

No. **4176**

**OFFICIAL ORDER
of the
TEXAS COMMISSIONER OF INSURANCE**

Date: **NOV 05 2015**

Subject Considered:

PACIFICARE LIFE AND HEALTH INSURANCE COMPANY
5995 Plaza Drive Ms Ca 112 0267
Cypress, CA 90630

CONSENT ORDER
TDI ENFORCEMENT FILE NO. 8655

General remarks and official action taken:

The commissioner of insurance considers whether disciplinary action should be taken against Pacificare Life and Health Insurance Company (Pacificare LHIC).

WAIVER

Pacificare LHIC acknowledges that the Texas Insurance Code and other applicable laws provide certain rights. Pacificare LHIC waives all of these rights and any other applicable procedural rights in consideration of the entry of this consent order.

Pursuant to TEX. INS. CODE § 82.055(b), Pacificare LHIC agrees to this consent order with the express reservation that it does not admit to a violation of any provision of the Insurance Code or rule or regulation of the department and Pacificare LHIC maintains the existence of any violation is in dispute.

FINDINGS OF FACT

1. On August 28, 1986, TDI issued Pacificare LHIC life license no. 5848.
2. On November 12, 2012, Pacificare LHIC filed a Small Employer Carrier Status – Figure 40 Certification to TDI reporting that it did not intend to offer, issue or issue for delivery health benefit plans to small employers in the State of Texas, with the exception of offering to renew health benefit plans issued on or after July 1, 1997.
3. In April, 2013, the Managed Care and Quality Assurance (MCQA) Office began overseeing preferred provider benefit plans and exclusive provider benefit plans and prompt payment filing within TDI.

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4. On June 19, 2013, PacifiCare LHIC informed the commissioner in writing that beginning January 1, 2014, it was discontinuing its employer health benefit plans effective on each impacted employer group's annual renewal date.
5. On September 8, 2014, the MCQA Office sent PacifiCare LHIC a request for information letter informing it that it did not file its 2013 annual network adequacy report.
6. PacifiCare LHIC did not respond to MCQA's September 8, 2014, letter.
7. On December 22, 2014, TDI's Enforcement Section sent PacifiCare LHIC a second request for information letter informing it that it did not file its 2013 annual network adequacy report.
8. PacifiCare LHIC never filed its 2013 annual network adequacy report.
9. PacifiCare LHIC filed its 2014 annual network adequacy report on August 4, 2015, four months late.
10. While reviewing its network adequacy reporting, the MCQA Office also noticed that PacifiCare LHIC had not been correctly reporting the number of clean claims it received in its prompt payment reporting. Instead, PacifiCare reported zeros:

Year	Quarter	Claims Received	Clean Claims Received
2013	1	Non-institutional (NI) – 56,930 Institutional (I) - 2051	NI – 0 I - 0
2013	2	Non-institutional (NI) – 49,346 Institutional (I) - 1977	NI – 0 I - 0
2013	3	Non-institutional (NI) – 44,751 Institutional (I) - 1697	NI – 0 I - 0
2013	4	Non-institutional (NI) – 39,248 Institutional (I) - 1542	NI – 0 I - 0
2014	1	Non-institutional (NI) – 34,612 Institutional (I) - 1065	NI – 0 I - 0
2014	2	Non-institutional (NI) – 20,976 Institutional (I) - 891	NI – 0 I - 0
2014	3	Non-institutional (NI) – 15,805 Institutional (I) - 571	NI – 0 I - 0

11. In the fourth quarter of 2014, PacifiCare LHIC reported the following:

Year	Quarter	Claims Received	Clean Claims Received
2014	4	Non-institutional (NI) – 10,400 Institutional (I) - 487	NI – 10,400 I - 487

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12. On May 5, 2015, PacifiCare LHIC informed Enforcement that it did not make a determination up front whether a claim was clean or not. Instead, PacifiCare LHIC paid all of the claims it received. If PacifiCare paid a claim late, only then would then make a determination concerning whether the claim was clean or not.
13. On May 27, 2015, TDI Enforcement asked PacifiCare LHIC to report the number of clean claims received and to correct its data. PacifiCare responded that it did not have sufficient staff to determine the total number of clean claims received.
14. On June 3, 2015, TDI Enforcement again informed PacifiCare LHIC that it was not complying with the prompt payment data reporting requirements when it reported zero clean claims received.
15. On June 12, 2015, PacifiCare LHIC reported the following data:

Year	Quarter	Claims Received	Clean Claims Received
2015	1	Non-institutional (NI) – 4,425 Institutional (I) – 1,133	NI – 725 I - 69

16. On or about July 31, 2015, PacifiCare LHIC revised the data for numbers of clean claims that it reported for the fourth quarter of 2014:

Year	Quarter	Claims Received	Clean Claims Received
2014	4	Non-institutional (NI) – 10,400 Institutional (I) - 487	NI – 7028 I - 273

17. PacifiCare LHIC agrees to verify and report the number of clean claims and claims subject to audit in its prompt payment reports.

CONCLUSIONS OF LAW

1. The commissioner has jurisdiction over this matter pursuant to TEX. INS. CODE §§ 31.002; 82.051-82.055, 84.021-84.022, and 1301.101-1301.139; 28 TEX. ADMIN. CODE §§ 3.3709 and 21.2801-21.2816; and TEX. GOV'T CODE §§ 2001.051-2001.178.
2. The commissioner has authority to informally dispose of this matter under TEX. GOV'T CODE § 2001.056; TEX. INS. CODE §§ 82.055 and 36.104; and 28 TEX. ADMIN. CODE § 1.47.
3. PacifiCare LHIC violated 28 TEX. ADMIN. CODE § 3.3709 because it never filed its 2013 network adequacy report and failed to file its 2014 network adequacy report on or before April 1, 2014.

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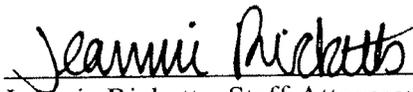
4. PacifiCare LHIC violated 28 TEX. ADMIN. CODE § 21.2821(d)(3)-(12) by failing to report the number of clean claims received.

The commissioner orders PacifiCare Life and Health Insurance Company to pay an administrative penalty of \$10,000 within 30 days of the date of this Order. The administrative penalty must be paid by company check, cashier's check, or money order made payable to the "State of Texas." Mail the administrative penalty to the Texas Department of Insurance, Attn: Enforcement Section, Division 40111, MC 9999, P.O. Box 149104, Austin, Texas, 78714-9104.



David C. Mattax
Commissioner of Insurance

Approved as to Form and Content:



Jeannie Ricketts, Staff Attorney
Enforcement Section, Compliance Division
Texas Department of Insurance

