

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

In the Matter of )  
**HUMANA INSURANCE COMPANY AND** ) Docket No. 3945-MC  
**HUMANA HEALTH PLAN** )

**ORDER**

Pursuant to the authority conferred upon the Commissioner of Insurance in K.S.A. 40-222, Sandy Praeger, the duly elected, qualified and serving Commissioner of Insurance hereby adopts the Kansas Insurance Department’s Report of Market Conduct Examination of Humana Insurance Company and Humana Health Plan (collectively “Humana”) as of March 31, 2007, (attached herein as Attachment A) by incorporating the same in its entirety with specific findings stated as follows. This Order shall become effective as a Final Order, without further notice, upon the expiration of the fifteen (15) day period if no request for a hearing is made, pursuant to K.S.A. §77-542.

**Findings of Fact**

1. The Commissioner of Insurance has jurisdiction over this matter pursuant to K.S.A. 40-222.
2. The Kansas Insurance Department (“KID”) completed a targeted market conduct examination of Humana. The period of examination was January 1, 2005 through March 31, 2007.
3. On or about June 18, 2008, the Examiner-in-Charge provided Humana with a draft of the Market Conduct Examination with request for Humana’s response in the form of written comments, additions, or acceptance.
4. Humana responded with written comments regarding the draft report on July 31, 2008.

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5. The Kansas Commissioner of Insurance has since fully reviewed said Kansas report which is attached herein as Attachment A.
6. Tests for Complaint Handling
  - a. One Humana file experienced a program loading error and benefits were not re-calculated when the error was corrected causing the company to fail to disclose all benefits and coverage.
  - b. Five files did not pay interest pursuant to K.S.A. 40-2442(b).
  - c. Eleven additional errors resulted from the program loading error.
7. Tests for Claim Handling
  - a. Standard 1 required the initial contact by the regulated entity with the claimant be within the time frame required by K.A.R. 40-1-34 and K.S.A. 40-2442(a) and (b). Humana failed this standard.
  - b. Standard 2 required that timely investigations be conducted pursuant to K.A.R. 40-1-34, Sec. 7 and 8(c) and K.S.A. 40-2442(a)(b).

#### **Applicable Law**

K.S.A. §40-222 states, in pertinent part:

- (a) Whenever the commissioner of insurance deems it necessary but at least once every five years, the commissioner may make, or direct to be made, a financial examination of any insurance company in the process of organization, or applying for admission or doing business in this state. In addition, at the commissioner's discretion the commissioner may make, or direct to be made, a market regulation examination of any insurance company doing business in this state.

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

of 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.
- (a) 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.

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

Sec. 5.

- (a) No insurer shall fail to fully disclose to first party claimants all pertinent benefits, coverages or other provisions of an insurance policy or insurance contract under which a claim is presented.

Sec. 6

- (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 acknowledgment is made by means other than writing, an appropriate notation of such acknowledgment shall be made in the claim file of the insurer and dated. Notification given to an agent of an insurer shall be notification to the insurer.
- (d) Every insurer, upon receiving notification of claim, shall promptly provide necessary claim forms, instructions, and reasonable assistance so that first party claimants can comply with the policy conditions and the insurer's reasonable requirements. Compliance with this paragraph within ten working days of notification of a claim shall constitute compliance with subsection (a) of this section.

Sec. 8

- (b) 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 investigation.

### **Conclusions of Law**

Based upon the Findings of Fact enumerated in Paragraphs #1 through #7 and the Applicable Law cited above,

#### **IT IS, THEREFORE, ORDERED BY THE COMMISSIONER OF INSURANCE:**

1. The Commissioner of Insurance has jurisdiction over this matter pursuant to K.S.A. 40-222.
2. The Kansas Insurance Department's ("KID") Report of Market Conduct Examination of Humana as of March 31, 2007, is herein adopted in its entirety.
3. Humana's failure to comply with the requirements of Tests for Complaint Handling Standard 3 constitutes violations of K.A.R. 40-1-34, Sec. 5(a).
4. Pursuant to K.S.A. 40-2,125(a)(1), Humana shall pay a monetary penalty of Six Thousand Dollars and No Cents (\$6,000.00) for the above-stated violations of K.A.R. 40-1-34, Sec. 5(a).
5. Humana's failure to comply with the requirements of Tests for Claims Handling Standard 1 constitute violations of K.S.A. 40-2442(a), K.S.A. 40-2442(b), K.A.R. 40-1-34, Sec. 6(a) and (d). Humana's failure to comply Standard 2 constitute violations of K.S.A. 40-2442(a), K.S.A. 40-2442(b), and K.A.R. 40-1-34, Sec. 8(c).
6. Pursuant to K.S.A. 40-2,125(a)(1), Humana shall pay a monetary penalty in the amount of One Thousand Dollars and No Cents (\$1,000.00) for the above-stated violations of K.S.A. 40-2442 and K.A.R. 40-1-34.

**IT IS SO ORDERED THIS 30th DAY OF OCTOBER 2008, 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

**NOTICE OF RIGHTS**

Humana is entitled to a hearing pursuant to K.S.A. 77-537, the Kansas Administrative Procedure Act. If Humana desires a hearing, the company 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 Humana requests a hearing, the Kansas Insurance Department will notify the company 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 the 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 that Humana 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

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that he served the above and foregoing Order and Notice of Rights on this 30th day of October, 2008, by causing the same to be deposited in the United States Mail, registered mail with return-receipt requested postage prepaid, addressed to the following:

Mr. Dan Haney, Compliance Director  
Humana Insurance Company  
1100 Employers Road  
DePere, WI 54115-8187

/s/ Zachary J.C. Anshutz  
Zachary J.C. Anshutz  
Assistant General Counsel