

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

**IN THE MATTER OF
THE REPORT OF EXAMINATION OF
CARE IMPROVEMENT PLUS SOUTH
CENTRAL INSURANCE COMPANY**

A.I.D. NO. 2009- 041

ADOPTION ORDER

Now on this day the matter of the Report of Examination ("Report") as of December 31, 2007, of Care Improvement Plus South Central Insurance Company ("Company"), of Little Rock, Arkansas, NAIC #12567, is taken under consideration by Jay Bradford, Insurance Commissioner for the State of Arkansas ("Commissioner"), as presented by Associate Counsel, Amanda Capps Rose, and the Finance Division of the Arkansas Insurance Department ("Department"). From the facts, matters and other things before him, 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 accident and health insurer with authority limited to Medicare only products.
3. That pursuant to Ark. Code Ann. §§ 23-61-201, *et seq.*, 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 December 31, 2007.
4. That said examination was commenced by the Department on April 1, 2008 and completed on January 15, 2009.

5. That the verified Report of Examination was filed with the Department on March 5, 2009. It was then mailed to the Company via certified mail on March 6, 2009. The Company received the Report on March 9, 2009, according to the tracking service available through the United States Postal Service.

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

- a. As of December 31, 2007, the Company did not have biographical affidavits for all officers and directors filed with the Department. The Company has subsequently filed all required biographical affidavits with the Department;
- b. The Company's conflict-of-interest policy does not require annual declarations of its officers and directors as required by Ark. Code Ann. § 23-66-206(5);
- c. The Company failed to reflect the pay down of a bond which resulted in the cash Annual Statement line item and Schedule DA being overstated by \$132,142. The Company has subsequently corrected this issue;
- d. The Company failed to non-admit the entire account balance for member premium account balances that are over ninety (90) days past due in accordance with SSAP No. 6, Paragraph 9(a). This resulted in an additional non-admitted amount of \$331,264. The Company has subsequently corrected its procedure for reporting individual member premium account balances in order to report the correct admitted balance;

- e. The Company, in conjunction with its independent auditor, determined that they should have accrued additional amounts for premium taxes. The Company and independent auditor determined that an additional liability of \$110,556 should be recorded under general expenses due or accrued;
- f. Several of the Annual Statement line items are derived using actuarial principles. The following Annual Statement line items were affected at December 31, 2007 due to the lack of reconciliation and verification of claims and member data:
 - i. While reviewing the Company's estimated refund due from the Centers for Medicare and Medicaid Services ("CMS") for risk sharing per Medicare Guidelines, the Company's independent auditors determined that, for purposes of risk share calculations only, the Company used an incurred claim estimate containing an IBNR estimate that did not include a margin for adverse deviation. It was also determined that calculation did not include approximately \$800,000 of claims that were included in the Company's paid claims register. Accordingly, the incurred claim estimate used in the risk-sharing calculation did not match the incurred claim estimate in the Company's trial balance, and the Company underestimated the expected payment from CMS by \$9,017,780;
 - ii. Annual Statement Exhibit 3 discloses the aging of health care receivables, including pharmaceutical rebate receivables. The

Company reported the pharmaceutical rebate receivables that were over ninety (90) days due, but failed to non-admit them. SSAP No. 84 states that pharmaceutical rebate receivables consist of reasonably estimated amounts and billed amounts. Both the billed amounts and estimated amount shall be admitted assets subject to several conditions. Pharmaceutical rebate receivables that have not been collected within ninety (90) days of the invoice date or confirmation date shall be non-admitted. Accordingly, the third quarter pharmaceutical rebate receivables of \$1,422,083 should be considered non-admitted assets. The total pharmaceutical rebate receivables were estimated from the Response Prescription Drug Event ("RPDE") files that are periodically received by the Company from CMS. The Company's consulting actuary was not provided the November 20, 1997 RPDE file and therefore prepared a "working draft" of the receivables. The final estimate resulted in a \$57,417 decrease in the pharmaceutical rebate receivables. The Company's independent auditor also determined that the plan-to-plan receivable, which was included in the health care and other amounts receivable line item, should have been non-admitted. The Company therefore reduced the plan-to-plan receivable by \$222,365;

- iii. As part of the pharmacy payable amount, the Company included the liability payable to the pharmacy benefit manager, Caremark.

The liability was based on actual invoiced amounts for the last two weeks of 2007 and an estimate for the unbilled last three days of the year. The Company's independent auditor reviewed the actual expenses for the three day period and determined that the estimate was overstated by \$286,582. Additionally, the Company's independent auditor determined that \$111,998 of pharmacy payable amounts should be reclassified as claim adjustment expenses;

- iv. During 2007, the Company had an administrative agreement with a third-party administrator to handle the claim administration for all of the Company's claims. In the process of establishing a claims adjustment expense ("CAE") provision, the Company assumed an expense rate of \$3.20 per claim. This value did not match the rate of \$3.75 per claim which was included in its contract with the third-party administrator. A recalculation of the CAE based on the contractual rate increased the CAE provision by \$259,441. In addition, there was an increase of \$111,998 as a result of the reclassification from claims unpaid mentioned above;
- v. The Part D Risk Sharing estimate was also based on the RPDE files. Because the Company used the "working draft" estimate, the risk sharing liability was over accrued by \$35,776. The Company also set up a liability of \$439,646 for overpayment of CMS premiums due to retroactive disenrollments. The Company's

independent auditor determined that the Company's consulting actuary's estimate of revenue and the Company's booked revenue already included a provision for retroactive disenrollments. Therefore, the liability was not required; and

- vi. The Reinsurance Subsidy Deposit Liability and Low Income Subsidy Deposit Liability were also based on the RPDE files. Because the Company used the "working draft" estimates, the Company's independent auditor determined that the liabilities were over accrued by \$2,381,660.
- g. In addition to the Annual Statement line items described above, it was noted that the method of asset adequacy testing used to support the Company's reserves was not a typical method for the Company's type of liabilities;
- h. The Company was not in compliance with Ark. Code Ann. § 23-63-805 with regard to overinvestment in one person. The Company's investments in common stock of \$51,982,540 comprise of one mutual fund investment, PNC Prime Fund, representing 25% of total assets. The Company also had \$41,547,834 invested in a PNC Bank Repurchase Agreement accounting for 20% of total assets and \$53,355,962 invested in Goldman Sachs Money Market Fund accounting for 26% of total assets. Because both the PNC Prime Fund and PNC Repurchase Agreement are invested in PNC, it would constitute one person. In total for all three investments, the Company should non-admit \$140,502,820. However, Ark. Code Ann. §

23-63-805 allows the Commissioner the authority to permit the Company to exceed the per person limit. The Company requested temporary relief from the investment limitation on May 21, 2008. The Commissioner granted relief from this limitation on the same day with the stipulation that the Company bring investments into compliance by June 16, 2008. Due to errors on the part of the Company and its bank, the Company requested further temporary relief through November 30, 2008 which was granted. A review of the November 30, 2008 investment assets showed the Company to be in compliance with Ark. Code Ann. § 23-63-805 on that date; and

- i. During the examination it was determined that the Company's custodial agreements did not meet all the requirements of Ark. Code Ann. § 23-63-134(b) and Department Rule 26. As a result of this finding, the Company remedied the deficiencies in its custodian accounts and submitted a new custodial agreement that is in compliance and was approved by the Department.

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. § 23-61-205, the Commissioner hereby orders:

1. That the Examination Report, as amended and filed with the Department, is hereby adopted.

2. That, with regard to the items in Findings of Fact above:

a. The Company shall implement a conflict-of-interest policy requiring annual declarations of its officers and directors as required by Ark. Code Ann. § 23-66-206(5);

b. With regard to line items affected at December 31, 2007 by the lack of reconciliation and verification of claims and member data:

i. In calculating refunds from CMS for risk sharing per Medicare Guidelines, the Company shall use an incurred claim estimate containing an IBNR that includes a margin for adverse deviation and shall include claims in the Company's paid claims register in order to avoid underestimation of the CMS refund;

ii. In accordance with SSAP No. 84, the Company shall non-admit pharmaceutical rebate receivables that have not been collected within 90 days of the invoice or confirmation date;

iii. With regard to pharmacy payable amounts, the Company shall implement a procedure to accurately calculate liability and properly classify claim adjustment expenses;

- iv. The Company shall implement a process for accurately establishing its CAE by assuming the expense rate included in its contract with the third-party claims administrator; and
 - v. The Company shall institute a procedure to accurately calculate Part D risk share liability, including consideration of retroactive disenrollments already included in the Company's booked revenue, and Reinsurance Subsidy Deposit Liability and Low Income Subsidy Deposit Liability.
- c. The Company's asset adequacy testing used to support the Company's reserves should utilize a gross premium valuation to test moderately adverse deviations in non-interest rate actuarial assumptions, such as morbidity, lapses, etc.; and
 - d. The Company's Board of Directors shall amend its current investment policy to require compliance with the investment limits of the Arkansas Insurance Code, specifically Ark. Code Ann. § 23-63-805.

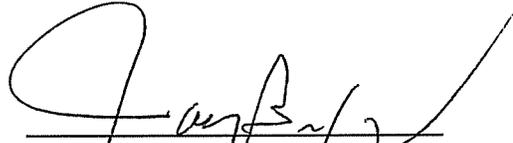
3. That the Department shall forward a copy of this Order and the adopted Examination Report, as filed, to the Company via certified mail. The mailing to the Company shall include specimen affidavit forms for the Company's Directors to use in acknowledgement of receipt of the adopted Report of Examination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

6. That the Company shall file evidence of compliance with this Order within sixty (60) days of the Company's receipt of this Order.

IT IS SO ORDERED this 29th day of April, 2009.



JAY BRADFORD
INSURANCE COMMISSIONER
STATE OF ARKANSAS