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PA INSURANCE DEPARTMENT

BEFORE THE INSURANCE COMMISSIONER
OF THE COMMONWEALTH OF PENNSYLVANIA
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CLASS OFFICE

IN RE:	:	VIOLATIONS:
	:	
HEALTHGUARD OF	:	Section 3(E)(5) of the Health and
LANCASTER, INC.	:	Accident Reform Act, No. 159
280 Granite Run Drive	:	(40 P.S. § 3803)
Lancaster, PA 17601	:	
	:	
	:	
Respondent.	:	Docket No. MC04-04-002

CONSENT ORDER

AND NOW, this 20th day of April, 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) Respondent's response to each market conduct examination noted controls had been implemented to address premium rate violations.
- (f) By letter dated December 11, 2003, Respondent advised the Department that during the course of compliance testing for Act 159, three accounts were identified as non-compliant.
- (g) All three instances involved undercharging of premium in excess of the +/- 15% range.
- (h) Respondent further noted it has not conducted a complete compliance audit which may identify other accounts with potential violations.

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 subject to the jurisdiction of the Pennsylvania Insurance Department.
- (b) Section 3(E)(5) of Act 159, Health and Accident Reform Act (40 P.S. § 3803), which requires each hospital plan corporation, professional

health services plan and HMO to file rates which it proposes to issue to a group; requires each insurer and HMO file with the Department those rates which it proposes to use in this Commonwealth; and requires 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 Health and Accident Reform Act, No. 159 (40 P.S. § 3803) are punishable under Section 13 of the Act:

- (i) suspension or revocation of the license of the offending insurer or HMO;
- (ii) refusal, for a period not to exceed one year, to issue a new license to the offending insurer or 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;
- (v) a fine of not more than \$25,000 for each wilful violation of Section 6.

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 ensure that the three accounts referenced in the Findings of Fact are rated at renewal to be in compliance with applicable law.
- (c) Respondent agrees to conduct further review of group accounts to verify compliance with requirements of Act 159 pertaining to premium rates.
- (d) Respondent shall conduct its review in a manner that is acceptable to the Department.
- (e) Respondent agrees to complete such review and provide a complete report of its findings to the Department within ninety (90) days of the date of this Order.
- (f) The Department reserves its right to take further regulatory action based on any additional findings.
- (g) Respondent shall pay Twenty-Five Thousand Dollars (\$25,000.00) to the Commonwealth of Pennsylvania in settlement of the three premium rate violations noted in this Order.
- (h) 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, 1311 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, 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 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.

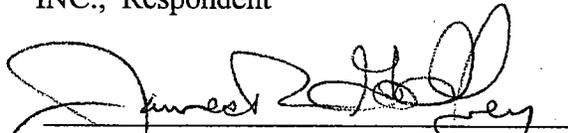
8. In any such enforcement proceeding, Respondent may contest whether a breach of the provisions of this Order has occurred but may not contest the Findings of Fact and Conclusions of Law contained herein.

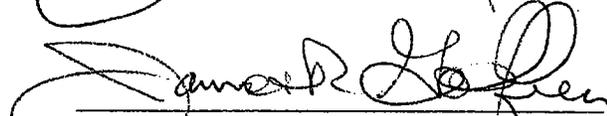
9. Respondent hereby expressly waives any relevant statute of limitations and application of the doctrine of laches for purposes of any enforcement of this Order.

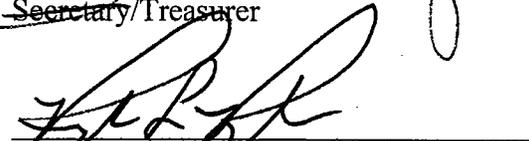
10. This Order constitutes the entire agreement of the parties with respect to the matters referred to herein, and it may not be amended or modified except by an amended order signed by all the parties hereto.

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