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STATE OF ARIZONA

DEPARTMENT OF INSURANCE

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In the Matter of:	)	Docket No. 97A-068
	)	
FHP, INC.	)	CONSENT ORDER
NAIC #96083	)	
Respondent.	)	
	)	

Examiners for the Arizona Department of Insurance ("the Department") have conducted a market conduct examination of FHP, Inc. ("FHP"), also referred to as "Respondent", covering the time period from August 1, 1991 to July 31, 1994. Based upon the examination results, it is alleged that FHP has violated the provisions of A.R.S. §§ 20-461, 20-462, 20-2104, 20-2110 and A.A.C. R20-6-801. FHP wishes to resolve this matter without formal adjudicative proceedings and hereby agrees to a Consent Order.

The Director of Insurance of the State of Arizona ("the Director") enters the following Findings of Fact, and Conclusions of Law and the following Order.

FINDINGS OF FACT

1. FHP is authorized as a Health Care Services Organization (HCSO) pursuant to a Certificate of Authority issued by the Director.

2. The Examiners were authorized by the Director to conduct a market conduct examination of FHP. The on-site examination was completed on September 30, 1994.

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1 COMMERCIAL POLICIES

2 3. The Examiners reviewed 67 (5%) of 1,342 declined  
3 commercial (Company business other than Medicare Risk)  
4 applications. Of the files reviewed:

5 a. FHP failed to disclose in 67 (100%) declination  
6 notices that applicants had a right to access and correct  
7 information gathered during the underwriting process.

8 b. FHP failed to provide the summary of rights to 49  
9 (73%) declined applicants and further failed to provide the  
10 specific reason for the declination to 34 (51%) applicants.

11 4. The Examiners reviewed 26 (1%) of 2,475 issued  
12 commercial contracts. Of the files reviewed:

13 a. FHP failed in 26 (100%) issued applications to  
14 disclose to the applicant that they had a right to access and  
15 correct personal information collected by FHP and which may, in  
16 certain circumstances, be disclosed to third parties without the  
17 specific authorization of the insured.

18 b. FHP failed on three (11.5%) issued applications  
19 which were initially declined to give the applicants the  
20 specific reason for the declination or provide the summary of  
21 rights.

22 5. The Examiners reviewed 20 (100%) of 20 rescinded  
23 commercial policies. Of the files reviewed:

24 a. FHP failed to provide to 20 applicants (100%) the  
25 summary of rights.

26 b. FHP failed in eight instances (40%) to give the  
27 applicant the specific reason for the rescission.

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1           6. The Examiners reviewed 67 of 67 (100%) commercial  
2 complaints received by the Department. Of the files reviewed,  
3 FHP failed to pay interest on two (3%) claims not paid within 30  
4 days of receipt of an acceptable proof of loss.

5           7. The Examiners reviewed 80 (18.8%) of 425 company  
6 received commercial grievances and appeals. Of the files  
7 reviewed:

8           a. FHP failed to respond to three (3.7%) grievances  
9 within ten working days of receipt.

10           b. FHP failed to adequately investigate 27 (60%) of  
11 45 reviewed emergency rooms claims before issuing a denial.

12           8. The Examiners reviewed 249 (.003%) of approximately  
13 66,000 commercial contract health denied claims. The majority  
14 of FHP's contracts provide for payment or denial of claims  
15 within 45 calendar days, but a small amount of provider  
16 contracts call for payment or denial within 60 calendar days.  
17 Of these 45 calendar day contract files reviewed, FHP failed to  
18 deny 19 claims (7.6%) within 45 working days of receipt of  
19 properly executed proofs of loss.

20           9. The Examiners reviewed 957 (.05%) of over 2,000,000  
21 commercial contract health paid claims. Of the files reviewed:

22           a. FHP failed to pay 33 claims (3.4%) pursuant to  
23 the contract provisions to pay claims within 45 calendar days.

24           b. FHP failed to pay interest to claimants on 33  
25 claims (3.4%) which were not paid in accordance with the  
26 contract that FHP had with its providers.

27           10. The Examiners reviewed 170 (.1%) of approximately  
28 15,000 commercial noncontract denied health claims. Of the

1 files reviewed, FHP failed to deny 95 claims (55.9%) within 15  
2 working days.

3 11. The Examiners reviewed 246 (.41%) of approximately  
4 60,000 commercial noncontract paid health claims. Of the files  
5 reviewed:

6 a. FHP failed to adjudicate 54 claims (21.95%)  
7 within 30 working days.

8 b. FHP failed to pay interest on 54 claims (21.95%)  
9 which were not paid within 30 working days after properly  
10 executed proofs of loss were received by FHP.

11 MEDICARE RISK POLICIES

12 12. FHP in its processing of Medicare Risk claims failed  
13 to properly investigate emergency room and ambulance claims  
14 based upon all available information prior to denying coverage  
15 for the claims.

16 13. The Examiners reviewed 206 (.23%) of approximately  
17 88,000 Medicare Risk contract health denied claims. The  
18 majority of FHP's contracts provide for payment or denial of  
19 claims within 45 calendar days, but a small amount of provider  
20 contracts call for payment or denial within 60 calendar days.  
21 Of these 45 calendar day contract files reviewed, FHP failed to  
22 deny 10 claims (4.9%) within 45 working days of receipt of  
23 properly executed proofs of loss.

24 14. The Examiners reviewed 735 (.07%) of approximately  
25 1,000,000 Medicare Risk contract health paid claims. Of the  
26 files reviewed, FHP failed to pay 19 claims (2.5%) pursuant to  
27 the contract provisions, to pay claims within 45 calendar days.

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1 within the time period specified by contract after the receipt  
2 of properly executed proofs of loss;

3 f. failing to send the notice of additional  
4 information needed on non-contract denied claims;

5 g. from failing to complete the investigation of  
6 non-contract paid claims within 30 working days after  
7 notification of claim, unless such investigation cannot be  
8 reasonably be completed within such time;

9 h. failing to pay interest to insureds on claims not  
10 paid within 30 days after the receipt of an acceptable proof of  
11 loss which contains all information necessary for claim payment;

12 2. Within 90 days of the filed date of this Order, FHP  
13 shall submit written action plans to the Director to ensure  
14 compliance with Arizona Statutes and Administrative Rules;  
15 specifically, as to the issues listed in Item 1a through 1h  
16 above.

17 3. Within 90 days of the filed date of this Order, FHP  
18 shall review its individual applications and other documents  
19 given to applicants to determine if these materials inform the  
20 applicant of any and all costs which could be incurred by the  
21 applicant during the underwriting process. FHP shall amend  
22 these materials, as necessary, and submit the materials to the  
23 Department for review and approval, as required by Arizona  
24 Statutes or Administrative Rules.

25 4. FHP shall pay interest to the non-capitated claimants  
26 listed in Exhibit 12, Exhibit 15 and page 21 of the Report of  
27 Examination, attached hereto and made a part hereof. FHP shall  
28 review all claims listed on both the Exhibits and page 21 and

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inform the Department whether the claim is a capitated or noncapitated claim. Interest shall be calculated at the rate of ten percent per annum, in accordance with A.R.S. § 44-1201, from the date that each claim was filed until the date of payment by FHP. All interest payments shall be accompanied by a letter acceptable to the Director. A list of payments, giving the name and address of each party paid, the claim amount on which the interest was calculated, the amount of interest paid, and the date of payment, shall be furnished to the Market Conduct Examination Division of the Department within 90 days of the filed date of this Order.

5. The Department shall be permitted, through an authorized representative, to verify that FHP has complied with all provisions of this Order. The Director may separately order FHP to comply with this Order.

6. FHP shall pay a Civil Penalty of FORTY-EIGHT THOUSAND DOLLARS (\$48,000.00) to the Director for remission to the State Treasurer for deposit in the State General Fund. Said amount shall be provided to the Market Conduct Examinations Division of the Department on or before the entry of this Order.


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7. The Report of Market Conduct Examination as of September 30, 1994, and the response to the Report submitted by FHP, shall be filed with the Department upon acceptance by the Director of this Consent Order.

DATED at Phoenix, Arizona this 28 day of March, 1997.

  
John A. Greene  
Director of Insurance

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COPY of the foregoing mailed/delivered  
this 1st day of April, 1997, to:

- Charles R. Cohen  
Deputy Director
- Gregory Y. Harris  
Executive Assistant Director
- Erin H. Klug  
Chief Market Conduct Examiner  
Market Conduct Examinations Division
- Mary Butterfield  
Assistant Director  
Life & Health Division
- Deloris E. Williamson  
Assistant Director  
Rates & Regulations Division
- Gary Torticill  
Assistant Director and Chief Financial Examiner  
Corporate & Financial Affairs Division
- Cathy O'Neil  
Assistant Director  
Consumer Services Division
- John Gagne  
Assistant Director  
Investigations Division
- Terry Cooper  
Fraud Unit Chief

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

Steve Lindstrom, President  
FHP, Inc.  
c/o S. David Childers, Esq.  
Low and Childers, Attorneys at Law  
2999 North 44th Street, Suite 250  
Phoenix, AZ 85018

*Curvey Butter*

The following claims were not paid within 30 working days from the date of receipt which is a violation of the Circular Letter Number 93-1 and interest was not paid on the benefit amount which is a violation of A.R.S. § 20-462(A) as previously cited:

<u>Policy Number</u>	<u>Claim Number</u>	<u>Date Claim Received By FHP</u>	<u>Date Paid By FHP</u>	<u>Number of Working Days</u>	<u>Interest Due</u>
21907684	92212107300	07-31-92	10-29-92	63	\$11.56
20838786	10023590300	05-03-93	07-01-93	42	3.01

### GRIEVANCES AND APPEALS

FHP defines a grievance as being "A complaint which does not initially involve a determination of payment of services such as quality of, receipt and timeliness of service."

An appeal is defined as "A formal complaint about payment or nonpayment or denial of service."

For purposes of this examination, the Examiners did not distinguish between grievances and appeals and will address all as grievances.

FHP's grievance procedure allows members a formal process for resolution of grievances not able to be resolved informally.

The grievance procedure is as follows:

1. The member should submit a written account of the grievance to the Member Services Department with necessary supporting information.

FHP, INC

CONTRACTED PAID CLAIMS

VIOLATIONS OF GUIDELINES OF CIRCULAR LETTER NO. 93-1 AND A.R.S.  
20-462 (A)

CLAIM NUMBER	DATE COMPANY RECEIVED CLAIM	DATE COMPANY PAID CLAIM	NUMBER OF CALENDAR DAYS	INTEREST DUE
50257134600	8/06/93	1/06/94	102	\$ 10.10
10058493800	1/12/94	3/30/94	54	1.70
10057868400	11/22/93	1/24/94	39	3.90
10033395300	7/13/93	9/19/93	68	11.16
10031996800	5/24/93	7/26/93	63	22.09
10013430200	2/25/93	4/20/93	54	.27
10022183900	4/22/93	6/10/93	49	.70
50207197000	1/04/93	3/24/93	79	.46
50313249301	3/31/94	6/09/93	70	4.59
50220040500	3/12/93	6/11/93	91	2.24
91172064700	6/21/91	9/30/91	101	3.93
92330024000	11/25/92	1/21/93	57	34.25
93004311400	1/04/93	2/19/93	46	4.23
10016785300	2/04/93	3/30/93	54	.60
93014222400	12/28/92	3/23/93	95	2.24
92344131000	12/09/92	2/22/93	75	230.14
92267161600	9/23/92	11/09/92	47	.49
92294041600	10/20/92	12/09/92	50	4.52
92177082300	6/25/92	8/14/92	50	.66
92339090700	11/20/92	1/06/93	47	.62
92066050001	3/06/92	5/27/92	82	22.47
92084050100	3/24/92	5/15/92	52	.44
92008015900	1/08/92	3/19/92	71	1.36
91301094700	10/28/91	12/16/91	49	1.13
91184055000	7/03/91	12/02/91	152	2.95
91227001400	8/15/91	11/26/91	103	72.81
91184060600	7/03/91	9/12/91	71	4.86
91247020900	9/04/91	11/19/91	76	6.25
91204037900	7/23/91	10/02/91	71	4.67
91221067000	9/09/91	10/29/91	81	3.00
10012119300	2/17/93	4/08/93	50	31.16
10016911401	3/23/93	6/07/93	76	.83
10014146900	3/03/93	4/20/93	48	.94

FHP, INC

NONCONTRACTED PAID CLAIMS

VIOLATIONS OF GUIDELINES OF CIRCULAR LETTER NO. 93-1 AND A.R.S.  
§ 20-462 (A)

CLAIM NUMBER	DATE RECEIVED	COMPANY CLAIM	DATE PAID	COMPANY CLAIM	NUMBER OF DAYS WORK CAL	INTEREST DUE
93018138000	1/18/93		3/30/93		51 71	\$ 4.30
10011969101	2/16/93		7/08/93		101 142	9.22
93020316700	12/09/92		2/17/93		46 70	2.22
91273082500	9/30/91		12/12/91		51 73	1.10
10027210703	5/28/93		9/07/93		70 102	10.06
10016355900	3/17/93		5/24/93		48 75	8.89
92356212000	12/21/92		3/18/93		59 87	7.22
10067993000	1/20/94		3/21/94		41 56	.06
10054041900	12/10/93		2/05/94		37 57	4.89
10050375700	11/15/93		1/31/94		49 77	1.72
92339079702	1/04/93		3/10/93		47 65	1.38
10014389800	3/04/93		4/20/93		33 47	.77
10010686501	2/04/93		6/15/93		92 131	2.40
10012074300	2/17/93		4/26/93		47 68	1,166.62
10010572403	2/03/93		3/25/93		36 50	12.07
91252044300	9/09/91		12/10/91		64 92	.16
91329045100	11/25/91		1/28/92		41 64	7.89
91248005100	9/05/91		11/11/91		47 67	3.02
92043002300	2/12/92		4/07/92		39 55	17.69
92037029700	2/06/92		4/03/92		41 57	1.62
92017156300	1/17/92		3/25/92		48 68	1.49
91273000300	9/30/91		11/21/91		38 52	.64
92035002100	2/04/92		3/20/92		33 45	.51
91319060000	11/15/91		1/10/92		34 56	3.86
91322128400	11/18/91		1/15/92		36 58	.35
91317062700	11/13/91		1/08/92		34 56	6.31
91232037000	8/20/91		10/30/91		49 71	.39
92248087901	8/26/92		11/02/92		47 88	2.50
92283121300	10/09/92		11/25/92		33 47	2.70
92287002300	10/13/92		12/11/92		41 59	10.67
92280001000	10/05/92		12/14/92		48 70	11.22
92322047800	11/17/92		1/12/93		36 56	9.66
92142086000	4/10/92		7/06/92		59 87	.38
92122115500	5/01/92		6/19/92		34 49	2.72
92344163600	10/28/92		1/14/93		50 78	.43
92104139601	4/13/92		5/29/92		34 46	8.38
92058006601	2/27/92		4/13/92		32 46	.40
10015568700	3/03/93		4/15/93		31 43	16.46
93026014101	1/26/93		3/29/93		44 62	.88
92293101500	10/19/92		3/15/93		98 151	39.70
93022033200	1/22/93		3/11/93		34 48	2.67

CLAIM NUMBER	DATE COMPANY RECEIVED CLAIM	DATE COMPANY PAID CLAIM	NUMBER OF DAYS WORK CAL	INTEREST DUE
92363218900	12/28/92	2/25/93	41 62	2.06
92352040900	12/17/92	2/16/93	39 61	.22
92344123001	12/09/92	2/03/93	36 56	.41
92338022500	12/03/92	1/22/93	32 50	28.08
91226016700	8/14/91	10/10/91	40 57	.78
91231060800	8/19/91	10/09/91	36 61	.46
91225051300	8/13/91	10/16/91	44 64	6.59
91179023700	6/28/91	9/09/91	49 73	19.50
91227036301	8/15/91	10/09/91	38 55	1.04
91169075000	6/18/91	8/15/91	41 58	19.35
91183002400	7/02/91	8/16/91	32 45	.84
91176088500	6/25/91	8/12/91	33 48	5.59
91175020400	6/24/91	9/17/91	60 86	32.48