

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

In the Matter of

**COVENTRY HEALTH CARE OF KANSAS, INC. AND
COVENTRY HEALTH AND LIFE INSURANCE COMPANY**

)
)Docket No. 4366-MC
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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 Coventry Health Care of Kansas, Inc. and Coventry Health and Life Insurance Company (collectively “Coventry”) as of October 31, 2010, (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 Coventry. The period of examination was June 1, 2008 through October 31, 2010.

3. On or about July 8, 2011 the Examiner-in-Charge provided Coventry with a draft of the Market Conduct Examination with request for Coventry's response in the form of written comments, additions, or acceptance.
4. Coventry responded with written comments regarding the draft report.
5. The Market Conduct Examination Report created by KID is attached herein.
6. Tests for Operations and Management.
 - a. Standard 6 examines to ensure that the regulated entity is adequately monitoring the activities of any entity that contractually assumes a business function or is acting on behalf of the regulated entity.
 - i. The participation agreement between Coventry subsidiaries and MHNNet require regular reports on various business operations including claims processing. However, the number and types of claims processing errors found during our examination indicate that these reports either do not provide enough detail to discover these errors or they are not interpreted correctly.
 - ii. Coventry failed standard 6.
7. Tests for Claim Handling.
 - a. Standard 1 examines to ensure that the initial contact by the company with the claimant is within the required time frame.
 - i. Out of a sample of 109 paid claims in years 2009 and 2010, there were 26 claims which did not include an acknowledgment within 30 days.
Out of a sample of 109 claims where payment was not due, 30 claims

did not include an acknowledgment within 30 days. This is in violation of K.S.A. 40-2442(a).

- ii. Coventry failed standard 1.
- b. Standard 2 examines to ensure that timely investigations are being conducted.
 - i. Out of a sample of 109 paid claims in years 2009 and 2010, there were 21 claims that were not investigated within 30 days from the date of receipt. Out of a sample of 109 claims where payment was not due, 22 claims were not investigated within 30 days from the date of receipt. This is in violation of K.A.R. 40-1-34.
 - ii. Coventry failed standard 2.
- c. Standard 3 examines to ensure that claims are resolved in a timely manner.
 - i. Out of a sample of 109 paid claims in years 2009 and 2010, there were 27 clean claims not paid within 30 days. Out of a sample of 109 claims where payment was not due, 31 clean claims were not properly paid. This is in violation of K.S.A. 40-2442(a).
 - ii. Coventry failed standard 3.
- d. Standard 5 examines to ensure that claim files are adequately documented.
 - i. Out of a sample of 109 claims where payment was not due, 10 claim files did not contain an explanation of benefits which is a violation of section 4 of the NAIC Unfair Claim Settlement Practice Model Regulation as adopted by K.A.R. 40-1-34.
 - ii. Coventry failed standard 5.

- e. Standard 6 examines to ensure that claims are properly handled in accordance with policy provisions and applicable statutes (including HIPAA), rules and regulations.
 - i. Out of a sample of 109 paid claims in years 2008 and 2009, there were 12 claims where payment after 30 days of receipt of the claim did not include interest. Out of a sample of 109 paid claims in years 2009 and 2010, there were 10 claims where payment after 30 days of receipt of the claim did not include interest. This is in violation of K.S.A. 40-2442(b).
 - ii. Coventry failed standard 6.
- f. Standard 9 examines denied and closed-without-payment claims to ensure that they are handled in accordance with policy provisions and state law.
 - i. Out of a sample of 109 claims which payment was not due, 92 claims did not comply with K.S.A. 40-2442(a).
 - ii. Coventry failed standard 9.

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.

(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.

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

Section 4.

The insurer's claim files shall be subject to examination by the (Commissioner) or by his duly appointed designees. Such files shall contain all notes and work papers pertaining to the claim in such detail that pertinent events and the dates of such events can be reconstructed.

Section 7.

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.

Conclusions of Law

Based upon the Findings of Fact enumerated in Paragraphs #1 through #14 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 Coventry as of October 31, 2010 is herein adopted in its entirety.
3. Coventry's failure to acknowledge a claim within 30 days after the receipt of such claim constitutes a violation of K.S.A. 40-2442(a).
4. Pursuant to K.S.A. 40-2,125(a)(1), Coventry shall pay a monetary penalty of Two Thousand One Hundred Fifty Dollars and No Cents (\$2,150.00) for the above-stated violations of K.S.A. 40-2442(a).
5. Coventry's failure to properly conduct a claim investigation within 30 days after receipt of such claim constitutes a violation of section 7 of the NAIC Unfair Claim Settlement Practice Model Regulation as adopted by K.A.R. 40-1-34.
6. Pursuant to K.S.A. 40-2,125(a)(1), Coventry shall pay a monetary penalty of One Thousand Seventy Five Dollars and No Cents (\$1,075.00) for the above-stated violations of section 7 of the NAIC Unfair Claim Settlement Practice Model Regulation as adopted by K.A.R. 40-1-34.
7. Coventry's failure to pay clean claims within 30 days from receipt of such claim constitutes a violation of K.S.A. 40-2442(a).
8. Pursuant to K.S.A. 40-2,125(a)(1), Coventry shall pay a monetary penalty of Three Thousand Six Hundred Seventy Five Dollars and No Cents (\$3,675.00) for the above-stated violations of K.S.A. 40-2442(a).
9. Coventry's failure to adequately document the claim files is a violation of section 4 of the NAIC Unfair Claim Settlement Practice Model Regulation as adopted by K.A.R. 40-1-34.

10. Pursuant to K.S.A. 40-2,125(a)(1), Coventry shall pay a monetary penalty of One Hundred Dollars and No Cents (\$100.00) for the above-stated violations of section 4 of the NAIC Unfair Claim Settlement Practice Model Regulation as adopted by K.A.R. 40-1-34.
11. Coventry's failure to pay interest on claims which payment was issued at some date after the initial 30 days allowed to pay a claim is a violation of K.S.A. 40-2442(b).
12. Pursuant to K.S.A. 40-2,125(a)(1), Coventry shall pay a monetary penalty of Five Hundred Fifty Dollars and No Cents (\$550.00) for the above-stated violations of K.S.A. 40-2442(b).
13. Coventry's failure to send proper notice of denied claims or deny claims for improper reasons constitutes violations of K.S.A. 40-2442(a).
14. Pursuant to K.S.A. 40-2,125(a)(1), Coventry shall pay a monetary penalty of Nine Thousand Two Hundred Dollars and No Cents (\$9,200.00) for the above-stated violations of K.S.A. 40-2442(a).

IT IS SO ORDERED THIS 29th DAY OF SEPTEMBER 2011, IN THE CITY OF TOPEKA, COUNTY OF SHAWNEE, STATE OF KANSAS.



/s/ Sandy Praeger
Sandy Praeger
Commissioner of Insurance

BY:

/s/ Zachary Anshutz
Zachary Anshutz
General Counsel

NOTICE OF RIGHTS

Coventry is entitled to a hearing pursuant to K.S.A. 77-537, the Kansas Administrative Procedure Act. If Coventry desires a hearing, the company must file a written request for a hearing with:

Zachary Anshutz, General Counsel
Kansas Insurance Department
420 S.W. 9th Street
Topeka, Kansas 66612

This request must be filed within fifteen (15) days from the date of service of this Order. If Coventry 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 Coventry 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:

Zachary Anshutz, General Counsel
Kansas Insurance Department
420 S.W. 9th 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 29th day of September 2011, by causing the same to be deposited in the United States Mail, registered mail with return-receipt requested postage prepaid, addressed to the following:

Michael Bahr
President
Coventry Health and Life Insurance Co.
6705 Rockledge Dr. Suite 900
Bethesda, MD 20817

Michael Murphy
President
Coventry Health Care of Kansas
8320 Ward Pkwy
Kansas City, MO 64114

_ /s/ Jennifer R. Sourk _____
Jennifer R. Sourk
Staff Attorney