

**IN THE DEPARTMENT OF COMMERCE AND INSURANCE
STATE OF MISSOURI**

In Re:)
)
HUMANA INSURANCE COMPANY) **Market Conduct Examination**
(NAIC #73288)) **No. 1603-17-TGT**
) **NAIC MATS NO. MO-HICKSS1-17**

ORDER OF THE DIRECTOR

NOW, on this 09th day of February, 2021, Director, Chlora Lindley-Myers, after consideration and review of the market conduct examination report of Humana Insurance Company (NAIC #73288) (hereinafter “Humana”), examination report number 1603-17-TGT, prepared and submitted by the Division of Insurance Market Regulation (hereinafter “Division”) pursuant to §374.205.3(3)(a)¹, does hereby adopt such report as filed. After consideration and review of the Stipulation of Settlement and Voluntary Forfeiture (“Stipulation”), relating to the market conduct examination no. 1603-17-TGT, the examination report, relevant work papers, and any written submissions or rebuttals, the findings and conclusions of such report are deemed to be the Director’s findings and conclusions accompanying this order pursuant to §374.205.3(4). The Director does hereby issue the following orders:

This order, issued pursuant to §374.205.3(4), §374.280 RSMo, and §374.046.15. RSMo, is in the public interest.

IT IS THEREFORE ORDERED that Humana and the Division having agreed to the Stipulation, the Director does hereby approve and agree to the Stipulation.

IT IS FURTHER ORDERED that Humana shall not engage in any of the violations of law and regulations set forth in the Stipulation, shall implement procedures to place it in full compliance with the requirements in the Stipulation and the statutes and regulations of the State of Missouri, and to maintain those corrective actions at all times, and shall fully comply with all terms of the Stipulation.

¹ All references, unless otherwise noted, are to Missouri Revised Statutes 2016 as amended.

IT IS FURTHER ORDERED that Humana shall pay, and the Department of Commerce and Insurance, State of Missouri, shall accept, the Voluntary Forfeiture of \$500.00 payable to the Missouri State School Fund in connection with the examination.

IT IS SO ORDERED.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of my office in Jefferson City, Missouri, this 02th day of February, 2021.



Chlora Lindley-Myers

Chlora Lindley-Myers
Director

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STIPULATION OF SETTLEMENT AND VOLUNTARY FORFEITURE

It is hereby stipulated and agreed by the Division of Insurance Market Regulation (hereinafter “the Division”), and Humana Insurance Company (NAIC #73288) (hereinafter “Humana”) as follows:

WHEREAS, the Division is a unit of the Missouri Department of Commerce and Insurance (hereinafter “the Department”), an agency of the State of Missouri, created and established for administering and enforcing all laws in relation to insurance companies doing business in the State of Missouri;

WHEREAS, Humana has been granted a certificate of authority to transact the business of insurance in the State of Missouri;

WHEREAS, the Division conducted a market conduct examination of Humana, examination #1603-17-TGT; and

WHEREAS, based on the market conduct examination of Humana, the Division alleges that:

1. Humana provided the Department with inaccurate autism data for the 2013, 2014, and 2015 reporting periods in violation of §376.1224.19(2) RSMo Supp. 2010.
2. Humana improperly denied or underpaid the following 16 claims and in some cases failed to pay the statutorily required interest and penalty in violation of §§375.1005, 375.1007(1),

(3) & (4), and 376.383.6.¹.

- a. Humana improperly denied three claims for failure to obtain prior authorization for Applied Behavioral Analysis (“ABA”) services although prior authorization was not required.
- b. Humana improperly denied portions of three claims on the basis that the amount exceeded the maximum allowed units even though the Company had specifically granted the provider prior authorization for the amount of services delivered.
- c. Humana improperly underpaid six claims contrary to a “Letter of Agreement” it had with the provider.
- d. Humana improperly denied one claim on the basis that it exceeded the maximum allowed for the date of service; when Humana subsequently reconsidered and paid the claim it failed to pay the statutorily required penalty.
- e. Humana improperly denied a portion of a claim incorrectly stating the insured owed coinsurance; when Humana subsequently reconsidered and paid the claim it failed to pay the statutorily required interest and penalty.
- f. Humana improperly processed two claims as out-of-network even though the provider was in the Company’s network.

WHEREAS, in response to the Division’s allegations, Humana asserts that it has corrected the underpaid or denied claims and provided documentation to the Division for the corrections made on the claims referenced in paragraphs 2a, 2b, and 2c. :

WHEREAS, the Division and Humana have agreed to resolve the issues raised in the market conduct examination as follows:

A. **Scope of Agreement.** This Stipulation of Settlement and Voluntary Forfeiture (hereinafter “Stipulation”) embodies the entire agreement and understanding of the signatories with respect to the subject matter contained herein. The signatories hereby declare and represent that no promise, inducement or agreement not herein expressed has been made, and acknowledge that the terms and conditions of this agreement are contractual and not a mere recital.

¹ All references, unless otherwise noted, are to Missouri Revised Statutes 2016.

B. **Remedial Action.** Humana agrees to take remedial action bringing it into compliance with the statutes and regulations of Missouri and agrees to maintain such remedial actions at all times, to reasonably ensure that the errors noted in the market conduct examination report do not recur. Such remedial actions shall consist of the following:

1. Humana has represented that it has implemented a new external regulatory reporting process that includes validation controls in order to ensure that all data extraction code logic is accurate prior to submission to the Department. Humana further agrees to maintain this process going forward and shall submit documentation of this new reporting process to the Department within 30 days of the entry of the Order of the Director of the Department (hereinafter “Director”). However, Humana is not required to submit annual autism reports to the Department going forward because legislation has been enacted eliminating this requirement.

2. Humana agrees to review all denied or underpaid autism claims from January 1, 2013 to the date of Director’s order approving this Stipulation, to determine whether any claims were improperly denied or underpaid. If any claim was underpaid or denied in error, the Company agrees to reprocess the claim and issue any payments that are due to the claimant. Such payment shall include the additional payment of both the 1% interest/month and a penalty of 1% of the claim per day for any submitted claim that was not paid on or before the forty-fifth processing day from the date of receipt pursuant to §376.383. An Explanation of Benefits (EOB) shall be included with any payment to a member and an Explanation of Reimbursement (EOR) shall be included with any payment to a provider. In the event that a member contacts Humana in connection with the payment or EOB or a provider contacts Humana in connection with the payment or the EOR, Humana will explain to the member or provider that as a result of a Missouri Market Conduct Examination, it was discovered that a claims payment is due to the member or provider, as appropriate.

C. **Compliance.** Humana agrees to file documentation with the Division, in a format acceptable to the Division, within 90 days of the entry of a final order of any remedial action taken pursuant to Paragraph B to implement compliance with the terms of this Stipulation. Such documentation is provided pursuant to §374.205.

D. **Fees.** Humana agrees to pay any reasonable examination fees expended by the Division in conducting its review of the documentation provided by Humana pursuant to Paragraphs B and C of this Stipulation.

E. **Voluntary Forfeiture.** Humana agrees, voluntarily and knowingly, to surrender and forfeit the sum of \$500.00 such sum payable to the Missouri State School Fund, in accordance with §374.049.11 and §374.280.2.

F. **Non-Admission.** Nothing in this Stipulation shall be construed as an admission by Humana, this Stipulation being part of a compromise settlement to resolve disputed factual and legal allegations arising out of the above-referenced market conduct examination.

G. **Waivers.** Humana, after being advised by legal counsel, does hereby voluntarily and knowingly waive any and all rights for procedural requirements, including notice and an opportunity for a hearing, and review or appeal by any trial or appellate court, which may have otherwise applied to the above-referenced market conduct examination.

H. **Changes.** No changes to this Stipulation shall be effective unless made in writing and agreed to by representatives of the Division and Humana.

I. **Governing Law.** This Stipulation shall be governed and construed in accordance with the laws of the State of Missouri.

J. **Authority.** The signatories below represent, acknowledge and warrant that they are authorized to sign this Stipulation, on behalf of the Division and Humana respectively.

K. **Counterparts.** This Stipulation may be executed in multiple counterparts, each of which shall be deemed an original and all of which taken together shall constitute a single document. Execution and delivery of this Stipulation by facsimile or by an electronically transmitted signature shall be fully and legally effective and binding.

L. **Effect of Stipulation.** This Stipulation shall become effective only upon entry of a Final Order by the Director approving this Stipulation.

M. **Request for an Order.** The signatories below request that the Director issue an Order approving this Stipulation, adopting the market conduct examination report, and ordering the relief agreed to in the Stipulation, and consent to the issuance of such Order.

DATED: 1-13-2021

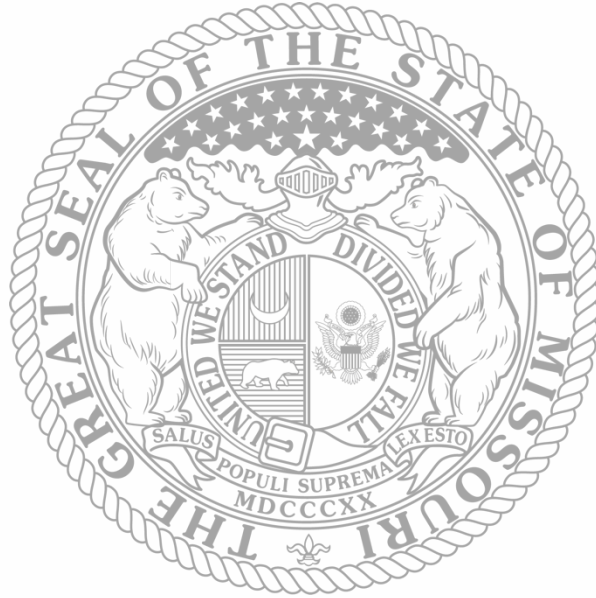


Stewart Freilich
Chief Market Conduct Examiner and
Senior Counsel
Division of Insurance Market Regulation

DATED: 1/12/2021



Kristie A. Daugherty
Associate Vice President, Group, Military
& Specialty Regulatory Compliance
Humana Insurance Company



FINAL MARKET CONDUCT EXAMINATION REPORT
Health Business of

Humana Insurance Company
NAIC #73288

MISSOURI EXAMINATION #1603-17-TGT

NAIC MATS #MO-HICKSS1-17

February 2, 2021

Home Office
500 West Main Street
Louisville, KY 40202

STATE OF MISSOURI
DEPARTMENT OF COMMERCE & INSURANCE

JEFFERSON CITY, MISSOURI

TABLE OF CONTENTS

SALUTATION	2
FOREWORD.....	2
SCOPE OF EXAMINATION.....	2
COMPANY PROFILE.....	3
EXECUTIVE SUMMARY	3
EXAMINATION FINDINGS	4
I. OPERATIONS/MANAGEMENT.....	4
II. COMPLAINT HANDLING.....	4
III. CLAIMS	5
IV. CRITICISMS AND FORMAL REQUESTS TIME STUDY	6
EXAMINATION REPORT SUBMISSION.....	8

SALUTATION

February 2, 2021

Honorable Chlora Lindley-Myers, Director
Missouri Department of Commerce and Insurance
301 West High Street, Room 530
Jefferson City, Missouri 65101

Director Lindley-Myers:

In accordance with your market conduct examination warrant, a targeted market conduct examination has been conducted of the specified lines of business and business practices of

Humana Insurance Company (NAIC #73288)

hereinafter referred to as HIC or as the Company. This examination was conducted as a desk examination at the offices of the Missouri Department of Commerce and Insurance (DCI).

FOREWORD

This examination report is generally a report by exception. However, failure to criticize specific practices, procedures, products or files does not constitute approval thereof by the DCI.

During this examination, the examiners cited errors considered potential violations made by the Company. Statutory citations were as of the examination period unless otherwise noted.

When used in this report:

- “Company” refers to the Humana Insurance Company
- “CSR” refers to the Missouri Code of State Regulations
- “DCI” refers to the Missouri Department of Commerce and Insurance
- “Director” refers to the Director of the Missouri Department of Commerce and Insurance
- “NAIC” refers to the National Association of Insurance Commissioners
- “RSMo” refers to the Revised Statutes of Missouri

SCOPE OF EXAMINATION

The DCI has authority to conduct this examination pursuant to, but not limited to, §§374.110, 374.190, 374.205, 375.938, and 375.1009, RSMo.

The purpose of this examination was to determine if the Company complied with Missouri statutes and DCI regulations. The primary period covered by this review is January 1, 2013, through December 31, 2015, unless otherwise noted. Errors found outside of this time period may also be included in the report.

The examination was a targeted examination involving the following lines of business and business functions: health insurance in the areas of operations/management, complaint handling and claims.

The examination was conducted in accordance with the standards in the NAIC's *Market Regulation Handbook*. As such, the examiners utilized the benchmark error rate guidelines from the *Market Regulation Handbook* when conducting reviews that applied a general business practice standard. The NAIC benchmark error rate for claims practices is seven percent (7%) and for other trade practices it is ten percent (10%). Error rates exceeding these benchmarks are presumed to indicate a general business practice. The benchmark error rates were not utilized, however, for reviews not applying the general business practice standard.

In performing this examination, the examiners only reviewed a sample of the Company's practices, procedures, products and files. Therefore, some noncompliant practices, procedures, products and files may not have been found. As such, this report may not fully reflect all of the practices and procedures of the Company.

COMPANY PROFILE

Humana Insurance Company (HIC), a Wisconsin corporation, was initially organized on December 18, 1968. HIC was licensed as a life and health insurance company on December 30, 1968, in the State of Wisconsin and licensed to do business in Missouri on August 10, 1983. HIC is licensed as a life and health insurance company in all states and the District of Columbia except New York. HIC is owned 100% by CareNetwork, Inc., a Wisconsin general business corporation that is a wholly owned subsidiary of Humana Inc. (Humana). Humana, a Louisville, Kentucky based Delaware corporation, is an insurance and health maintenance organization holding company and the ultimate controlling entity.

EXECUTIVE SUMMARY

The DCI conducted a targeted market conduct examination of Humana Insurance Company. The examiners found the following areas of concern:

OPERATIONS/MANAGEMENT

- The Company provided inaccurate autism data to the DCI. Reference: §376.1224.19(2), RSMo.

CLAIMS

- In many cases, the Company improperly denied or underpaid claims and failed to pay the statutorily required interest and penalty. Reference: §§375.1007(1), (3), and (4), and 376.383.6, RSMo.

EXAMINATION FINDINGS

I. OPERATIONS/MANAGEMENT

The operations/management portion of the examination provides a review of what the Company is and how it operates.

NAIC Operations/Management Standard 18: All data required to be reported to departments of insurance is complete and accurate.

For the purposes of this examination, the examiners' review for this standard focused on the Company's filing of statutorily required autism reports. Pursuant to the provisions of §376.1224.19(2), RSMo, all health carriers and health benefit plans subject to §376.1224 are required to provide the DCI with the data requested by the DCI for inclusion in the autism annual report. In order to test the accuracy of the autism data reported, the Company was requested to provide data for policies and certificates in effect and data for medical claims and pharmacy claims for calendar years 2013, 2014, and 2015. The examiners compared the examination data received to previous autism data reported and found the following errors in this review.

Finding 1: The autism data provided to the DCI for the 2013, 2014, and 2015 annual reports was inaccurate.

Reference: §376.1224.19(2), RSMo.

II. COMPLAINT HANDLING

The complaint handling portion of the examination provides a review of the Company's complaint handling practices. The examiners reviewed how the Company handled complaints to ensure it was performing according to its own guidelines and Missouri statutes and regulations.

NAIC Complaint Handling Standard 3: The regulated entity takes adequate steps to finalize and dispose of the complaint in accordance with applicable statutes, rules and regulations and contract language.

To conduct the review for this standard, the examiners first requested a listing of all complaints relating to autism claims, services or benefits processed by the Company during the examination scope. The listing provided by the Company contained three autism related complaints consisting of one complaint filed with the DCI and two complaints filed directly with the Company. The examiners requested all three of these complaint files for review.

A. Handling of DCI Complaints

Examiners reviewed the complaint file for the one complaint filed with the DCI to assess the Company's handling of this complaint. This included a review of the nature, disposition, and the time taken to process the complaint.

The examiners found no errors in this review.

B. Handling of Direct Complaints

Examiners also reviewed the complaint files for the two complaints filed directly with the Company to assess the Company's handling of these complaints. Both complaints were appeals related to approval of specific drugs.

The examiners found no errors in this review.

III. CLAIMS

The claims portion of the examination provides a review of the Company's compliance with Missouri statutes and regulations regarding claims handling practices such as the timeliness of handling, accuracy of payment, adherence to contract provisions, and compliance with Missouri statutes and regulations. For the purposes of this examination, the examiners restricted their review to claims dealing with benefits for autism services required by §376.1224, RSMo.

NAIC Claims Examination Standard 9: Denied and closed without payment claims are handled in accordance with policy provisions and state law.

To conduct the review for this standard, the examiners extracted from the claims data provided by the Company any claim lines with specific claim characteristics that indicated the claim was for autism services. From this set of autism claims, any claim lines that were denied or paid at zero were extracted. This resulted in a set of 175 claim numbers from which the examiners extracted a random sample of 59 claim numbers for review. The examiners also requested and reviewed the Company's standard operating procedures and claim processing manuals. The results of this review are summarized below.

Field Size	175
Sample Size	59
Type of Sample	Random
Number of Errors	16
Error Ratio	27.1%

The examiners found the following errors:

1. Finding 1: The Company improperly denied three claims for failure to obtain prior authorization even though prior authorization was not required.

Reference: §375.1007(1), (3), and (4), RSMo.

2. Finding 2: The Company improperly denied portions of three claims on the basis that the amounts exceeded the maximum allowed units for those dates of service even though the Company had specifically granted the provider prior authorization for the amount of services delivered.

Reference: §375.1007(1), (3), and (4), RSMo.

3. Finding 3: The Company improperly underpaid six claims contrary to a “Letter of Agreement” it had with the provider.

Reference: §375.1007(3) and (4), RSMo.

4. Finding 4: The Company improperly denied one claim on the basis that it exceeded the maximum allowed for the date of service. Although the Company subsequently reconsidered and paid the claim plus interest, it failed to pay the statutorily required penalty.

Reference: §§375.1007(1), (3), and (4), and 376.383.6, RSMo.

5. Finding 5: The Company improperly denied a portion of one claim, incorrectly stated the insured owed coinsurance, and failed to pay interest and penalty when it subsequently reprocessed the claim.

Reference: §§375.1007(1), (3) and (4), and 376.383.6, RSMo.

6. Finding 6: The Company improperly processed two claims as out-of-network even though the provider was in the Company’s network.

Reference: §375.1007(1), (3) and (4), RSMo.

IV. CRITICISMS AND FORMAL REQUESTS TIME STUDY

This study is based upon the time required by the Company to provide the examiners with the requested material or to respond to criticisms. Missouri statutes and regulations require companies to respond to criticisms and formal requests within 10 calendar days. In the event an extension of time was requested by the Company and granted by the examiners, the response was deemed timely if it was received within the subsequent time frame. If the response was not received within the allotted time, the response was not considered timely.

A. Criticism Time Study

Number of Calendar Days to Respond	Number of Criticisms	Percentage of Total
0 to 10 days	12	100%
Over 10 days with extension	0	0%
Over 10 days without extension or after extension due date	0	0%
Totals	12	100%

B. Formal Request Time Study

Number of Calendar Days to Respond	Number of Requests	Percentage of Total
0 to 10 days	30	100%
Over 10 days with extension	0	0%
Over 10 days without extension or after extension due date	0	0%
Totals	30	100%

EXAMINATION REPORT SUBMISSION

Attached hereto is the Division of Insurance Market Regulation's Final Report of the examination of Humana Insurance Company, Examination Number #1603-17-TGT, MATS # MO-HICKSS1-17. This examination was conducted by John Korte, CIE, EIC; Kembra Springs; and Mike Woolbright, CIE. The findings in the Final Report were extracted from the Market Conduct Examiner's Draft Report, dated October 6, 2020. Any changes from the text of the Market Conduct Examiner's Draft Report reflected in this Final Report were made by the Chief Market Conduct Examiner or with the Chief Market Conduct Examiner's approval.



Stewart Freilich
Chief Market Conduct Examiner

2-02-2021

Date