

JAN 18 2001

STATE OF ARIZONA
DEPARTMENT OF INSURANCE

DEPT. OF INSURANCE
BY CB

In the Matter of
**UNITED WISCONSIN LIFE
INSURANCE COMPANY**
Respondent

Docket No. 01A-012-INS

CONSENT ORDER

A health care appeals audit was made of United Wisconsin Life Insurance Company, hereinafter referred to as "United Wisconsin", by the Health Care Appeals Supervisor ("Examiner") for the Arizona Department of Insurance (the "Department"), covering the time period from July 1, 1998 through December 31, 1999. The desk audit was completed on November 3, 2000. Based upon the audit results, it is alleged that United Wisconsin has violated the provisions of A.R.S. §§20-461, 20-2533, 20-2534, 20-2535, 20-2536 and 20-2537.

The Examiner reviewed United Wisconsin's health care appeals procedures, informal and formal appeals filed with United Wisconsin and external appeals filed with the Department.

United Wisconsin wishes to resolve these matters without formal adjudicative proceedings, admits the following Findings of Fact are true and consents to entry of the following Conclusions of Law and Order.

FINDINGS OF FACT

1. United Wisconsin is a Wisconsin-domiciled life and disability insurer authorized to transact health insurance pursuant to a Certificate of Authority issued by the Director.

2. The Examiner was authorized by the Director to conduct a health care appeals audit of United Wisconsin and has prepared a Report of Examination of the

1 Health Care Appeals of United Wisconsin ("the Report").

2 3. The Examiner reviewed United Wisconsin's health care appeals
3 information packet and found the following:

4 a. United Wisconsin, according to its survey response to the
5 Department's appeals survey of June 1999, did not distribute appeals information
6 packets to all new and in-force business until December 1998.

7 b. United Wisconsin's information packet states that denied claims
8 for services already provided may not be processed at the informal reconsideration
9 level, and instead must begin the appeals process at the formal appeal level.
10 However, United Wisconsin's processing of such appeals indicates that some denied
11 claims appeals may be treated as informal reconsiderations. Thus, United Wisconsin's
12 appeals packet does not accurately reflect how United Wisconsin, in fact, processes
13 appeals involving denied services.
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15 4. The Examiner reviewed three expedited medical review appeals and
16 found that two files contained deficiencies. The deficiencies are as follows:

17 a. United Wisconsin failed to render a decision within one business
18 day of receiving the physician certification and supporting documentation.

19 b. United Wisconsin incorrectly limited the timeframe within which
20 expedited medical reviews may be requested.

21 5. The Examiner reviewed fourteen informal reconsideration appeals, and
22 found that eleven files contained at least one deficiency. The deficiencies are as
23 follows:
24

25 a. United Wisconsin inaccurately portrayed the timeframe in which a
26 member may request an informal reconsideration after an original denial.

27 b. United Wisconsin failed to send acknowledgment letters to five
28 members upon receiving the members' requests for informal reconsideration.

29 c. United Wisconsin failed to indicate that health care appeals

1 information packets were sent along with the informal reconsideration acknowledgment
2 letters to eleven members.

3 d. United Wisconsin failed to indicate that acknowledgment letters
4 were sent to treating providers in five informal reconsideration files.

5 e. United Wisconsin failed to indicate that health care appeals
6 information packets were sent to eleven treating providers along with the informal
7 reconsideration acknowledgment letters.

8 f. United Wisconsin failed to include the clinical reasons and criteria
9 it used in rendering decisions in nine informal reconsideration appeals.

10 g. United Wisconsin failed to render one informal reconsideration
11 decision within 30 days of the appeal request.

12 h. United Wisconsin failed to notify members in four informal
13 reconsideration decision letters that the member was entitled to request an external
14 independent review if the formal appeal was upheld.

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16 6. The Examiner reviewed 41 formal appeals, and found that 38 files
17 contained at least one deficiency. The deficiencies are as follows:

18 a. United Wisconsin failed to include the criteria used and the clinical
19 reasons for its determinations in 21 formal appeals.

20 b. United Wisconsin failed to indicate that treating providers were
21 sent acknowledgment letters in 14 formal appeals.

22 c. United Wisconsin failed to send acknowledgment letters to 10
23 members upon receiving the requests for formal appeal.

24 d. United Wisconsin failed to indicate that health care appeals
25 information packets were sent to 32 members along with formal appeal
26 acknowledgment letters.

27 e. United Wisconsin failed to indicate that health care appeal
28 information packets were sent to 32 treating providers along with the formal appeal
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1 acknowledgment letters.

2 f. United Wisconsin inaccurately portrayed the timeframe in which
3 members may appeal denied claims in 21 cases.

4 g. United Wisconsin failed to properly notify 17 members of the right
5 to request external independent review in letters upholding United Wisconsin's earlier
6 denials.

7 h. United Wisconsin failed to send three members notice of its
8 decision following the completion of the formal appeals.

9 i. United Wisconsin failed to send three treating providers notice of
10 its decision following the completion of the formal appeals.

11 j. United Wisconsin failed to follow procedures outlined in its appeals
12 information packet by requiring four cases to go through two formal appeals.
13

14 7. The Examiner reviewed four external independent reviews and found that
15 all four files contained deficiencies. The deficiencies are as follows:

16 a. United Wisconsin failed to send acknowledgment letters notifying
17 the Director of the request for external independent review in four cases.

18 b. United Wisconsin failed to send acknowledgment letters to three
19 members' treating providers notifying them of the request for external independent
20 review within five business days of receiving the appeal requests.

21 c. United Wisconsin failed to send acknowledgment letters to three
22 members within five business days of receiving the appeal requests.

23 d. United Wisconsin failed to forward the reviewer's decision to the
24 Department following four external reviews.

25 e. United Wisconsin failed to send the Department a summary
26 description of the applicable issues including a statement of the utilization review
27 agent's decision and any transmittal letter that was sent to the independent reviewer in
28 two cases.
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1 f. United Wisconsin disclosed the names of the insureds and the
2 treating providers to the external review organizations in four cases.

3 g. United Wisconsin failed to forward the decision of the external
4 reviewer to the member within three business days of receiving the decision in one
5 case.

6 h. United Wisconsin failed to forward the decision of the external
7 reviewer to the treating provider within three business days of receiving the decision in
8 one case.

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10 8. The Examiner reviewed United Wisconsin's appeals procedures and
11 found the following deficiencies:

12 a. United Wisconsin's appeals procedures state that utilization review
13 does not include services that are a direct exclusion in the policy, which conflicts with
14 Arizona law.

15 b. United Wisconsin's appeals procedures do not indicate the
16 qualifications of those who would render a decision during an expedited medical
17 review involving a question of medical necessity.

18 c. United Wisconsin's appeals procedures state that formal appeal
19 requests must be submitted within 60 days of the last denial, which conflicts with
20 Arizona law.

21 d. United Wisconsin's appeals procedures do not indicate the
22 qualifications of those who would render a decision during a formal appeal.

23 e. United Wisconsin's appeals procedures fail to indicate that for
24 external independent reviews involving medical necessity, United Wisconsin will
25 forward to the Department a summary of the case and a copy of the transmittal letter
26 sent to the external reviewer.

27
28 f. United Wisconsin's appeals procedures indicate that for external
29 independent reviews, United Wisconsin will send notification of the external reviewer's

1 decision within 30 days of receipt of the request for external review, which conflicts
2 with Arizona law.

3 9. United Wisconsin's deficiencies outlined above indicate that its general
4 business practices do not comply with the provisions of Arizona's health care appeal
5 laws.

6 **CONCLUSIONS OF LAW**

7 1. United Wisconsin violated A.R.S. §20-2533(C) by failing to distribute
8 health care appeals information packets with newly issued policies.

9 2. United Wisconsin violated A.R.S. §20-2533(C) by failing to accurately
10 reflect in its information packet how it processes appeals involving denied claims.

11 3. United Wisconsin violated A.R.S. §20-2534(B) by failing to render a
12 decision within one business day of receiving the physician certification and supporting
13 documentation for an expedited medical review.

14 4. United Wisconsin violated A.R.S. §20-2535(B) by failing to send
15 members and treating providers written acknowledgment letters of requests for
16 informal reconsideration.

17 5. United Wisconsin violated A.R.S. §20-2535(B) by failing to send health
18 care appeals information packets to members and their treating providers with the
19 acknowledgment letters of requests for informal reconsideration.

20 6. United Wisconsin violated A.R.S. §§20-2535(D) and 20-2535(F) by failing
21 to include the criteria and clinical reasons for its decisions in informal reconsideration
22 decision letters.

23 7. United Wisconsin violated A.R.S. §20-2535(D) by failing to render all
24 informal reconsideration decisions within 30 days of receiving the appeal requests.

25 8. United Wisconsin violated A.R.S. §20-2535(F) by failing to notify
26 members in the informal reconsideration decision letters of their right to request an
27 external independent review if the formal appeal was upheld.
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1 9. United Wisconsin violated A.R.S. §20-2536(E) by failing to include the
2 criteria and clinical reasons for its decisions in all formal appeal decision letters.

3 10. United Wisconsin violated A.R.S. §20-2536(B) by failing to send
4 acknowledgment letters of formal appeal requests to all members and their treating
5 providers.

6 11. United Wisconsin violated A.R.S. §20-2536(B) by failing to include health
7 care appeals information packets with the acknowledgement letters of formal appeal
8 requests to all members and treating providers.

9 12. United Wisconsin violated A.R.S. §20-2536(G) by failing to properly notify
10 members of the option to proceed to an external independent review.

11 13. United Wisconsin violated A.R.S. §20-2536(E) by failing to provide
12 written notices of its decisions to all members and their treating providers following the
13 completion of formal appeals.

14 14. United Wisconsin violated A.R.S. §20-2537(C)(1)(a) by failing to send
15 written acknowledgments to the Director, the members and their treating providers
16 notifying them of requests for external independent review within five business days of
17 receiving the appeal requests.

18 15. United Wisconsin violated A.R.S. §20-2537(E) by failing to forward the
19 reviewer's decision to the Department following all external reviews.

20 16. United Wisconsin violated A.R.S. §20-2537(D)(1)(b) by failing to send the
21 Department in all external independent reviews involving medical necessity a summary
22 description of the applicable issues, including a statement of the utilization review
23 agent's decision and any transmittal letter that was sent to the independent reviewer.

24 17. United Wisconsin violated A.R.S. §20-2537(I)(3) by disclosing the names
25 of insureds and their treating providers to external reviewer organizations.

26 18. United Wisconsin violated A.R.S. §20-2537(E) by failing to send decision
27 letters to all members and their treating providers within three business days of
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1 receiving external independent medical review decisions.

2 19. United Wisconsin violated A.R.S. §20-461(A)(17) by failing to comply with
3 the health care appeals laws with such a frequency as to indicate a general business
4 practice.

5 **ORDER**

6 IT IS HEREBY ORDERED THAT:

7 1. Within 90 days of the filed date of this Order, Respondent shall do the
8 following:

9 a. amend its written internal procedures to ensure compliance with
10 A.R.S. §§20-2533 through 20-2537.

11 b. provide the Department with a copy of the Respondent's revised
12 written internal procedures.

13 2. Respondent shall cease and desist from the following acts, as required
14 by the statutes shown:

15 a. processing appeals in a way that is inconsistent with United
16 Wisconsin's health care appeals information packet (A.R.S. §20-2533(C)).

17 b. failing to issue a copy of the health care appeals information
18 packet to all newly-issued policies (A.R.S. §20-2533(C)).

19 c. failing to render expedited medical review decisions within one
20 business day of receiving the physician certification and supporting documentation
21 (A.R.S. §20-2534(B)).

22 d. failing to send written acknowledgment letters of requests for
23 informal reconsideration to all members and their treating providers (A.R.S. §20-
24 2535(B)).

25 e. failing to include health care appeals information packets with all
26 acknowledgment letters sent to members and treating providers (A.R.S. §§20-2535(B)
27 and 20-2536(B)).

1 f. failing to include the criteria used and the clinical reasons for the
2 decision in all decision letters of informal reconsideration appeals (A.R.S. §§20-
3 2535(D) and 20-2535(F)).

4 g. failing to complete all informal reconsideration appeals within 30
5 days of receiving the appeal requests (A.R.S. §20-2535(D)).

6 h. failing to notify members in informal reconsideration decision
7 letters of their right to request an external independent review if the formal appeal was
8 upheld (A.R.S. §20-2535(F)).

9 i. failing to include the criteria used and the clinical reasons for the
10 decision in all formal appeals decision letters (A.R.S. §20-2536(E)).

11 j. failing to send written acknowledgment letters of formal appeal to
12 members and their treating providers within five days of receiving the appeal requests
13 (A.R.S. §20-2536(B)).

14 k. failing to inform members of the option to proceed to an external
15 independent review following an upheld formal appeal (A.R.S. §20-2536(G)).

16 l. failing to send all members and their treating providers written
17 decision letters following the completion of all formal appeals (A.R.S. §20-2536(E)).

18 m. forcing members to go through the formal appeals process twice
19 before sending appeals for external independent review (A.R.S. §20-2533(B) and
20 A.R.S. §20-2536(G)).

21 n. failing to send acknowledgment letters of requests for external
22 independent reviews to the Director, the members and their treating providers within
23 five business days of receiving the appeal requests (A.R.S. §20-2537(C)(1)(a)).

24 o. failing to forward the reviewer's decision in all external reviews to
25 the Director, the member, and the member's treating provider within three business
26 days after receiving notice of the decision (A.R.S. §20-2537(E)).

27 p. failing to send to the Department in all external review cases
28 involving medical necessity a summary description of the applicable issues, including a
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1 statement of the utilization review agent's decision and any transmittal letter that is
2 send to the independent reviewer (A.R.S. §20-2537(D)(1)(b)).

3 3. United Wisconsin shall pay a civil penalty of \$10,000.00 to the Director
4 for remission to the State Treasurer for deposit in the State General Fund in
5 accordance with A.R.S. §20-220(B). Said amount shall be provided to the Health Care
6 Appeals Section of the Department prior to the filing of this Order.

7 4. The Report of Examination dated November 3, 2000, and any objections
8 to the Report submitted by United Wisconsin, shall be filed with the Department upon
9 the filing of this Order.

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11 DATED this 17th day of January, 2001.
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17 Charles R. Cohen
18 Director of Insurance
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CONSENT TO ORDER

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2 1. Respondent, United Wisconsin Life Insurance Company, has reviewed
3 the foregoing Order.

4 2. Respondent admits the jurisdiction of the Director of Insurance, State of
5 Arizona, admits the foregoing Finding of Facts are true, and consents to the entry of
6 the Conclusions of Law and Order.

7 3. Respondent is aware of the right to a hearing, at which it may be
8 represented by counsel, present evidence and cross-examine witnesses. Respondent
9 irrevocably waives the right to such notice and hearing and to any court appeals
10 related to this Order.

11 4. Respondent states that no promise of any kind or nature whatsoever was
12 made to it to induce it to enter into this Consent Order and that it has entered into this
13 Consent Order voluntarily.

14 5. Respondent acknowledges that the acceptance of this Order by the
15 Director of the Arizona Department of Insurance is solely for the purpose of settling this
16 matter and does not preclude any other agency or officer of this state or its
17 subdivisions or any other person from instituting proceedings, whether civil, criminal, or
18 administrative, as may be appropriate now or in the future.

19 6. Wm. Kip May, who holds the office of VP - Compliance of
20 Respondent, is authorized to enter into this Order for it and on its behalf.

21
22 UNITED WISCONSIN LIFE INSURANCE CO.

23
24 January 11, 2001

25 (date)

By 

26
27 **COPY of the foregoing mailed/delivered this** 18th **day of** January, ²⁰⁰¹~~2000~~ **to:**

28 Sara Begley
29 Deputy Director

1 Vista Brown
Executive Assistant
2 Gerrie Marks
Executive Assistant
3 Catherine O'Neil
Consumer Legal Affairs Officer/Custodian of Records
4 Mary Butterfield
Assistant Director
5 Consumer Affairs Division
6 Alexandra Shafer
Assistant Director
7 Life and Health Division
8 Deloris E. Williamson
Assistant Director
9 Rates & Regulations Division
10 Steve Ferguson
Assistant Director
11 Financial Affairs Division
12 Nancy Howse
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