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


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.
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:

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

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

<table>
<thead>
<tr>
<th>Year</th>
<th>Quarter</th>
<th>Claims Received</th>
<th>Clean Claims Received</th>
</tr>
</thead>
<tbody>
<tr>
<td>2014</td>
<td>4</td>
<td>Non-institutional (NI) – 10,400 Institutional (I) - 487</td>
<td>NI – 10,400 1 - 487</td>
</tr>
</tbody>
</table>
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:

<table>
<thead>
<tr>
<th>Year</th>
<th>Quarter</th>
<th>Claims Received</th>
<th>Clean Claims Received</th>
</tr>
</thead>
<tbody>
<tr>
<td>2015</td>
<td>1</td>
<td>Non-institutional (NI) – 4,425 Institution (I) – 1,133</td>
<td>NI – 725 I – 69</td>
</tr>
</tbody>
</table>

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:

<table>
<thead>
<tr>
<th>Year</th>
<th>Quarter</th>
<th>Claims Received</th>
<th>Clean Claims Received</th>
</tr>
</thead>
<tbody>
<tr>
<td>2014</td>
<td>4</td>
<td>Non-institutional (NI) – 10,400 Institution (I) - 487</td>
<td>NI – 7028 I - 273</td>
</tr>
</tbody>
</table>

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**


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.
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.

[Signature]
David C. Mattax
Commissioner of Insurance

Approved as to Form and Content:

[Signature]
Jeannie Ricketts, Staff Attorney
Enforcement Section, Compliance Division
Texas Department of Insurance
STATE OF Texas $  
COUNTY OF Collin $ 

Before me, the undersigned authority, personally appeared the affiant, who being by me duly sworn, deposed as follows:

"My name is Thomas J. Quick. I am of sound mind, capable of making this statement, and have personal knowledge of these facts which are true and correct.

I hold the office of CEO, and am the authorized representative of PacifiCare Life and Health Insurance Company. I am duly authorized by said organization to execute this statement.

PacifiCare Life and Health Insurance Company waives rights provided by the Texas Insurance Code and other applicable laws, and acknowledges the jurisdiction of the Texas commissioner of insurance.

PacifiCare Life and Health Insurance Company is voluntarily entering into this consent order. PacifiCare Life and Health Insurance Company consents to the issuance and service of this consent order."

[Signature]
Affiant

SWORN TO AND SUBSCRIBED before me on 28th October 2015.

(NOTARY SEAL) 

[Signature of Notary Public] 

Cynthia Roberts
Commission Expires 09-20-2017