

BEFORE THE
SOUTH CAROLINA DEPARTMENT INSURANCE

In the Matter of:)	Docket No. 2016-3
)	
Aetna Health Inc., Successor by Merger)	Consent Order Imposing
to Coventry Health Care of the)	Administrative Penalty
Carolinas, Inc.)	
_____)	

This matter comes before me pursuant to a request by the South Carolina Department of Insurance (“Department”) for the imposition of administrative sanctions against Aetna Health Inc. (“Aetna”), successor by merger to Coventry Health Care of the Carolinas, Inc., a health maintenance organization licensed to transact business within the State of South Carolina, pursuant to S.C. Code Ann. §§ 38-2-10 and 38-33-230. Aetna consents to the terms of this Order.

FINDINGS OF FACT

1. Aetna and Coventry Health Care of the Carolinas, Inc. merged effective January 1, 2016. The merger of the two companies followed the acquisition by Aetna’s ultimate parent of the ultimate parent of Coventry Health Care of the Carolinas, Inc. The acquisition resulted in significant revenue increases and organizational challenges, including inadequate staffing, inadequate internal controls, and information technology issues for the period reviewed.
2. Aetna is a health maintenance organization domiciled in Pennsylvania, transacting business under a valid certificate of authority in South Carolina.
3. Aetna provides benefits under a point-of-service option, as evidenced by its filings with the Department.

4. The Department conducted a market conduct examination of Aetna, covering the period of January 2014 through June 2015. In the course of this examination, the Department identified several violations of the insurance laws of South Carolina as well as violations of the federal Affordable Care Act, which this Department is charged with enforcing. Those violations are set forth in the final report of examination dated July 21, 2016. Aetna reviewed the final examination report and did not have any additional comments thereto.

5. In the final examination report, the Department documented the following violations of the insurance laws of this State:

- a. Aetna failed to resolve eleven complaints;
- b. Aetna failed to issue a written decision of six appeals of adverse determinations within the time specified in its internal appeals policy;
- c. Aetna failed to provide to the Department 88 of 109 new policy files, which the Department requested in June 2015, until October 2015;
- d. Aetna failed to deliver an outline of coverage to its enrollees in 2015;
- e. Aetna failed to provide ninety days' notice of nonrenewal in 18 of 109 files the Department reviewed;
- f. Aetna failed to list the services or benefits or kind of services or benefits provided in the evidence of coverage associated with 25 of the 109 files the Department reviewed;
- g. Aetna adjudicated claims based on an evidence of coverage before receiving the Department's approval of that evidence of coverage;
- h. Aetna failed to pay claims within forty business days from receipt in 23 of the 109 files reviewed; and

i. Aetna failed to provide the thirty-day grace period required in Emergency Regulation 69-77, sending past due notices that did not contain notice of that extension to 2,312 enrollees and terminating 773 enrollees for nonpayment within the authorized grace period.

6. In addition, the Department found that Aetna did not comply with its own outline of coverage and violated several provisions of the federal Affordable Care Act by, among other things, failing to provide notice of premium increases in the proper form, failing to provide late payment notices, and improperly stating that it was subjecting enrollees to medical underwriting standards.

7. Many of the violations found by the Department during the examination were self-reported by Aetna. Further, Aetna has already corrected many of the violations the Department noted.

8. Aetna has indicated its desire to consent to the provisions of this Order.

CONCLUSIONS OF LAW

1. I have jurisdiction over the licensing, regulation, and solvency of Aetna. *See* S.C. Code Ann. § 38-33-30.

2. Aetna has committed nine violations of the insurance laws of this state:

a. Aetna's failure to resolve eleven complaints within a reasonable time violates S.C. Code Regs. 69-22, Section VI;

b. Aetna's failure to issue a written decision of six appeals of adverse determinations within the time specified in its internal appeals policy violates S.C. Code Ann. § 38-71-1960;

c. Aetna's failure to provide 88 of 109 new policy files that the Department requested in June 2015 until October 2015 violates S.C. Code Ann. § 38-33-90(B);

d. Aetna's failure to deliver outlines of coverage to its enrollees in 2015 violates S.C. Code Ann. § 38-71-550, as made applicable by Bulletin 99-2 to health maintenance organizations providing benefits under a point-of-service option pursuant to S.C. Code Ann. § 38-33-50(A)(8);

e. Aetna's failure to provide ninety days' notice of nonrenewal in 18 of 109 files reviewed violates S.C. Code Ann. § 38-71-675;

f. Aetna's failure to list the services or benefits or kind of services or benefits provided in the evidence of coverage associated with 25 of the 109 files reviewed violates S.C. Code Ann. § 38-33-80(A)(4) and S.C. Code Regs. 69-22, Section III;

g. Aetna's adjudication of claims based on an evidence of coverage before receiving the Department's approval of that evidence of coverage violates S.C. Code Ann. § 38-33-80(A)(2);

h. Aetna's failure to pay claims within forty business days from receipt in 23 of the 109 files reviewed violates S.C. Code Ann. § 38-59-230; and

i. Aetna's sending of past due notices that did not contain the required 30-day extension to 2,312 enrollees and terminating 773 enrollees for nonpayment within the authorized grace period violates Emergency Regulation 69-77.

3. S.C. Code Ann. § 38-2-10 requires me to suspend or revoke Aetna's authority to do business in this state or, alternatively, to impose an administrative fine in an amount not to exceed \$15,000 for each violation of the insurance laws of this state.

4. S.C. Code Ann. § 38-33-230 permits me to levy an administrative penalty not to exceed \$15,000 for certain violations of Chapter 33 of Title 38, including:

a. Issuance of evidence of coverage or use of a schedule of charges for health care services that does not comply with the requirements of S.C. Code Ann. § 38-33-80;

b. Failure to implement a complaint system in a reasonable manner to resolve complaints in accordance with S.C. Code Ann. § 38-33-110;

c. Failure to comply with other provisions of Chapter 33 or Regulation 69-22.

See S.C. Code Ann. §§ 38-33-180(A), -230.

5. S.C. Code Ann. § 38-33-90(B) permits me to require an HMO to file quarterly reports and additional information necessary to enable me to carry out my duties.

6. Aetna's consent to this Order constitutes a waiver of its right to thirty days' notice and an opportunity to be heard. *See* S.C. Code Ann. §§1-23-320(A); 38-33-210(B).

ORDER

In consideration of the foregoing, after full review and consideration of the final report of examination and of the parties' positions, I hereby order the following.

1. Aetna shall pay an administrative penalty of \$135,000.00, comprising \$15,000.00 for each of the nine violations of the insurance laws of this state. This administrative penalty must be paid within thirty calendar days of service of this Order. If Aetna has not paid that total amount on or before that date, then I may take further action against Aetna, including but not limited to the revocation of its certificate of authority to transact business as a health maintenance organization. This penalty is exclusive of the expenses of the market conduct examination, as provided in S.C. Code Ann. § 38-33-170(D).

2. Aetna shall implement systems and processes to correct the deficiencies noted in the examination report, to include violations of both South Carolina law and the Affordable Care

Act.

3. Aetna shall submit quarterly reports to the Department of implementation of these systems and processes along with continued compliance in the areas described above. These reports will be submitted for calendar quarter beginning with the third quarter of 2016 and ending one year thereafter. Each quarterly report shall be delivered to the Department within forty-five days following the end of each calendar quarter. Consistent with applicable law, the Department shall accord confidential treatment to work papers, recorded information, and documents produced, obtained, or disclosed by Aetna. The quarterly reports shall consist of the following information:

a. Incomplete Complaint Records: A testing of 20 complaints shall be conducted each quarter to review the level of documentation within the member complaint file to ensure adequate documentation of written acknowledgement and final resolution of complaints within a reasonable time frame. A report of the testing will be included in each quarterly report.

b. Exhaustion of Internal Appeal Process - Timely Response: A report of the results of the monthly review activities will be provided to the Department in each quarterly report.

c. Notice of Renewal of Coverage: For coverage issued in the individual market or small group market, the notices of renewal of coverage will be reviewed prior to mailing to ensure the date is populated on the letter and that the notice contains the information required by federal regulation and related standards. Confirmation of such reviews, along with a sample proof of mailing for notices sent in each market segment, will be included in the report for the 4th quarter 2016.

d. Advance Notice for Premium Increase: Notices of premium increases will be issued in accordance with the terms of the enrollees' contracts and reviewed prior to mailing to ensure the date is populated on the letter. Confirmation of such issuance and review, along with a sample proof of mailing, will be included in the report for the 4th quarter 2016.

e. Required Outline of Coverage: The outline of coverage for benefit year 2017 will be filed and approved, and posted on Aetna's website in the public domain by November 1, 2016. Aetna will provide evidence of compliance in the report for the 4th quarter 2016.

f. Conditions for Nonrenewal: Notices will be reviewed prior to mailing to ensure the date is populated on the letter. Confirmation of such review, along with a sample proof of mailing, will be included in the report for the 4th quarter 2016.

g. Compliance with Emergency Regulations: On a quarterly basis, Aetna will report any actions taken pursuant to any emergency regulation issued by the Department.

4. Nothing contained within this Order may be construed to limit, or to deprive any person of, any private right of action under the law. Nothing contained within this Order may be construed to limit, in any manner, the criminal jurisdiction of any law enforcement or judicial officer. Nothing contained within this Order may be construed to limit my statutory duty, pursuant to S.C. Code Ann. § 38-3-110, exercised either directly, my designee, or by the Department, to "report to the Attorney General or other appropriate law enforcement officials criminal violations of the laws relative to the business of insurance or the provisions of this title which he considers necessary to report."

5. The National Association of Insurance Commissioners shall immediately be notified of this Order.

IT IS SO ORDERED.



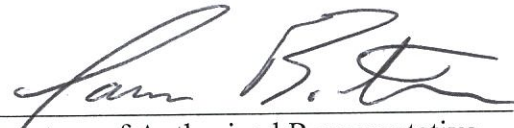
Raymond G. Farmer
Director of Insurance

Columbia, South Carolina

August 15, 2016

WE CONSENT:

Aetna Health Inc.

By: 
Signature of Authorized Representative

James Bostian
Printed Name

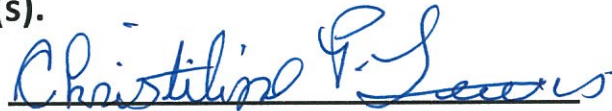
Market President – NC, SC, TN, AR
Title

August 1st, 2016

**BEFORE THE
SOUTH CAROLINA DEPARTMENT OF INSURANCE**

CERTIFICATE OF SERVICE

I, Christiline P. Lewis, hereby certify that I have served this August 17, 2016 this Consent Order Imposing Administrative Penalty upon all parties of this cause by depositing a copy hereof, in the United States mail, postage paid or by electronic mail to the address provided by the party(ies) and/or their attorney(s).



Christiline P. Lewis

**August 17, 2016
Columbia, South Carolina**