

**BEFORE THE COMMISSIONER OF INSURANCE
OF THE STATE OF KANSAS**

In the Matter of the Proposed)
Adoption of the Market Conduct)
Review Report of COVENTRY) Docket No. 3000-MC
HEALTH CARE OF KANSAS INC.)

SUMMARY ORDER

NOW COMES on for formal disposition that matter of the proposed adoption of the market conduct review report of the Coventry Health Care of Kansas Inc., a Kansas corporation. This matter is brought before the Commissioner of Insurance for adoption, rejection, or modification pursuant to the provisions of K.S.A. 40-222.

I, Kathleen Sebelius, the duly elected, qualified, and acting Commissioner of Insurance of the State of Kansas, having fully considered and reviewed the examination report, together with all written submissions, applicable rebuttals, and all relevant portions of the examiner’s work papers, and further being fully advised on all premises, hereby find:

Findings of Fact

1. The Commissioner of Insurance has jurisdiction over this matter pursuant to K.S.A. 40-222.
2. A market review of the Coventry Health Care of Kansas, Inc., was undertaken by the Kansas Insurance Department and completed on April 18, 2001.
3. Within thirty (30) days following the completion of the examination, the examiner in charge tendered and filed with the Kansas Insurance Department a verified written report of the market conduct review under oath.
4. Within (30) days following receipt of the report the Kansas Insurance Department sent a draft of the Market Conduct Report to Coventry Healthcare of Kansas, Inc. The Company was asked to review the document and forward any written comments or additions or acceptance of the report to the Kansas Insurance Department by May 18, 2001.

5. On May 15, 2001, the Kansas Insurance Department received written comments on the written report from Coventry Healthcare of Kansas, Inc.

6. Within thirty (30) days following the written response, the Commissioner of Insurance fully reviewed the report together with any written response provided by Coventry Healthcare of Kansas, Inc. The Commissioner of Insurance further reviewed all relevant work papers.

7. Principal Healthcare was acquired by Coventry Healthcare January 1, 2000.

8. In the course of the examination, the examiner found that on February 5, 1999 the Kansas Insurance Department had contacted Principal Healthcare (hereinafter referred to as the company) to investigate a consumer complaint the Department had received.

9. On February 12, 1999, the company contacted the consumer in writing, telling her that her case will be reviewed and that she would be notified in writing within 31 days of the company's determination.

10. On March 12, 1999, the company sent a letter to the consumer with a carbon copy to the Department stating that they are writing for an extension of time to investigate her complaint.

11. On March 25, 1999, the Kansas Insurance Department received a written response to the consumer complaint.

12. A claim was submitted by an insured for an MRI performed on October 27, 1997. The claim was not paid until October 9, 1998.

13. The Kansas Insurance Department received a complaint from a doctor for non-payments of claims for several patients. These claims were for psychological services that had been authorized by the company and were not paid within 30 days. The doctor wrote a letter, dated November 9, 1999, to American Psych Services, the mental health and substance abuse vendor for the company. There were 10 service claims dating from December 19, 1997 to October 15, 1998 that had not been paid as of November 9, 1998. There were another 11 claims for services ranging in dates from November 13, 1997 to September 21, 1998 that had not been paid as of November 9, 1998. Another service claim occurred on August 29, 1998 and was not paid until November 7, 1998. Two other claims for service dated June 2,

1998 and July 21, 1998 had not been paid as of November 9, 1998. Another claim for services dated October 30, 1997 was not paid until February 5, 1999.

14. A consumer was treated on February 14, 1998 at the Salina Regional Medical Center. This was an authorized visit under the consumer's health care plan. According to American Psych Systems the claim was received on July 18, 1998. As of November 5, 1998 the claim had not been paid. The Kansas Insurance Department contacted American Psych Systems to investigate the consumer's complaint. On December 9, American Psych Systems reported in writing that the claim was pending while awaiting authorization through the care management department, which was not done as of that date. On December 14, 1998, American Psych Systems contacted the Kansas Insurance Department, in writing, stating that claims were processed on December 8, 1998 and the check was to have been sent within 2 weeks of the date of that letter.

Applicable Law

15. K.S.A. 40-222(k)(2) provides:

Within 30 days of the end of the period allowed for the receipt of written submissions or rebuttals, the commissioner shall fully consider and review the report, together with any written submissions or rebuttals and any relevant portions of the examiner work papers and enter an order:

(A) Adopting the examination report as filed or with modifications or corrections. If the examination report reveals that the company is operating in violation of any law, regulation or prior order of the commissioner, the commissioner may order the company to take any action the commissioner considers necessary and appropriate to cure such violations; or

(B) rejecting the examination report with directions to the examiners to reopen the examination for purposes of obtaining additional data, documentation or information, and refiling pursuant to subsection (k); or

(C) call and conduct a fact-finding hearing in accordance with K.S.A. 40-281 and amendments thereto, for purposes of obtaining additional documentation, data, information and testimony.

16. K.S.A. 40-2,125(a)(1) provides in part:

If the commissioner determines after notice and opportunity for a hearing that any person has engaged or is engaging in any act or practices constituting a violation of any provisions of Kansas insurance statutes or any rule or regulation or order thereunder, the commissioner may in the exercise of discretion, order any one or more the following:

Payment of a monetary penalty of not more than \$1,000 for each and every act or violation, unless the person knew or reasonably should have known such person was in violation of the Kansas insurance statutes or any rule and regulation or order thereunder, in which case the penalty shall not be more than \$2,000 for each and every act or violation.

17. K.S.A. 40-2404(9) states:

It is an unfair claim settlement practices if any of the following or any rules and regulations pertaining thereto are (A) Committed flagrantly and in conscious disregard of such provisions, or (B) committed with such frequency as to indicates a general business practice.

18. K.S.A. 40-2404 (9) provides in part:

(b) failing to acknowledge and act reasonably promptly upon communications with respect to claims arising under insurance policies;

(c) failing to adopt and implement reasonable standards for the prompt investigation of claims arising under insurance policies; ...

(e) failing to affirm or deny coverage of claims within reasonable time after proof of loss statement has been completed;

(f) not attempting to in good faith to effectuate prompt, fair and equitable settlements of claims in which liability has become reasonably clear; ...

20. K.A.R. 40-1-34, Section 6(b), provides:

Every insurer, upon receipt of any inquiry from the insurance department respecting a claim, shall, within fifteen days of receipt of such inquiry, furnish the department with an adequate response to the inquiry.

21. K.A.R. 40-1-34, Section 6(c), provides:

An appropriate reply shall be made within ten working days on all other pertinent communications from a claimant which reasonably suggest that a response is expected.

22. K.A.R. 40-1-34, Section 7, provides:

Every insurer shall complete an investigation of a claim within thirty days after notification of claim, unless such investigation cannot reasonably be completed within such time.

23. K.A.R. 40-1-34, Section 8(c), states:

If the insurer needs more time to determine whether a first party claim should be accepted or denied, it shall so notify the first party claimant within fifteen working days after receipt of the proofs of loss, giving the reasons more time is needed. If the investigation remains incomplete, the insurer shall, forty-five days from the date of the initial

notification and every forty-five days thereafter, send to such claimant a letter setting forth the reasons additional time is needed for an investigation.

Conclusions of Law

24. Based upon the findings of fact set out in paragraphs 1 through 6, the market conduct of affairs examination report of Coventry Healthcare of Kansas, Inc., is adopted.

25. Based upon the findings of fact set out in paragraphs 8, 9 and 10 of this Summary Order, the Commissioner finds that Coventry is in violation of K.A.R. 40-1-34, Section 6(b), which is a failure to respond to an insurance department inquiry with 15 days.

26. Based upon findings for fact in paragraphs 11 and 12 of this Summary Order, the commissioner finds and concludes that the company is in violation K.A.R. 40-1-34, Section 7, which requires that every insurer shall complete an investigation of a claim within 30 days after notification of such claim unless the investigation cannot reasonably be completed within 30 days. In this case the investigation of this claim was not completed within 30 days and there is no evidence that such claim could be reasonably investigated within 30 days. The service was provided on October 27, 1997 and the claim was not paid until October 7, 1998.

27. Based on the findings in paragraph 13 of this Summary Order, the Commissioner finds and concludes that the company violated K.S.A. 40-2404(b), K.S.A. 40-2404(9)(e), and K.S.A. 40-2404(9)(f). Further the company violated K.A.R. 40-1-34, Section 7 and Section 8(c). All but one of these claims were more than 30 days old; and some were a year old or more. There is no evidence that the company attempted in good faith to fairly and equitably settle these claims. There is no evidence of prompt communication with the claimant as to the status of these claims, reason for the delay or the status of their investigation of the claim.

28. Based upon the findings in paragraph 14 of this Summary Order, the Commissioner finds and concludes that the company is in violation of K.S.A. 40-2404(9)(b), K.S.A. 40-2404(9)(c), K.S.A. 40-2404(9)(f), K.A.R. 40-1-34, Section 6(c), K.A.R. 40-1-34, Section 7, and K.A.R. 40-1-34, Section 8. The service on this claim was provided on February 4, 1998. There is a record that the company received the

claim on July 18, 1998. As of November 15, 1998, the claim was not paid. The company failed to act promptly to fairly and equitably settle the claim. They failed to communicate with the claimant as to the status of the claim and the reasons for the delay.

29. The violations as outlined in paragraphs 25, 26, 27 and 28 constitute 14 separate violations of Kansas law. Under the provisions of K.S.A. 40- 2,125, the company is fined \$14,000.

Policy Reasons

30. It is stated public policy of the State of Kansas that whenever the Commissioner of Insurance deems it necessary, an examination of the affairs and financial condition of any insurance company in the process of organization, applying for admission, or doing business in this State can be undertaken. In all cases, such an examination must occur every (5) five years. Through the examination process the insurance consuming public will be well served and protected.

IT IS THEREFORE, BY THE COMMISSIONER OF INSURANCE, ORDERED THAT:

- 1. The market conduct review of The Coventry HealthCare of Kansas Inc., is hereby adopted.
- 2. The Commissioner levies fines in the amount of \$14,000 for 14 violations of Kansas Law.
- 3. The Commissioner of Insurance retains jurisdiction over this matter to issue any and all further orders deemed appropriate or take such further action necessary to dispose of this matter.
- 4. The Commissioner further orders pursuant to K.S.A. 40-222(k)(3) that the company file written affidavits executed by each of its directors stating under oath that they have received a copy of the adopted report and related orders.

Notice and Opportunity for Hearing

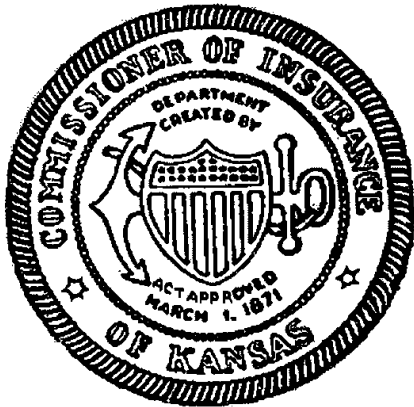
Coventry Health Care of Kansas, Inc., within fifteen (15) days of service of this Summary Order, may file with the Kansas Insurance Department, a written request for hearing on this Summary, as provided for by K.S.A. 77-542. In the event a hearing is requested, such request should be directed to:

Kathy Greenlee
General Counsel
Kansas Insurance Department
420 S.W. 9th Street
Topeka, Kansas 66612-1678

If a hearing is not requested, this Summary Order shall become effective as a Final Order, without further notice, upon the expiration of the fifteen (15) day period for requesting a hearing.

Any costs incurred as a result of conducting an administrative hearing authorized under the provisions of K.S.A. 40-242 shall be assessed against the agent who is the subject of the hearing, as provided for under K.S.A. 40-242(c). Costs shall include witness fees, mileage allowances, any costs associated with the reproduction of documents, which become a part of the hearing record and the expense of making a record of the hearing.

**IT IS SO ORDERED THIS 7th DAY OF MARCH, 2002, IN THE CITY OF TOPEKA,
COUNTY OF SHAWNEE, STATE OF KANSAS.**



_____/s/ Kathleen Sebelius_____

Kathleen Sebelius

Commissioner of Insurance

BY:

_____/s/ Kathy Greenlee_____

Kathy Greenlee

General Counsel

Certificate of Service

The undersigned hereby certifies that the above and foregoing Summary Order was served this ___7th___ day of March 2002, by depositing the same in the United States Mail, first class postage prepaid, addressed to the following:

Ms. Jan Stallmeyer
President and CEO
Coventry Health Care of Kansas, Inc.
1001 East 101st Terrace, Suite 300
Kansas City, Missouri 64131-3368

_/_s/ Rebecca A. Sanders _____
Rebecca A. Sanders
Staff Attorney