

No. 2017- 5266

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

Date: OCT 26 2017

**Subject Considered:**

**MADISON NATIONAL LIFE INSURANCE COMPANY, INC.**  
P.O. Box 5008  
Madison, WI 53705

**CONSENT ORDER**  
TDI ENFORCEMENT FILE NO. 10760

**General remarks and official action taken:**

This Order is in consideration of whether disciplinary action should be taken against Madison National Life Insurance Company, Inc.

**WAIVER**

Madison National acknowledges that the Texas Insurance Code and other applicable laws provide certain rights. Madison National 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), Madison National agrees to this consent order with the express reservation that it does not admit to a violation of this code or of a rule; and the existence of a violation is in dispute.

**FINDINGS OF FACT**

1. The Texas Department of Insurance issued Madison National life, health, or accident license number 50320 on May 7, 1976. Madison National is a member of the Independence Holding Company (IHC) group: <http://www.ihcgroup.com/>.
2. Madison National contracts with FCE Benefit Administrators, Inc. and other third party administrators to administer its medical claims. On May 21, 2015, Madison National sent FCE a notice of termination of its agreement.

### Prompt Payment Violations

3. Effective January 1, 2010, HB 2064, enacted in the 81<sup>st</sup> Legislature, Regular Session, required an insurer to pay a portion of the statutory prompt payment penalties to the Texas Health Insurance Pool (Pool).
4. On July 3, 2015, the Pool sent an email to Madison National to inform it that the Pool found discrepancies during an audit of Madison National's monthly Pool reporting and quarterly TDI prompt payment reporting. During the first quarter of 2015, Madison National reported to TDI that it paid 16 hospital (institutional) claims late and two non-facility (non-institutional) claims more than 90 days late. These late claims should have triggered penalty payments to the Pool. However, Madison National reported to the Pool that it paid no late claim penalties.
5. In August, 2015, TDI assumed responsibility for collecting the Pool's share of prompt payment penalties.
6. On September 1, 2015, the Pool dissolved. HB 2064 remains in effect.
7. TDI records indicate there are numerous discrepancies in Madison National's prompt payment reporting, including:
  - a. **First quarter through fourth quarter 2013** - Madison National's monthly penalty reports to the Pool were inconsistent with its quarterly prompt payment reports to TDI. Madison National's quarterly prompt payment reports to TDI indicated that it owed penalties it did not pay.
  - b. **First quarter through fourth quarter 2014** - Madison National's prompt payment reports indicated that it paid claims late. However, Madison National's penalty reports indicated that it owed no penalties, or paid penalties on fewer claims than it reported late. Neither IHC nor Madison National responded to the Pool's request for clarification of these discrepancies. Madison National did not submit a penalty report for September, October, November, or December of 2014.
  - c. **First quarter 2015** - Madison National reported paying claims late, but did not submit its first quarter, 2015, penalty report to TDI.
  - d. **Second quarter 2015 through first quarter 2017** - Between the second quarter of 2015, and the first quarter of 2017, Madison National reported no penalties owed in its penalty reports and indicated that it paid no claims in these quarters. TDI records do not include any penalty reports for Madison National from April, 2015, to July, 2015. However, TDI records indicate that Madison National

collected premiums during these time frames. Therefore, Madison National should have claims to report for this time frame.

8. On October 22, 2015, TDI's Managed Care and Quality Assurance Office (MCQA) office sent Madison National a warning letter concerning its violations of clean claim requirements because it failed to submit quarterly claims payment information to TDI.
9. On April 19, 2016, FCE provided TDI with Madison National's prompt payment penalty reporting forms on claims for which FCE was responsible for adjudicating, for the months January 1, 2013, through December 31, 2015. These reports indicated that Madison National owed the Pool \$527,971.43. This dollar amount does not include penalties that Madison National owes from the:
  - a. first quarter of 2013, through the fourth quarter of 2013, when Madison National was handling some of its own prompt payment reporting;
  - b. first quarter of 2014, when Madison National and Employers Direct Health were handling some of Madison National's prompt payment reporting; and
  - c. quarters in which Madison National collected premiums, but reported zeros on its prompt payment reports.

#### **Withdrawal Plan Violations**

10. Between December 31, 2014, and April 15, 2015, Madison National communicated with TDI concerning its plans to exit its small and large employer coverage lines of health insurance in Texas and whether it needed to file withdrawal plans. Within these communications, Madison National provided vague and either inaccurate or incomplete information to TDI. Upon the basis of these communications, Madison National did not file withdrawal plans.
11. Effective July 1, 2015, Madison National exited the small employer group health insurance market in Texas, on its own initiative, without filing a withdrawal plan with TDI.
12. Effective November 1, 2015, Madison National exited the large employer group health insurance market in Texas, on its own initiative, without filing a withdrawal plan with TDI.
13. TDI's records contain the following information on Madison's premium volume:

<b>Line of Insurance</b>	<b>2014</b>	<b>2015</b>	<b>Change 2014 - 2015</b>	<b>2016</b>	<b>% Change 2015 - 2016</b>
Small Employer	\$403,713	\$13,250	-96.72% \$390,463	\$0	-100.00%

Line of Insurance	2014	2015	Change 2014 - 2015	2016	% Change 2015 - 2016
Large Employer	\$5,195,557	\$5,522,568	+6.29%	-\$348,292	-106.31%
Group A&H	\$11,714,229	\$9,271,717	-20.85%	\$2,014,807	-78.27%

14. Madison National miscalculated the premium volume reduction in its small and large employer coverage lines of health insurance during the calendar year 2016, and the immediately preceding calendar year, 2015, when it exited these lines of insurance without filing withdrawal plans. TDI's records indicate that Madison National's premium volume reductions in its small and large employer coverage lines of health insurance, and its group accident and health other than association, large employer or small employer coverage line of insurance, were over 75%, which required Madison National to file plans of orderly withdrawal.

#### CONCLUSIONS OF LAW

1. The commissioner has jurisdiction over this matter pursuant to TEX. INS. CODE §§ 31.002, 82.051-82.056, 84.021-84.022, 827.001-827.011, 1301.101-1301.139, 1506.260,<sup>1</sup> 4151.1042(b); 28 TEX. ADMIN. CODE §§ 7.1801-7.1808, 7.1611, and 21.2801-21.2826; and TEX. GOV'T CODE §§ 2001.051-2001.178.
2. The commissioner has authority to informally dispose of this matter as set forth under TEX. GOV'T CODE § 2001.056; TEX. INS. CODE §§ 82.055 and 36.104; and 28 TEX. ADMIN. CODE § 1.47.
3. Madison National violated TEX. INS. CODE §§ 1301.131, 1301.137(a)-(c), and 1506.260<sup>2</sup> and 28 TEX. ADMIN. CODE § 21.2821 by failing to report compliant claims payment information to the Pool and TDI.
4. Madison National violated TEX. INS. CODE § 1301.137(l) and 28 TEX. ADMIN. CODE § 21.2815(a)(4)-(6) by failing to pay, for a penalty related to a clean claim submitted by an institutional provider, 50 percent of that amount to the Pool until its dissolution, and after its dissolution to TDI.
5. Madison National violated TEX. INS. CODE § 1301.137(c) and (l) and 28 TEX. ADMIN. CODE § 21.2815(a)(3)(B) by failing, for a claim paid on or after the 91<sup>st</sup> day after the end of the applicable statutory claims payment period, to pay the Pool until its dissolution, and after its dissolution to TDI, 18 percent annual interest on the penalty amount paid to a noninstitutional preferred provider under § 21.2815(a)(2).

<sup>1</sup> TEX. INS. CODE § 1506.260 was repealed by Acts 2013, 83<sup>rd</sup> Leg., ch 615 (S.B. 1367), § 8(b), eff. Sept. 1, 2015.

<sup>2</sup> *Id.*

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6. Madison National violated TEX. INS. CODE § 4151.1042(b) and 28 TEX. ADMIN. CODE § 7.1611 because it did not ensure competent administration of its programs by its third party administrators, including its third party administrators' compliance with the Insurance Code, related rules, and the provisions of the written agreement between the TPA and the insurer, including the performance of claims adjudication and payment.
7. Madison National violated TEX. INS. CODE § 827.003 and 28 TEX. ADMIN. CODE §§ 7.1804, 7.1805, and 7.1806, which require an insurer to file with the commissioner a plan for orderly withdrawal before the insurer undertakes total or substantial withdrawal from a line of insurance if the insurer takes any action on its own initiative that will result in reducing its total annual premium volume in Texas for the current calendar year for the line of insurance, as defined in § 7.1803 of this title, by 75 percent or more of the total annual premium volume in Texas for the immediately preceding calendar year for such line of insurance.

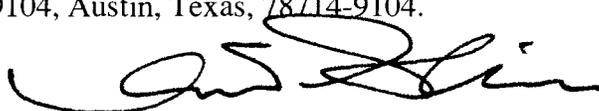
It is ordered that Madison National Life Insurance Company comply with the following:

- a. Madison National Life Insurance Company shall file accurate quarterly claims payment information with TDI in accordance with 28 TEX. ADMIN. CODE § 28.2821.
- b. Madison National Life Insurance Company shall engage in an ongoing, certified audit by an independent auditor to validate its future prompt payment reporting and prompt payment penalties owed. The audit shall be conducted on behalf of and funded by Madison National Life Insurance Company. Madison National Life Insurance Company shall biennially certify in a report to TDI that its prompt payment reports and penalties owed are accurate for three years following the entry of this Order: on June 1<sup>st</sup> and on December 1<sup>st</sup> of each year, or until run out of all of its claims is complete.
- c. Madison National Life Insurance Company must send all data submissions required under the terms of this order by email to: [catherine.bell@tdi.texas.gov](mailto:catherine.bell@tdi.texas.gov), [nikki.kline@tdi.texas.gov](mailto:nikki.kline@tdi.texas.gov), and [jeannie.ricketts@tdi.texas.gov](mailto:jeannie.ricketts@tdi.texas.gov), or their successors.
- d. It is ordered that Madison National Life Insurance Company, Inc. pay prompt payment penalties of \$527,971.43, in accordance with TEX. INS. CODE § 1301.137 and 28 TEX. ADMIN. CODE § 21.2815, related to its claims administered by FCE from January 1, 2013, through December 31, 2015, within 30 days from the date of this Order. The penalty must be paid by company check, cashier's check, or money order made payable to the "Texas Department of Insurance." Mail the prompt payment penalty to the Texas Department of Insurance, Attn: MC9999-Prompt Pay, P.O. Box 149104, Austin, Texas, 78714-9104.

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- e. Madison National Life Insurance Company shall pay \$100,000 in prompt payment penalties for the years 2013, through 2017, related to its claims not administered by FCE, within 30 days from the date of this Order. The penalty must be paid by company check, cashier's check, or money order made payable to the "Texas Department of Insurance." Mail the prompt payment penalty to the Texas Department of Insurance, Attn: MC9999-Prompt Pay, P.O. Box 149104, Austin, Texas, 78714-9104.
- f. It is ordered that Madison National Life Insurance Company, Inc. pay an administrative penalty of \$250,000 for failure to report claims correctly and failure to pay statutorily required clean claim penalties within 30 days from 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, Legal and Enforcement Division 60851, MC 9999, P.O. Box 149104, Austin, Texas, 78714-9104.
- g. It is ordered that Madison National Life Insurance Company, Inc. pay an administrative penalty of \$100,000 for failure to file plans for orderly withdrawal within 30 days from 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, Legal and Enforcement Division 60851, MC 9999, P.O. Box 149104, Austin, Texas, 78714-9104.



Kent C. Sullivan  
Commissioner of Insurance

Approved as to Form and Content:



Jeannie Ricketts  
Staff Attorney, Enforcement Section

