

**FINAL ORDER**

**EFFECTIVE: 9-14-12**

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

|  |   |                    |
|--|---|--------------------|
| In the Matter of the Proposed Adoption       | ) |                    |
| of the Financial Condition Examination       | ) |                    |
| Report As of June 30, 2011                   | ) | Docket No. 4482-ER |
| <b>Kansas Health Care Provider Insurance</b> | ) |                    |
| <b>Availability Plan</b>                     | ) |                    |

**ORDER**

NOW COMES on for formal disposition the matter of the proposed adoption of the financial condition examination report as of June 30, 2011 of Kansas Health Care Provider Insurance Availability Plan. 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, Sandy Praeger, the duly elected Commissioner of Insurance, having fully considered and reviewed the financial condition examination report, together with all written submissions, applicable rebuttals, and all relevant portions of the examiners' work papers, and further, being fully advised on all premises, hereby find:

**Policy Reasons**

It is stated 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 once every five (5) years. Through the examination process, the insurance consuming public will be well served and protected.

### **Findings of Fact**

1. The Commissioner of Insurance has jurisdiction over this matter pursuant to K.S.A. 40-222.

2. An examination of Kansas Health Care Provider Insurance Availability Plan was undertaken by the Kansas Insurance Department and was completed on April 6, 2012.

3. The examiner-in-charge tendered and filed with the Kansas Insurance Department a verified written report of the examination within thirty (30) days following completion of the examination, to wit, on April 6, 2012.

4. Following receipt of the verified report, the Kansas Insurance Department transmitted the report to Kansas Health Care Provider Insurance Availability Plan on June 27, 2012, with a duly executed notice advising the company of its opportunity to prepare and submit to the Kansas Insurance Department a written submission or rebuttal with respect to any and all matters contained in the report. Kansas Health Care Provider Insurance Availability Plan was further advised that any written submission or rebuttal needed to be filed with the Kansas Insurance Department no later than thirty (30) days after receipt of the verified report.

5. Kansas Health Care Provider Insurance Availability Plan filed a written acceptance of the verified report on July 18, 2012.

6. Based upon the written submission tendered, Kansas Health Care Provider Insurance Availability Plan took no exceptions to matters contained in the verified report.

7. Within thirty (30) days of the end of the time period allowed for written submission or rebuttal, the Commissioner of Insurance fully reviewed the report, together with all written submissions and rebuttals provided by Kansas Health Care Provider Insurance Availability Plan. The Commissioner of Insurance further reviewed all relevant workpapers.

8. No other written submissions or rebuttals were submitted by Kansas Health Care Provider Insurance Availability Plan.

### **Conclusion of Law**

9. 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 examiners workpapers and enter an order:

(A) Adopting the examination report as filed or with modification 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.”

10. Based upon the Findings of Fact enumerated in paragraphs #1 through #8 above, the financial condition examination report as of June 30, 2011 of Kansas Health Care Provider Insurance Availability Plan should be adopted.

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

1. The financial condition examination report as of June 30, 2011 of Kansas Health Care Provider Insurance Availability Plan hereby is adopted.

2. The Commissioner of Insurance retains jurisdiction over this matter to issue any and all further Orders deemed appropriate or to take such further action necessary to dispose of this matter.

**IT IS SO ORDERED THIS \_\_27th\_\_ DAY OF AUGUST, 2012 IN THE CITY OF TOPEKA, COUNTY OF SHAWNEE, STATE OF KANSAS.**



\_\_\_\_\_/s/ Sandy Praeger\_\_\_\_\_

Sandy Praeger

Commissioner of Insurance

By:

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

Zachary J. C. Anshutz

General Counsel

**NOTICE OF RIGHTS TO HEARING AND REVIEW**

Within fifteen (15) days of the date of service of this Order, Kansas Health Care Provider Insurance Availability Plan may submit a written request for a hearing pursuant to K.S.A. 77-537 and K.S.A. 77-542. Any request for a hearing should be addressed to the following:

Zachary J.C. Anshutz, General Counsel  
Kansas Insurance Department  
420 S.W. 9<sup>th</sup> Street  
Topeka, Kansas 66612

If a hearing is requested, the Kansas Insurance Department will serve notice of the time and place of the hearing and information on procedures, right of representation, and other rights of parties relating to the conduct of the hearing.

**If a hearing is not requested in the time and manner stated above, this Order shall become effective as a Final Order, without further notice, upon the expiration of time for requesting a hearing.** In the event Kansas Health Care Provider Insurance Availability Plan 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 J.C. Anshutz, 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 a true and correct copy of the above and foregoing **Order** and accompanying **Notice of Rights** on this \_\_27th\_\_ day of \_\_\_\_Aug.\_\_\_\_, 2012, by causing the same to be placed in the United States Mail, first class postage prepaid, addressed to the following:

Ms. Mary Ellen Conlee, Chairperson  
Kansas Health Care Provider Insurance Availability Plan  
623 W. 10<sup>th</sup> Avenue, Suite 200  
Topeka, Kansas 66612

\_s/ Kenneth Abitz \_\_\_\_\_  
Kenneth Abitz  
Chief Examiner