COMMONWEALTH OF PENNSYLVANIA
INSURANCE DEPARTMENT
ADMINISTRATIVE HEARINGS OFFICE
901 North Seventh Street
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Harrisburg, PA 17102

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November 3, 2003

Gary R. Truitt, Esquire
Fifth Avenue Place
120 Fifth Avenue
Pittsburgh, PA 15222-3099

RE: **RE: HEALTHGUARD OF LANCASTER, INC.**
CONSENT ORDER
Docket No. MC04-08-031

Dear Mr. Truitt:

I am mailing this date a Consent Order executed by Randolph L. Rohrbaugh, Deputy Insurance Commissioner. The civil penalty of $1,600,000.00 per paragraph 5(b) on page seven of the Consent Order must be paid within thirty days.

Sincerely,

Jean Martin

Jean Martin, Clerk
Administrative Hearings Office

cc: Sharon Harbert
Administrative Assistant
Bureau of Enforcement

Jim Krebs, Chief
Bureau of Producer Services

Chet Derk
Market Conduct
Division Chief

Jack Yanosky, Director
Bureau of Producer Services

BEFORE THE INSURANCE COMMISSIONER
OF THE
COMMONWEALTH OF PENNSYLVANIA

RECEIVED
INSURANCE DEPARTMENT
04 NOV -3 PM 12: 30

IN RE:	:	VIOLATIONS:
	:	
HEALTHGUARD OF LANCASTER, INC. 280 Granite Run Drive Lancaster, PA 17601	:	Section 3(e)(5) of the Accident and Health Filing Reform Act, No. 159 of 1996 (40 P.S. § 3803)
	:	
Respondent.	:	Docket No. MC04-08-031

CONSENT ORDER

AND NOW, this 3rd day of November, 2004, this Order is hereby issued by the Deputy Insurance Commissioner of the Commonwealth of Pennsylvania pursuant to the statutes cited above and in disposition of the matter captioned above.

1. Respondent hereby admits and acknowledges that it has received proper notice of its rights to a formal administrative hearing pursuant to the Administrative Agency Law, 2 Pa.C.S. §101 et seq., or other applicable law.

2. Respondent hereby waives all rights to a formal administrative hearing in this matter, and agrees that this Consent Order shall have the full force and effect of an Order duly entered in accordance with the adjudicatory procedures set forth in the Administrative Agency Law, supra, or other applicable law.

FINDINGS OF FACT

3. The Deputy Insurance Commissioner finds true and correct each of the following Findings of Fact:

(a) Respondent is HealthGuard of Lancaster, Inc. and maintains its address at 280 Granite Run Drive, Lancaster, PA 17601.

(b) On March 30, 1998, a market conduct examination of Respondent was finalized by the Insurance Department covering the period from January 1, 1996, through December 31, 1996.

(c) On July 19, 2001, a market conduct examination of Respondent was finalized by the Insurance Department covering the period from July 1, 2000, through September 30, 2000.

(d) Both referenced market conduct examinations identified violations for use of incorrect premium charges based upon the then current rate structure on file and approved by the Insurance Department.

(e) Both referenced market conduct examinations contained recommendations that Respondent revise procedures to ensure that approved premium rates are used.

(f) Respondent's response to each market conduct examination noted that controls had been implemented to address premium rate violations.

(g) By letter dated December 11, 2003, Respondent disclosed to the Department that, during the course of compliance testing for Act 159, three accounts were identified as non-compliant.

(h) All three instances involved undercharging of premium in excess of the +/- 15% range.

(i) Respondent entered into a Consent Order executed by the Department on April 20, 2004, resolving the three accounts identified by Respondent as non-compliant with Act 159 pertaining to premium rates, and agreed to conduct further review of group accounts to verify compliance with the requirements of Act 159 pertaining to premium rates in a manner acceptable to the Department.

(j) Respondent agreed to complete such review and provide a complete report of its findings to the Department within ninety (90) days of the April 20, 2004 Consent Order.

(k) The Department reserved its right to take further regulatory action based on any additional findings.

(l) Respondent completed the review as ordered and reported the findings to the Department on June 29, 2004.

(m) Respondent reported 1,026 additional instances of non-compliance with effective dates between July 1, 2001 and March 1, 2004.

(n) Respondent subsequently issued refunds to 556 clients for identified overcharges plus interest in the aggregate amount of $195,319.26.

(o) Respondent's report also identified numerous accounts which were undercharged between 2002 and March of 2004.

(p) Respondent has agreed to transitional rates subject to approval by the Insurance Department, which will provide relief, that could be valued up to $10.1 million, to affected groups which were undercharged.

CONCLUSIONS OF LAW

4. In accord with the above Findings of Fact and applicable provisions of law, the Deputy Insurance Commissioner makes the following Conclusions of Law:

(a) Respondent is a Pennsylvania Health Maintenance Organization (HMO) and is subject to the jurisdiction of the Pennsylvania Insurance Department.

(b) Section 3(e) of Act 159, Accident and Health Filing Reform Act (40 P.S. § 3803), requires each HMO to file with the Department those rates which it proposes to use in this Commonwealth; and requires that rates which deviate from the base rate formula more than 15% shall be subject to filing and review.

(c) Respondent's violations of Section 3 of the Accident and Health Filing Reform Act (40 P.S. § 3803) are punishable under Section 13 of the Act:

(i) suspension or revocation of the license of the offending HMO;

(ii) refusal, for a period not to exceed one year, to issue a new license to the offending HMO;

(iii) a fine of not more than $5,000 for each violation of this Act;

(iv) a fine of not more than $10,000 for each willful violation of this Act.

ORDER

5. In accord with the above Findings of Fact and Conclusions of Law, the Deputy Insurance Commissioner orders and Respondent consents to the following:

(a) Respondent shall cease and desist from engaging in the activities described herein in the Findings of Fact and Conclusions of Law.

(b) Respondent shall pay One Million, Six Hundred Thousand Dollars ($1,600,000.00) to the Commonwealth of Pennsylvania in settlement of all activities described in this Order.

(c) Payment of this matter shall be made by check payable to the Commonwealth of Pennsylvania. Payment should be directed to Sharon L. Harbert, Administrative Assistant, Bureau of Enforcement, 1227 Strawberry Square, Harrisburg, Pennsylvania 17120. Payment must be made no later than thirty (30) days after the date of this Order.

6. In the event the Deputy Insurance Commissioner finds that there has been a breach of any of the provisions of this Order, based upon the Findings of Fact and Conclusions of Law contained herein, the Deputy Commissioner may pursue any

and all legal remedies available, including but not limited to the following: The Deputy Insurance Commissioner may enforce the provisions of this Order in the Commonwealth Court of Pennsylvania or in any other court of law or equity having jurisdiction; or the Deputy Insurance Commissioner may enforce the provisions of this Order in an administrative action pursuant to the Administrative Agency Law, supra, or other relevant provision of law.

7. Alternatively, in the event the Deputy Commissioner finds that there has been a breach of any of the provisions of this Order, the Deputy Commissioner may declare this Order, or any part of it, to be null and void and, thereupon, reopen the entire matter for appropriate action pursuant to the Administrative Agency Law, supra, or other relevant provision of law.

8. In any such enforcement proceeding, Respondent may contest whether a breach of the provisions of this Order has occurred, but may not contest the Findings of Fact and Conclusions of Law contained herein.

9. Respondent hereby expressly waives any relevant statute of limitations and application of the doctrine of laches for purposes of any enforcement of this Order.

10. This Order constitutes the entire agreement of the parties with respect to the matters referred to herein, and it may not be amended or modified except by an amended order signed by all the parties hereto.

11. This Order shall be final upon execution by the Deputy Insurance Commissioner. Only the Insurance Commissioner or a duly authorized Deputy Insurance Commissioner is authorized to bind the Insurance Department with respect to the settlement of the alleged violations of law contained herein, and this Consent Order is not effective until executed by the Insurance Commissioner or a duly authorized Deputy Insurance Commissioner.

BY: HEALTHGUARD OF LANCASTER, INC., Respondent

President/Vice President

Secretary/~~Treasurer~~

RANDOLPH L. ROHRBAUGH
Deputy Insurance Commissioner
Commonwealth of Pennsylvania