

**BEFORE THE INSURANCE COMMISSIONER
FOR THE STATE OF ARKANSAS**

**IN THE MATTER OF
THE REPORT OF EXAMINATION OF
ARKANSAS COMMUNITY CARE, INC.**

AID NO. 2007- 0 3 2

ADOPTION ORDER

Now on this day the matter of the Report of Examination (“Report”) as of September 30, 2006, of Arkansas Community Care, Inc. (“Company”), of Little Rock, Arkansas, NAIC #12282, is taken under consideration by Julie Benafield Bowman, Insurance Commissioner for the State of Arkansas (“Commissioner”), as presented by its Associate Counsel, Amanda Capps Rose, and the Finance Division of the Arkansas Insurance Department (“Department”). From the facts, matters and other things before her, the Commissioner finds as follows:

FINDINGS OF FACT

1. That the Commissioner has jurisdiction over the Company and the subject matter involved herein.
2. That the Company is an Arkansas-domiciled health maintenance organization.
3. That pursuant to Ark. Code Ann. § 23-76-122, the Commissioner authorized and directed the Department to conduct a regular examination of the affairs, transactions, accounts, records, and assets of the Company as of September 30, 2006.
4. That said examination was commenced by the Department on October 23, 2006 and completed on March 15, 2007.

5. That the verified Report of Examination was filed with the Department on April 30, 2007. It was then mailed to the Company via certified mail on April 30, 2007. The Company received the Report on May 4, 2007, according to the certified mail return receipt returned to the Department.

6. That the Company filed written rebuttal and comments to certain of the findings of the Report with the Department's Finance and Legal Divisions on May 23, 2007.

7. Subsequent to the examination, the Department requested and obtained documentation regarding the Company's compliance with the Department's Directive 1-2006. The Department acknowledges the Company's cooperation in providing the requested materials and the steps it has taken to comply with the Department's Directive 1-2006.

8. That the Report of Examination contains the following comments or discrepancies regarding the Company's operation:

- a. That the Company's improper revenue recognition through third quarter 2006 resulted in the Company's failure to report liabilities totaling \$1,419,530. The Company corrected the error in the fourth quarter of 2006 and is providing monthly financial reports pursuant to the Department's request. The Company also submitted a new business plan pursuant to the Department's request;
- b. That the Company reported uncollected premium and agents' balances in the amount of \$44,888, but could not provide detail or aging to support the receivable. The examination also noted multiple immaterial differences related to the Company's reported number of enrolled policyholders;

- c. That the Company had erroneously omitted surplus contributions made by its ultimate parent company and expended by the Company as start-up costs, operating expenses, and expansion costs. An examination adjustment was made in order to increase gross paid in and contributed surplus by \$1,169,452 and decrease unassigned funds by the same amount. The Company corrected these errors in subsequent statutory financial statement filings;
- d. That the Company's custodial agreement with Morgan Keegan & Company, Inc. had not been approved by the Department in accordance with Ark. Code Ann. § 23-69-134 and Department Rule 26. The Company submitted its custodial agreement for approval on May 22, 2007, and the Department approved the agreement on June 18, 2007;
- e. That the Company's conflict-of-interest policy did not require annual declarations of its officers and directors as required by Ark. Code Ann. § 23-66-206(5). The Company subsequently amended its conflict-of-interest policy to require annual declarations by its officers and directors in accordance with Arkansas law;
- f. That the Company failed to report major modifications of the Company's operations in violation of Ark. Code Ann. § 23-76-107(d)(1). The Company's Application for its Arkansas Certificate of Authority states that the Company did not initially intend to use general agents and that the projected sales commission per new member would be \$50. The examination revealed that the Company began using general agents within a few weeks of commencing sales activities and began offering a revised

one-time sales commission of \$700 per new member. These changes in operation and personnel are considered major modifications by the Department;

- g. That the Company failed to keep complete records of its transactions and affairs relating to producer training/oversight and licensing/appointment as required by Ark. Code Ann. § 23-69-134(a). The examination also found that the Company failed to keep current and complete documentation relating to state licensure; and
- h. That the examination revealed complaints of fraudulent acts by members of the Company's sales force, which the Company failed to provide to the Department in violation of Ark. Code Ann. § 23-66-505.

CONCLUSIONS OF LAW

Based upon the above and foregoing Findings of Fact, the Commissioner makes the following Conclusions of Law:

- 1. That the Commissioner and the Department have jurisdiction over the parties and the subject matter contained herein.
- 2. That this Order has been properly entered in accordance with the Arkansas Insurance Code and Department Rules.

THEREFORE, pursuant to the provisions of Ark. Code Ann. §§ 23-76-104(2) and 23-61-205, the Commissioner hereby orders:

- 1. That the Examination Report, as filed with the Department, is hereby adopted.
- 2. That, with regard to the items in Findings of Fact above:

- a. The Company is to allocate the resources necessary to properly reconcile enrollment data needed for accurate financial reporting in compliance with the NAIC Accounting Practices and Procedures Manual and other applicable standards and law;
- b. The Company is to provide proper notice of major modifications to its operations pursuant to Ark. Code Ann. § 23-76-107(d)(1);
- c. The Company is to maintain sufficient audit evidence to document that all producers receive the Company's minimum required training. In addition, the Company is to maintain updated and complete rosters of active and inactive producers that include each producer's personal information and sufficient audit evidence to support the accuracy and completeness of the Company's records; and
- d. Pursuant to Ark. Code Ann. § 23-66-505, the Company is to provide the Department with documentation related to all instances in which it knows or has a reasonable belief that fraudulent acts have been, will be, or are being committed by members of its sales force.

3. That the Department shall forward a copy of this Order and the adopted Examination Report, as filed, to the Company via certified mail. The mailing to the Company shall include specimen affidavit forms for the Company's Directors to use in acknowledgement of receipt of the adopted Report of Examination and this Order.

4. That within twenty (20) days of receipt of this Order and the adopted Examination Report, the Company shall file with the Department affidavits executed by each one of its Directors, stating under oath or affirmation that each has received a copy of this Order and the adopted Examination Report.

5. That the adopted Examination Report shall be open for public inspection upon the expiration of thirty (30) days from the Company's receipt of this Order.

IT IS SO ORDERED this 3rd day of July, 2007.


JULIE BENAFIELD BOWMAN
INSURANCE COMMISSIONER
STATE OF ARKANSAS