration appeals that the clinical reasons and criteria used in rendering decisions could
29 be requested in writing, whereas the law requires such information to be disclosed

1 automatically.

2 c. Conseco Medical provided in its acknowledgment letters in six informal
3 reconsideration appeals that the appeal would be completed within 30 days of receipt of
4 necessary information to conduct the appeal, whereas the law requires that such appeals be
5 completed within 30 days of receipt of the request for reconsideration.

6 6. The Examiner reviewed one formal appeal and found deficiencies as follows:

7 a. Conseco Medical provided in its acknowledgement letter that the clinical
8 reasons and criteria upon which the decision was based could be requested in writing,
9 whereas the law requires such information to be disclosed automatically.

10 b. Conseco Medical provided in its acknowledgment letter that the appeal
11 involving denied services would be completed within 30 days of receipt of necessary
12 information to conduct the appeal, whereas the law requires that such appeals be completed
13 within 30 days of receipt of the appeal.

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

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18 **CONCLUSIONS OF LAW**

19 1. Conseco Medical violated A.R.S. §20-2533(C) by failing to file a health care
20 appeals information packet for approval with the Department from the inception of the health
21 care appeal laws on July 1, 1998, through August 1999.

22 2. Conseco Medical violated A.R.S. §20-2533(C) by failing to distribute an
23 approved health care appeals information packet with newly issued policies.

24 3. Conseco Medical violated A.R.S. §20-2533(C)(3) by failing to include in its
25 information packet the titles, addresses, telephone and telefacsimile numbers of individuals to
26 contact in order to pursue an appeal.

27 4. Conseco Medical violated A.R.S. §20-2533(C)(4) by failing to include in its
28 information packet the titles, addresses, telephone and telefacsimile numbers of individuals
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1 who would be responsible for processing the review.

2 5. Conseco Medical violated A.R.S. §§20-2535(D) and 20-2535(F) by failing to
3 include the criteria and clinical reasons for its decisions in informal reconsideration decision
4 letters.

5 6. Conseco Medical violated A.R.S. §20-461(A)(17) by failing to comply with the
6 health care appeal laws with such a frequency as to indicate a general business practice.
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8 **ORDER**

9 IT IS HEREBY ORDERED THAT:

- 10 1. Within 90 days of the filed date of this Order, Respondent shall do the following:
- 11 a. amend its written procedures manual to comply with A.R.S. §§ 20-2531
12 through 2539.
- 13 b. provide the Department with a copy of the Respondent's revised written
14 internal procedures.
- 15 c. provide the Department with copies of sample template letters sent to
16 insureds and treating providers.
- 17 2. Respondent, upon filing a revised information packet with the Department to
18 reflect compliance with the 2001 changes to the health care appeal laws, will include the title,
19 department, telephone number and telefacsimile number of the specific person to contact for
20 each level of review, as well as the same information for the person responsible for processing
21 an appeal at each level of review, to comply with A.R.S. §20-2533(C)(3) and A.R.S. §20-
22 2533(C)(4).
- 23 3. Respondent shall cease and desist from the following acts, as required by the
24 statutes shown:
- 25 a. failing to include the criteria used and the clinical reasons for the
26 decision in all decision letters of all informal reconsideration appeals (A.R.S. §§20-2535(D) and
27 20-2535(F)).
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1 b. failing to reference the correct timeframe in which informal
2 reconsideration appeals would be completed (A.R.S. §20-2536(D)).

3 c. failing to reference the correct timeframe in which formal appeals would
4 be completed (A.R.S. §20-2535(E)(1)).

5 4. Conseco Medical shall pay a civil penalty of \$5,000 to the Director for remission
6 to the State Treasurer for deposit in the State General Fund in accordance with A.R.S. §20-
7 220(B). Said amount shall be provided to the Health Care Appeals Section of the Department
8 prior to the filing of this Order.

9 5. The Report of Examination dated September 29, 2000, and any objections to
10 the Report submitted by Conseco Medical, shall be filed with the Department upon the filing of
11 this Order.

12
13 7th
14 DATED this _____ day of February, 2001.

15
16 *Charles R. Cohen*
17 _____

18 Charles R. Cohen
19 Director of Insurance
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CONSENT TO ORDER

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2 1. Respondent, Conseco Medical Insurance Company, has reviewed the foregoing
3 Order.

4 2. Respondent admits the jurisdiction of the Director of Insurance, State of
5 Arizona, admits the foregoing Findings of Fact 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. Brian Camling, who holds the office of Vice President of
19 Respondent, is authorized to enter into this Order for it and on its behalf.

20
21 CONSECO MEDICAL INSURANCE CO.

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23 2/2/01

24 (date)

By

Brian Camling

25
26 **COPY of the foregoing mailed/delivered this 8th 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
Assistant Director
8 Rates & Regulations Division

9 Steve Ferguson
Assistant Director
Financial Affairs Division

10 Nancy Howse
Chief Financial Examiner
11 Financial Affairs Division

12 DEPARTMENT OF INSURANCE
13 2910 North 44th Street, Suite 210
14 Phoenix, AZ 85018

15 Mr. Brian Camling, FLMI
16 Vice President, Compliance Department
17 CONSECO MEDICAL INSURANCE CO.
303 N. Main St.
18 Rockford, IL 61101

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20 _____