

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

<b>FINAL ORDER</b> <b>Effective: 08-31-07</b>
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In the Matter of  
**Benicorp Insurance Company**

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Docket No. 3700-SO

**SUMMARY ORDER**

(Pursuant to K.S.A. 40-2401 *et seq.*, K.S.A. 40-2442, K.S.A. 40-2,125)

Pursuant to the authority granted to the Commissioner of Insurance (“Commissioner”) by Kansas Statutes Annotated (“K.S.A.”) 40-2401 *et seq.*, K.S.A. 40-2442 and K.S.A. 40-2,125, I, Sandy Praeger, the duly elected and qualified Commissioner of Insurance of the State of Kansas, hereby make the following Findings of Fact, Conclusions of Law, and Order to wit:

**Findings of Fact**

1. Benicorp Insurance Company (“Benicorp”) is a Stock Life Insurance Company domiciled in Indiana and authorized to transact the business of insurance in the State of Kansas since 12/24/81 with its office located at Ste. 200, 7702 Woodland Dr., Indianapolis, Indiana 46278. Benicorp is subject to the statutes regulating the business of insurance in the State of Kansas.
2. The Commissioner has jurisdiction over the subject matter of this proceeding, and this proceeding is held in the public interest.
3. The Kansas Insurance Department (“KID”) received the following complaints regarding Benicorp’s handling of claims:

**Grimm Complaint**

4. On 6/6/07, KID received a complaint from Ms. Lesli Grimm (“Ms. Grimm”) regarding Benicorp’s handling of insurance claims involving her daughters.

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5. Ms. Grimm's complaint indicates one daughter ("HG") had tonsil/sinus surgery in November 2006. Benicorp records indicate the date of service as 11/20/06.
6. Benicorp records indicate claim number 20061127-1632 was received by Benicorp on 11/27/06; claim number 20061208-868 was received on 12/08/06; claim number 20061211-883 was received on 12/11/06; claim number 20061214-855 was received on 12/14/06; and claim number 20070104-11871 was received on 1/04/07.
7. Ms. Grimm's complaint indicates the claims submitted to Benicorp were not paid and Ms. Grimm contacted Benicorp "at least monthly" since February 2007 and was told each time the payment would be made.
8. In addition, according to the complaint, Ms. Grimm's other daughter ("JG") required an emergency room visit in February 2007.
9. Ms. Grimm's complaint indicates she contacted Benicorp regarding claims submitted regarding JG's visit and was again told payment would be made. Ms. Grimm's complaint indicates payments were not made as indicated by Benicorp.
10. On 7/6/07, Benicorp Representative Patty Kingston ("Ms. Kingston") wrote KID Representative Kelly Welch ("Ms. Welch") and indicated payment had been made with regard to claims submitted on HG and the claims for JG had been processed and when the claims were paid, an Explanation of Benefits statement would be forwarded to KID.
11. To date payment has not been received on the Grimm's claims.

### **Echols Complaint**

12. On 6/11/07, KID received a complaint from Ms. Lisa Echols (“Ms. Echols”) on behalf of a patient (“RT”) regarding Benicorp’s “failure to pay promptly.”
13. Benicorp records indicate RT received service on 2/15/07.
14. Ms. Kingston wrote Ms. Welch on 7/10/07 and indicated the claims had been processed and “when the claim(s) is paid, we will send copies of the Explanation of Benefits Statement. We will calculate any late payment interest due and remit to the provider under separate cover as soon as possible.”
15. To date, payment has not been received on the submitted claim.

### **Ramsey Complaint**

16. On 6/6/07, KID received a complaint from Ms. Lynna Ramsey (“Ms. Ramsey”) on behalf of a patient (“DI”) regarding Benicorp’s handling of DI’s claims.
17. Ms. Ramsey’s complaint indicates DI received services on 4/19/06; 4/20/06; 4/24/06; and 4/27/06 for which claims were submitted to Benicorp.
18. On 10/16/06, Ms. Ramsey contacted Benicorp and spoke with Mr. David Morrison (“Mr. Morrison”) who stated, “they [Benicorp] would render payment in 48 hours.”
19. On 10/24/06, Ms. Ramsey contacted Benicorp and left a message with “John” to inform him payment still had not been received as indicated by Mr. Morrison.
20. On 10/25/06, Ms. Ramsey contacted Benicorp and spoke with Mr. Morrison who stated Benicorp would “send out payment the next day and that it would be 10 days until we would receive payment.”

21. On 11/9/06, Ms. Ramsey contacted Benicorp, spoke with Mr. Morrison, and inquired as to when payment would be made. Mr. Morrison stated, “those dates of service were paid and were sent 11/6/06.”
22. On 11/14/06, Ms. Ramsey contacted Benicorp and spoke with Mr. Jake Lewis (“Mr. Lewis”) who stated all dates of service had been paid and a check had been sent.
23. Benicorp records indicate three payment checks were issued on 11/20/06 and a final check was issued on 1/8/07 for DI’s claims.

**Elznic Complaint**

24. On 6/12/07, KID received a complaint from Mr. Robert D. Elznic (“Mr. Elznic”) regarding Benicorp’s handling of claims submitted.
25. Mr. Elznic’s complaint indicates he received service on 7/21/06 from Regional Medical Laboratory in Tulsa, Oklahoma.
26. According to the complaint, a check was originally to be mailed from Benicorp on 3/27/07 in the amount of \$67.39 to “cover 100% in PPO network.”
27. Mr. Elznic’s complaint states he was given a check number (#480906) which was allegedly issued in March.
28. On 6/5/07, Mr. Elznic spoke with Bridgett at Benicorp who indicated a check had not been sent.
29. On 6/12/07, Mr. Elznic contacted Benicorp regarding the Regional Medical Laboratory claim and was told the claim was still processing.

30. Mr. Elznic's complaint indicates he has paid \$2560.55 out of pocket to Coffeyville Regional Medical Center (CRMC) and Dr. Donald C. White's office and as of 6/12/07 had a \$1,030.00 balance due to various providers.
31. Mr. Elznic's complaint indicates his last medical procedure was in December of 2006.
32. On 7/10/07, Ms. Kingston responded to an inquiry from Ms. Welch and stated, "The following claim(s) have been processed by Benicorp...When the claim(s) is paid, we will send copies of the Explanation of Benefits Statement."
33. To date, payment has not been received on Mr. Elznic's claims.

#### **Bartlett Complaint**

34. On 6/15/07, KID received a complaint from Ms. Cari Bartlett ("Ms. Bartlett") on behalf of the Wichita Ear Clinic ("Ear Clinic") indicating the Ear Clinic had experienced difficulty receiving payments on claims.
35. One patient, ("KB"), received service at the Ear Clinic on 2/23/07 and 3/27/07.
36. On 4/9/07, Benicorp denied the claims stating Ms. Bartlett needed to re-submit to a PPO for re-pricing.
37. On 4/10/07, Ms. Bartlett contacted Benicorp and spoke with Vicki, who stated the claim had been processed and she would send it for payment.
38. On 5/2/07, Ms. Bartlett contacted Benicorp and spoke with Victor who stated the 2/23/07 claim was processed on 4/11/07 and was "set to pay" but no check had been issued.
39. On 5/25/07, Ms. Bartlett spoke with Jenny who stated the claims should be sent to WPPA, Inc. ("WPPA") for repricing and that Benicorp "did not have them."

40. On 6/14/07, Ms. Bartlett contacted WPPA and spoke with Melissa. Melissa stated WPPA received the 2/23/07 claim on 3/26/07. WPPA repriced the claim and sent it to Benicorp on 3/30/07.
41. WPPA received the 3/27/07 claim on 4/19/07 for repricing and sent it to Benicorp on 4/25/07. The 3/27/07 claim was again sent to WPPA on 6/7/07, repriced on 6/7/07 and sent to Benicorp on 6/11/07.
42. On 6/14/07, Ms. Bartlett contacted Benicorp and spoke with Nash who stated both dates of service were paid on 6/13/07.
43. In addition to the above-stated claims, KB received service from the Ear Clinic on 7/26/06 and the Ear Clinic did not receive payment from Benicorp until 10/12/06.
44. On 7/12/07, Benicorp responded to an inquiry from Ms. Welch and stated the claims submitted for KB have been processed and “when the claim(s) is paid, we will send copies of the Explanation of Benefits Statement...”
45. To date, payment on KB’s claims have not been received.
46. Ms. Bartlett’s complaint also states another patient, (“KP”) received service on 2/19/07.
47. On 4/11/07, the Ear Clinic received a letter from Benicorp stating the 2/19/07 claim was under review.
48. On 5/25/07, Ms. Bartlett contacted Benicorp to check the status of the 2/19/07 date of service. Ms. Bartlett was told the claim should have been sent to Beachstreet, not Benicorp and the 4/11/07 letter indicating the claim was in review was a system generated letter and the claim should be submitted to Beachstreet. Ms. Bartlett refiled the claim with Benicorp.

49. On 6/14/07, Ms. Bartlett contacted WPPA to check the status of KP's claim. Ms. Bartlett was told WPPA received the claim on 3/5/07 and sent it back to Benicorp on 3/9/07. Ms. Bartlett contacted Benicorp to inquire about the status of the claim and was told the claim was still in process.
50. On 7/12/07, Benicorp responded to an inquiry from Ms. Welch and stated the claims submitted for KP have been processed and "when the claim(s) is paid, we will send copies of the Explanation of Benefits Statement..."
51. Finally, Ms. Bartlett stated two additional claims for KP, one on 10/30/06 was paid on 1/30/07 and another date of service 12/22/06 was paid on 3/16/07.

#### **Hampton Complaint**

52. On 6/19/07, KID received a complaint from Ms. Kendra Hampton ("Ms. Hampton") regarding Benicorp's handling of a claim for her son ("PH")
53. Ms. Hampton's complaint states in March 2007 she was informed that a claim for her son's pediatric visit on 12/19/06 had not been paid.
54. Ms. Hampton stated she contacted Benicorp and was told "a check would be mailed out."
55. Ms. Hampton received a bill from her doctor's office dated 5/6/07 stating the 12/19/06 claim had not been paid.
56. On 6/18/07, Ms. Hampton contacted her son's doctor's office to determine if the 12/19/06 claim had been paid. It was determined the claim had not been paid.
57. On 7/12/07, Benicorp responded to an inquiry from Ms. Welch and stated claims submitted from Ms. Hampton's son have been processed and, "When the claim(s) is paid, we will send copies of the Explanation of Benefits Statement."

58. To date, the claim submitted for Ms. Hampton's son have not been paid.

**Russell Complaint**

59. On 6/21/07, KID received a complaint from Mr. Brad Russell ("Mr. Russell") regarding health insurance claims not being paid by Benicorp.

60. Mr. Russell's complaint indicates claims from 11/17/06; 12/6/06; 12/20/06; 1/5/07; 1/22/07; 2/2/07; 2/9/07; 2/15/07; 2/20/07; 3/2/07; 3/9/07; 3/13/07; 4/13/07; 5/1/07; and 6/5/07 for his child ("JR").

61. On 5/10/07, Mr. Russell contacted Benicorp and was told the claims were being processed as out of network.

62. On 6/1/07, Mr. Russell contacted Benicorp and was told the claims were processed and now were being audited.

63. On 6/7/07, Mr. Russell contacted Benicorp and was told the claims had not been processed but they would be sent to be processed.

64. As of 6/21/07, payment had not been received on the claims submitted.

65. Mr. Russell's complaint also referenced claims for his daughter ("CR") for dates of service of 1/10/07; 2/8/07; 3/7/07; 4/10/07; and 4/26/07.

66. On 5/10/07, Mr. Russell contacted Benicorp and was told the claims would be processed in two weeks.

67. On 6/1/07, Mr. Russell contacted Benicorp and was told the claims were sent for repricing and auditing.

68. On 6/7/07, Mr. Russell contacted Benicorp and was not the claims had not been processed and were still pending.

69. As of 6/21/07, payment had not been received on the claims submitted.



70. On 6/22/07, Ms. Welch sent an inquiry to Benicorp regarding Mr. Russell's complaint.

71. To date, Ms. Welch has not received a response to the inquiry.

### **Sneed Complaint**

72. On 6/21/07, KID received a complaint from Ms. Stacy Sneed ("Ms. Sneed") regarding Benicorp's handling of a claim on behalf of patient, ("LD"), for services rendered by Olathe Medical Center ("OMC") on 11/10/06.

73. Ms. Sneed's complaint indicates the claim was submitted as a "clean" claim and no additional information was requested by Benicorp.

74. On 2/3/07, OMC received a letter from Benicorp dated 1/26/07 acknowledging receipt of the claim.

75. On 4/4/07, Ms. Sneed contacted Benicorp as payment for the claim had not been received.

76. Ms. Sneed states she was told the claim had been approved for payment on 2/7/07 but a "system error" prevented them from releasing payment. Ms. Sneed states she was told payment would be received within a week.

77. Ms. Sneed states she made five follow-up telephone calls when payment was not received and was told Benicorp was unable to release payment due to a system error, but payment would be sent within a week.

78. As of 6/21/07, payment had not been received on the claim submitted.

79. On 6/22/07, Ms. Welch sent an inquiry to Benicorp regarding Ms. Sneed's complaint.

80. To date, Ms. Welch has not received a response to the inquiry.

81. On 7/23/07, Ms. Welch received an Explanation of Benefits Statement indicating Ms. Sneed's claims had been paid. The Explanation of Benefits Statement did not indicate interest had been paid on the amount of the claims.

**Coleman/Robinson Complaint**

82. On 6/21/07, KID received a complaint from Ms. Liz Coleman ("Ms. Coleman") of Coleman & Associates on behalf of her clients who "have been having multiple claims issues with Benicorp." Ms. Coleman forwarded her clients complaints to KID.
83. On 6/20/07, KID received a complaint from Ms. Elizabeth Robinson ("Ms. Robinson"), a client of Ms. Coleman, regarding "claims that have not been paid by Benicorp."
84. Ms. Robinson's complaint states two claims, the first with a date of service of 10/23/06 and a second with a date of service of 10/25/06 were not paid by Benicorp.
85. On 3/19/07, Ms. Robinson contacted Benicorp and was told the 10/23/06 claim would be paid on 3/20/07.
86. On 5/10/07, Ms. Robinson states the 10/23/06 claim had not been paid at which time she contacted Benicorp which stated the claim would be paid within 10 days.
87. On 5/23/07, Ms. Robinson contacted Benicorp as no payment had been made to the provider and was told the claim had been sent to "cut a check" and would be released that day.
88. On 6/18/07, Ms. Robinson contacted Benicorp which stated the check had been sent on 6/13/07. As of 6/20/07, no check had been received by the provider.

89. On 3/19/06, Ms. Robinson contacted Benicorp regarding the 10/25/06 claim for \$13,076.36 and was told the claim had been paid for \$3,631.16.
90. On 5/2/07, Ms. Robinson contacted Benicorp and was told the claim had been paid by Benicorp.
91. On 5/10/07, Ms. Robinson contacted Benicorp and was told the check should be released within 10 days.
92. On 5/23/07, Ms. Robinson contacted Benicorp and was told the check would be released that day.
93. As of 6/20/07, Ms. Robinson contacted Benicorp and was told they could not give Ms. Robinson a time frame for which the claim would be paid.
94. On 6/26/07, Ms. Welch sent an inquiry to Benicorp regarding Ms. Coleman's complaint.
95. To date, Ms. Welch had not received a response to the inquiry.

**Higbie Complaint**

96. On 6/22/07, KID received a complaint from Mr. Austin Higbie ("Mr. Higbie") regarding Benicorp's handling of claims.
97. Mr. Higbie's complaint states he received services on 2/17/07 and 2/18/07.
98. Mr. Higbie states he has made "numerous calls" since early April to Benicorp regarding payment of claims.
99. Mr. Higbie states Benicorp continues to state they have had a glitch in their system and that the claims have been processed.
100. As of 7/19/07, payment had not been received on the claims submitted.

101. On 6/26/07, Ms. Welch sent an inquiry to Benicorp regarding Mr. Higbie's complaint.
102. On 7/23/07, Ms. Welch received notification from Benicorp indicating Mr. Higbie's claims had been processed, but not paid.

#### **Smith Complaint**

103. On 6/25/07, KID received a complaint from Ms. Rebecca Smith ("Ms. Smith") of Medical Specialties, P.A. ("Medical Specialties") regarding "difficulties with Benicorp."
104. Ms. Smith's complaint alleges Benicorp failed to pay claims and failed to return money that was refunded to Benicorp in error.
105. Ms. Smith's complaint included an e-mail from Benicorp Representative Chris Pucci dated 5/4/07 stating a claim submitted for patient, ("RB"), would be paid to the provided and which "should be received in 14 days from the date of this e-mail."
106. To date, payment has not been received on the claims submitted.
107. On 6/29/07, Ms. Welch sent an inquiry to Benicorp regarding Ms. Smith's Complaint.
108. To date, Ms. Welch has not received a response to the inquiry.

#### **Youngers Complaint**

109. On 7/5/07, KID received a complaint from Ms. Dawna Youngers ("Ms. Youngers") regarding two outstanding claims with Benicorp.
110. Ms. Youngers' complaint states the first claim is for services rendered on 8/29/06.

111. Ms. Youngers' states she contacted Benicorp on 4/23/07, 5/2/07, and 5/17/07 and each was "assured a check had been released and would be issued soon..."
112. As of 7/5/07, payment has not been received.
113. Ms. Youngers' states the second claim dated 2/20/06 was in the amount of \$80.00 for which Benicorp stated a check was issued on 7/13/06.
114. To date the provider has not received a check.
115. According to Ms. Youngers' complaint, Benicorp stated the 2006 claims were not paid correctly due to an upgrade in computer equipment and programming.

#### **Bybee Complaint**

116. On 5/3/07, KID received a complaint from Ms. Melissa Bybee ("Bybee") regarding Benicorp's handling of claims.
117. Ms. Bybee's complaint alleges Benicorp is "very slow to pay." Ms. Bybee's date of service was 10/27/06.
118. On 1/31/07, Ms. Bybee contacted Benicorp and was told by Representative Nash the claim was sent for repricing.
119. On 4/24/07, Ms. Bybee contacted Benicorp and was told by Representative Terrance the claim was processed on 4/19/07 and the provider would be receiving a check.
120. On 5/3/07, Ms. Bybee contacted Benicorp and was told by Representative Austin there was an issue with the tax ID number delaying payment.

#### **Ryals Complaint**

121. On 7/13/07, KID received a complaint from Ms. Kimberly Ryals ("Ms. Ryals") regarding outstanding claims with Benicorp.

122. Ms. Ryals' complaint concerns claims submitted for her son ("SR") dated 11/12/06 and 1/5/07; her daughter ("KR") 11/21/06; 12/5/06; and 1/5/06; and her daughter ("AR") 11/21/06.
123. Ms. Ryals' states on 4/11/07 she contacted Benicorp and was told the claims would be paid on 4/17/07 at 100%, after co-pay.
124. On 5/23/07, Ms. Ryals contacted Benicorp and was told the claims were being forwarded to the Vice President.
125. On 6/8/07, Ms. Ryals contacted Benicorp and was told the claims were being audited and being sent to get checks released.
126. On 6/18/07, Ms. Ryals contacted Benicorp and was told the 11/21/06 claim for KR had been paid on 6/13/07.
127. As of 6/21/07, the provider had not received payment.
128. Additionally, Ms. Ryals' complaint indicated claims from another service provider for the dates of 3/19/07 and 5/14/07 have not been paid.
129. Finally, on 5/23/07 Ms. Ryals' states a claim for KR on 5/17/06 were being forwarded to the Vice President according to Benicorp.
130. On 6/8/07, Ms. Ryals' was told the claim was being sent to auditing and then a check would be released.
131. Ms. Ryals' states she received an Explanation of Benefits Statement on 7/12/07 for the 5/17/06 date of service claim but was unsure if the claim had been paid.

### **Ida Complaint**

132. On 3/1/07, KID received a complaint from Mr. Matt Ida ("Mr. Ida") for lack of claim payments per their contract with Mr. Ida's company, Extrusions, Inc.

133. Mr. Ida's complaint alleges Benicorp initially paid claims submitted by an anesthesiologist for his daughter's surgery in July of 2006 but later denied two providers' claims.
134. Mr. Ida states he has provided all the information requested by Benicorp and has not received a response aside from Benicorp stating the claims are in appeal.
135. Mr. Ida states he has contacted Benicorp "at least ten times" and each time is promised a response but has not received one.
136. The claim stems from surgeries required for Mr. Ida's daughter, which Benicorp originally denied.
137. On 6/22/07, Ms. Kingston spoke with Ms. Claudia Perney, KID Representative, and stated Benicorp would pay Mr. Ida's claim.
138. To date, payment has not been received for Mr. Ida's claim.

**Ferguson Complaint**

139. On 7/19/07, KID received a complaint from Mr. John Ferguson ("Mr. Ferguson") regarding Benicorp's handling of his claim.
140. Mr. Ferguson's claim arose out of a hand injury he suffered and the subsequent medical bills incurred as a result thereof.
141. Mr. Ferguson's complaint indicates claims submitted for the dates of 3/4/06; 3/5/06; 3/6/06; and 3/8/06 have not been paid by Benicorp.
142. On or about 6/19/07, Mr. Ferguson was informed by Benicorp the claims were still processing.

### April 27<sup>th</sup> Meeting

143. On 4/27/07, Benicorp Executive Vice President & Chief Operating Officer Steven L. Lange (“Mr. Lange”) met with KID Consumer Assistance Division Director James J. Welch (“Mr. Welch”), KID Representative Karen Larson (“Ms. Larson”), KID Representative Steve O’Neil (“Mr. O’Neil”), and Ms. Welch.
144. During the meeting, Mr. Lange assured the KID representatives that the issues involving Benicorp claims would be resolved by 7/1/07.
145. As of 7/1/07, KID continued to receive complaints regarding Benicorp’s handling of claims.

### Applicable Law

K.S.A. 40-2,125 states, in pertinent part:

- (a) If the commissioner determines after notice and opportunity for a hearing that any person has engaged or is engaged in any act or practice constituting a violation of any provision of Kansas insurance statutes or any rule and regulation or order thereunder, the commissioner may in the exercise of discretion, order any one or more of the following:
- (2) suspension or revocation of the person’s license or certificate if such person knew or reasonably should have known that such person was in violation of the Kansas insurance statutes or any rule and regulation or order thereunder; or

K.S.A. 2006 Supp. 40-2404 states, in pertinent part:

The following are hereby defined as unfair methods of competition and unfair or deceptive acts or practices in the business of insurance:

- (9) *Unfair claim settlement practices.* It is an unfair claim settlement practice 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 indicate a general business practice.



- (b) failing to acknowledge and act reasonably promptly upon communications with respect to claims arising under insurance policies;
- (f) not attempting in good faith to effectuate prompt, fair and equitable settlements of claims in which liability has become reasonably clear;

K.S.A. 40-2407 states, in pertinent part:

- (a) If, after such hearing, the commissioner shall determine that the person charged has engaged in an unfair method of competition or an unfair or deceptive act or practice, the commissioner shall render an order requiring such person to cease and desist in such method of competition, act or practice and if the act or practice is a violation of K.S.A. 40-2404 and amendments thereto, the commissioner may in the exercise of discretion order any one or more of the following:
  - (1) Payment of a monetary penalty of not more than \$1,000 for each and every act or violation, but not to exceed an aggregate penalty of \$10,000, unless the person knew or reasonably should have known such person was in violation of this act, in which case the penalty shall be not more than \$5,000 for each and every act or violation, but not to exceed an aggregate of \$50,000 in any six-month period.
  - (2) Suspension or revocation of the person's license if such person knew or reasonably should have known such person was in violation of this act; or
  - (3) redress of the injury by requiring the refund of any premium paid by, the payment of any moneys withheld from, any consumer and appropriate public notification of the violation. In applying this penalty any requirement for the payment of moneys may include reasonable interest at a rate not to exceed the rate specified in K.S.A. 40-2,126 and amendments thereto, with such interest commencing no earlier than the date the consumer's complaint was received by the commissioner and actual costs incurred by the consumer in effectuating the payment associated directly with the injury.

K.S.A. 40-2442 states, in pertinent part:

- (a) Within 30 days after receipt of any claim, and amendments thereto, any insurer issuing a policy of accident and sickness insurance shall pay a clean claim for reimbursement in accordance with this section or send a written or electronic notice acknowledging receipt and the status of the claim. Such notice shall include the date such claim was received by the insurer and state that:

- (1) The insurer refuses to reimburse all or part of the claim and specify each reason for denial; or
  - (2) Additional information is necessary to determine if all or any part of the claim will be reimbursed and what specific additional information is necessary.
- (b) If any insurer issuing a policy of accident and sickness insurance fails to comply with subsection (a), such insurer shall pay interest at the rate of 1% per month on the amount of the claim that remains unpaid 30 days after the receipt of the claim. The interest paid pursuant to this subsection shall be included in any late reimbursement without requiring the person who filed the original claim to make any additional claim for such interest.
- (c) After receiving a request for additional information, the person claiming reimbursement shall submit all additional information requested by the insurer within 30 days after receipt of the request for additional information. Failure to furnish such additional information within the time required shall not invalidate or reduce the claim if it was not reasonably possible to give such information within such time, provided such proof is furnished as soon as possible as defined (within the time prescribed) in paragraph (7) of subsection (A) of K.S.A. 40-2203, and amendments thereto.
- (d) Within 15 days after receipt of all the requested additional information, an insurer issuing a policy of accident and sickness insurance shall pay a clean claim in accordance with this section or send a written or electronic notice that states:
- (1) Such insurer refuses to reimburse all or part of the claim; and
  - (2) Specifies each reason for denial. Any insurer issuing a policy of accident and sickness insurance that fails to comply with this subsection shall pay interest on any amount of the claim that remains unpaid at the rate of 1% per month
- (e) Any violation of this act by an insurer issuing a policy of accident and sickness insurance with flagrant and conscious disregard of the provisions of this act or with such frequency as to constitute a general business practice shall be considered a violation of the unfair trade practices act in K.S.A. 40-2401 *et seq.* and amendments thereto.

K.A.R. 40-1-34 states, in pertinent part:

Section 6. Failure to Acknowledge Pertinent Communications

- (A) Every insurer, upon receiving notification of a claim shall, within ten working days, acknowledge the receipt of such notice unless payment is made within such period of time. If an acknowledgement is made by means other than writing, an appropriate notation of such acknowledgement shall be made in the claim file of the insurer and dated.
- (B) Every insurer, upon receipt of any inquiry from the insurance department respecting a claim shall, within fifteen working days of receipt of such inquiry, furnish the department with an adequate response to the inquiry.
- (C) 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.

Section 7. Standards for Prompt Investigation of Claims

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

Section 8.

- (D) Insurers shall not fail to settle first party claims on the basis that responsibility for payment should be assumed by others except as may otherwise be provided by policy provisions.

**Conclusions of Law**

Based upon the Findings of Fact enumerated in Paragraphs #1 through #134 and the Applicable Law stated above, **THE COMMISSIONER FINDS:**

1. The Commissioner has jurisdiction over Benicorp as well as the subject matter of this proceeding and such proceeding is held in the public interest.

2. The Commissioner finds that Benicorp failed to pay the claims referenced in Ms. Grimm's complaint within 30 days of receipt of said claims in violation of K.S.A. 40-2442(a).
3. The Commissioner finds that Benicorp violated K.S.A. 2006 Supp. 40-2404(9)(A)(b); K.S.A. 2006 Supp. 40-2404(9)(B)(b); and K.S.A. 2006 Supp. 40-2404(9)(f) by failing to acknowledge and act reasonably promptly upon communications with respect to claims arising under insurance policies and not attempting in good faith to effectuate prompt, fair, and equitable settlement of claims in which liability has become reasonably clear with respect to Ms. Grimm's claims.
4. The Commissioner finds that Benicorp failed to pay the claim referenced in Ms. Echols' complaint within 30 days of receipt of said claims in violation of K.S.A. 40-2442(a).
5. The Commissioner finds that Benicorp violated K.S.A. 2006 Supp. 40-2404(9)(f) by not attempting in good faith to effectuate prompt, fair and equitable settlement of claims in which liability had become reasonably clear with respect to the claims referenced in Ms. Echols' complaint.
6. The Commissioner finds that Benicorp failed to pay the claim referenced in Ms. Ramsey's complaint within 30 days of receipt of said claims in violation of K.S.A. 40-2442(a).
7. The Commissioner finds that Benicorp violated K.S.A. 2006 Supp. 40-2404(9)(f) by not attempting in good faith to effectuate prompt, fair and equitable settlement

of claims in which liability had become reasonably clear with respect to the claims referenced in Ms. Ramsey's complaint.

8. The Commissioner finds that Benicorp failed to pay the claims referenced in Mr. Elznic's complaint within 30 days of receipt of said claims in violation of K.S.A. 40-2442(a).
9. The Commissioner finds that Benicorp violated K.S.A. 2006 Supp. 40-2404(9)(f) by not attempting in good faith to effectuate prompt, fair and equitable settlement of claims in which liability had become reasonably clear with respect to the claims referenced in Mr. Elznic's complaint.
10. The Commissioner finds that Benicorp failed to pay the claims referenced in Ms. Bartlett's complaint within 30 days of receipt of said claims in violation of K.S.A. 40-2442(a).
11. The Commissioner finds that Benicorp violated K.S.A. 2006 Supp. 40-2404(9)(f) by not attempting in good faith to effectuate prompt, fair and equitable settlement of claims in which liability had become reasonably clear with respect to the claims referenced in Ms. Bartlett's complaint.
12. The Commissioner finds that Benicorp violated K.A.R. 40-1-34, Sec. 8D by requesting Ms. Bartlett submit claims to Beachstreet instead of Benicorp.
13. The Commissioner finds that Benicorp failed to pay the claims referenced in Ms. Hampton's complaint within 30 days of receipt of said claims in violation of K.S.A. 40-2442(a).
14. The Commissioner finds that Benicorp violated K.S.A. 2006 Supp. 40-2404(9)(f) by not attempting in good faith to effectuate prompt, fair and equitable settlement

of claims in which liability had become reasonably clear with respect to the claims referenced in Ms. Hampton's complaint.

15. The Commissioner finds that Benicorp failed to pay the claims referenced in Mr. Russell's complaint within 30 days of receipt of said claims in violation of K.S.A. 40-2442(a).
16. The Commissioner finds that Benicorp violated K.S.A. 2006 Supp. 40-2404(9)(f) by not attempting in good faith to effectuate prompt, fair and equitable settlement of claims in which liability had become reasonably clear with respect to the claims referenced in Mr. Russell's complaint.
17. The Commissioner finds that Benicorp violated K.A.R. 40-1-34 Sec. 6B by failing to respond to Ms. Welch's inquiry within fifteen working days of receipt of such inquiry with respect to Ms. Russell's complaint.
18. The Commissioner finds that Benicorp failed to pay the claim referenced in Ms. Sneed's complaint within 30 days of receipt of said claim in violation of K.S.A. 40-2442(a).
19. The Commissioner finds that Benicorp violated K.S.A. 2006 Supp. 40-2404(9)(f) by not attempting in good faith to effectuate prompt, fair and equitable settlement of claims in which liability had become reasonably clear with respect to the claim referenced in Ms. Sneed's complaint.
20. The Commissioner finds that Benicorp violated K.A.R. 40-1-34 Sec. 6B by failing to respond to Ms. Welch's inquiry within fifteen working days of receipt of such inquiry with respect to Ms. Sneed's complaint.

21. The Commissioner finds that Benicorp failed to pay the claims referenced in Ms. Robinson's complaint within 30 days of receipt of said claim in violation of K.S.A. 40-2442(a).
22. The Commissioner finds that Benicorp violated K.S.A. 2006 Supp. 40-2404(9)(f) by not attempting in good faith to effectuate prompt, fair and equitable settlement of claims in which liability had become reasonably clear with respect to the claim referenced in Ms. Robinson's complaint.
23. The Commissioner finds that Benicorp violated K.A.R. 40-1-34 Sec. 6B by failing to respond to Ms. Welch's inquiry within fifteen working days of receipt of such inquiry with respect to Ms. Robinson's complaint.
24. The Commissioner finds that Benicorp failed to pay the claims referenced in Mr. Higbie's complaint within 30 days of receipt of said claims in violation of K.S.A. 40-2442(a).
25. The Commissioner finds that Benicorp violated K.S.A. 2006 Supp. 40-2404(9)(f) by not attempting in good faith to effectuate prompt, fair and equitable settlement of claims in which liability had become reasonably clear with respect to the claim referenced in Mr. Higbie's complaint.
26. The Commissioner finds that Benicorp violated K.A.R. 40-1-34 Sec. 6B by failing to respond to Ms. Welch's inquiry within fifteen working days of receipt of such inquiry with respect to Mr. Higbie's complaint.
27. The Commissioner finds that Benicorp failed to pay the claims referenced in Ms. Smith's complaint within 30 days of receipt of said claims in violation of K.S.A. 40-2442(a).

28. The Commissioner finds that Benicorp violated K.S.A. 2006 Supp. 40-2404(9)(f) by not attempting in good faith to effectuate prompt, fair and equitable settlement of claims in which liability had become reasonably clear with respect to the claims referenced in Ms. Smith's complaint.
29. The Commissioner finds that Benicorp failed to pay the claims referenced in Ms. Youngers' complaint within 30 days of receipt of said claims in violation of K.S.A. 40-2442(a).
30. The Commissioner finds that Benicorp violated K.S.A. 2006 Supp. 40-2404(9)(f) by not attempting in good faith to effectuate prompt, fair and equitable settlement of claims in which liability had become reasonably clear with respect to the claims referenced in Ms. Youngers' complaint.
31. The Commissioner finds that Benicorp failed to pay the claim referenced in Ms. Bybee's complaint within 30 days of receipt of said claims in violation of K.S.A. 40-2442(a).
32. The Commissioner finds that Benicorp violated K.S.A. 2006 Supp. 40-2404(9)(f) by not attempting in good faith to effectuate prompt, fair and equitable settlement of claims in which liability had become reasonably clear with respect to the claim referenced in Ms. Bybee's complaint.
33. The Commissioner finds that Benicorp failed to pay the claim referenced in Ms. Ryals' complaint within 30 days of receipt of said claims in violation of K.S.A. 40-2442(a).
34. The Commissioner finds that Benicorp violated K.S.A. 2006 Supp. 40-2404(9)(f) by not attempting in good faith to effectuate prompt, fair and equitable settlement



of claims in which liability had become reasonably clear with respect to the claims referenced in Ms. Ryals' complaint.

35. The Commissioner finds that Benicorp violated K.A.R. 40-1-34 Sec. 7 by failing to complete investigation of a claim within thirty days after notification of the claims with respect to the claims referenced in Ms. Ryals' complaint.
36. The Commissioner finds that Benicorp violated K.S.A. 2006 Supp. 40-2404(9)(f) by not attempting in good faith to effectuate prompt, fair and equitable settlement of claims in which liability had become reasonably clear with respect to the claims referenced in Mr. Ida's complaint.
37. The Commissioner finds that Benicorp failed to pay the claims referenced in Mr. Ferguson's complaint within 30 days of receipt of said claims in violation of K.S.A. 40-2442(a).
38. The Commissioner finds that Benicorp violated K.S.A. 2006 Supp. 40-2404(9)(f) by not attempting in good faith to effectuate prompt, fair and equitable settlement of claims in which liability had become reasonably clear with respect to the claims referenced in Mr. Ferguson's complaint.
39. Based on the facts and circumstances set forth herein, it appears that the use of summary proceedings in this matter are appropriate, in accordance with the provisions set forth in K.S.A. 77-537(a), in that the use of summary proceedings does not violate any provision of the law and the protection of the public interest does not require KID to give notice and opportunity to participate to persons other than Benicorp.

**IT IS THEREFORE ORDERED BY THE COMMISSIONER OF INSURANCE THAT** the Certificate of Authority of Benicorp is hereby **SUSPENDED** pursuant to K.S.A. 40-2,125(a)(2) for the above-stated violations of the Kansas insurance statutes and Kansas insurance regulations.

**IT IS FURTHER ORDERED** that Benicorp shall redress the injuries of the above-named complainants by the payment of any and all claim moneys withheld from all claims due and payable including, but not limited to, the claims referenced above in the Findings of Fact pursuant to K.S.A. 40-2407(a)(3).

**IT IS FURTHER ORDERED** that Benicorp shall pay a monetary penalty in the amount of [\$], due and payable to the Kansas Insurance Department for the above-stated violations of Kansas insurance statutes and Kansas insurance regulations.

**NOTICE OF RIGHT TO HEARING OR APPEAL**

Benicorp Insurance Company (“Benicorp”) is entitled to a hearing pursuant to K.S.A. 77-537, the Kansas Administrative Procedure Act. If Benicorp desires a hearing, it must file a written request for a hearing with:

John W. Campbell, General Counsel  
Kansas Insurance Department  
420 S.W. 9<sup>th</sup> Street  
Topeka, Kansas 66612

This request must be filed within fifteen (15) days from the date of service of this Order. If Benicorp requests a hearing, the Kansas Insurance Department will notify Benicorp of the time and place of the hearing and information on the procedures, right of representation, and other rights of parties relating to the conduct of the hearing, before commencement of the same.

If a hearing is not requested in the time and manner stated above, this Order shall become effective as a Final Order upon the expiration of time for requesting a hearing, pursuant to K.S.A. 77-613. In the event Benicorp files a petition for judicial review, pursuant to K.S.A. 77-613(e), the agency officer to be served on behalf of the Kansas Insurance Department is:

John W. Campbell, General Counsel  
Kansas Insurance Department  
420 S.W. 9<sup>th</sup> Street  
Topeka, Kansas 66612

**IT IS SO ORDERED THIS 2nd DAY OF AUGUST, 2007, IN THE CITY OF TOPEKA, COUNTY OF SHAWNEE, STATE OF KANSAS.**



/s/ Sandy Praeger  
Sandy Praeger  
Commissioner of Insurance

By:

/s/ John W. Campbell  
John W. Campbell  
General Counsel

Submitted and Approved By:

/s/ Zachary J.C. Anshutz  
Zachary J.C. Anshutz  
Staff Attorney

**Certificate of Service**

The undersigned hereby certifies that a true and correct copy of the above and foregoing Summary Order and Notice of Right to Hearing or Appeal was served by placing the same in the United States Mail, first class postage prepaid, on this   2nd   day of   August  , 2007, addressed to the following:

Steven L. Lange  
Executive Vice President & Chief Operating Officer  
7702 Woodland Drive Suite 200  
Indianapolis, Indiana 46278

  /s/  Zachary J.C. Anshutz \_\_\_\_\_  
Zachary J.C. Anshutz  
Staff Attorney