

BEFORE THE INSURANCE COMMISSIONER
OF THE
COMMONWEALTH OF PENNSYLVANIA

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INSURANCE DEPARTMENT
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IN RE: : VIOLATIONS:
: :
CAPITAL HEALTH PLANS, INC. : Sections 1401, 1404, 1406, 1407 and 1410 of
820 Parish Street : the Insurance Holding Companies Law, as
Pittsburgh, PA 15220 : amended, 40 P.S. §§991.1401, 991.1404,
: 991.1406, 991.1407 and 991.1410; and
: Chapter 25 of Title 31 of the Pennsylvania
: Code, 31 Pa. Code §§25.1-25.23
: :
: Docket No. CO05-01-039

CONSENT ORDER

AND NOW, this *7th* day of *April*, 2005, 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 hearing pursuant to Section 1410 of the Insurance Holding Companies Law. 40 P.S. §991.1410.

2. Respondent hereby waives all rights to a hearing in this matter, and agrees that this Consent Order, and the Findings of Fact and Conclusions of Law contained herein, shall have the full force and effect of an Order duly entered in accordance with Section 1410 of the Insurance Holding Companies Law. 40 P.S. §991.1410.

3. Without admitting the allegations of fact and conclusions of law contained herein, Respondent specifically denies that it violated any law or regulation of the Commonwealth.

FINDINGS OF FACT

4. The Deputy Insurance Commissioner finds true and correct each of the following

Findings of Fact:

- (a) Respondent is Capital Health Plans, Inc., and maintains its address at 820 Parish Street, Pittsburgh, Pennsylvania 15220.

- (b) Respondent, at all relevant times herein, has been licensed as a Risk Assuming Preferred Provider Organization.

- (c) Respondent, at all relevant times herein, has been subject to the provisions of the Insurance Holding Companies Law. 40 P.S. §§991.1401 – 991.1413.

- (d) As an insurer authorized to do business in Pennsylvania, Respondent was required to file an Insurance Holding Company System Annual Registration Statement within fifteen (15) days after it became subject to registration and continues to be required to file the registration statement annually thereafter no later than the thirty first (31st) day of March for each year thereafter for the previous year. 40 P.S. §991.1404.

- (e) Regulations which implement the Insurance Holding Companies Law set out the form and the required content for each type of filing required to

be submitted under the Insurance Holding Companies Law. 31 Pa. Code §§ 25.1 - 25.23. The form required to be filed by Section 1404 (40 P.S. §991.1404) is known as Form B (31 Pa.Code §25.23) and requires, inter alia, as an attachment, reviewed financial statements from individuals identified as those who own 10% or more of voting securities, also known as Ultimate Controlling Person(s) (Ultimate Controlling Persons are described in 40 P.S. §991.1401 and in 31 Pa. Code §§25.1 and 25.23).

- (f) Respondent submitted Form B registration statements for each of the following years; 2001, 2002 and 2003, but failed to file the reviewed financial statements as required for the Ultimate Controlling Persons of the Respondent .
- (g) Respondent identified the Ultimate Controlling Persons who failed to file reviewed financial statements for the years 2001, 2002 and 2003 as: Audrey R. Hughes, Paul R. Hughes and Phyllis L. Hughes Shehab.
- (h) Respondent attempted but was unsuccessful in obtaining the reviewed financial statements from the three individuals identified above.
- (i) The Department ultimately obtained the required financial statements for the three (3) years identified in 4(f) and (g) above, from Audrey Hughes and

Phyllis Shehab on October 25, 2004 and from Paul Hughes on December 6, 2004.

CONCLUSIONS OF LAW

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

- (a) Respondent is subject to the jurisdiction of the Pennsylvania Insurance Department.
- (b) Section 1404 of the Insurance Holding Company Act requires every insurer which is authorized to do business in this Commonwealth and which is a member of an insurance holding company system to register with the Department at least annually thereafter, and by March 31st of each year, file the registration statement on a form which is prescribed by the NAIC. Said registration statement shall contain, inter alia, all current capital, financial condition, ownership and management, and other information regarding the insurer and any person controlling the insurer. 40 P.S. §991.1404.
- (c) Respondent's failure to make the required filings as described above in paragraphs 4(f) and 1(g) violate 40 P.S. §991.1404.

(d) Title 31, Pennsylvania Code, Chapter 25, states, in part:

Unless the Commissioner otherwise permits, the annual financial statements shall be accompanied by the certificate of an independent public accountant to the effect that the statements present fairly the financial position of an ultimate controlling person and the results of its operations for the year then ended, in conformity with generally accepted accounting principles or with requirements of insurance or other accounting principles prescribed or permitted under law. If an ultimate controlling person is an insurer which is actively engaged in the business of insurance, the annual financial statements need not be certified, provided they are based on the Annual Statement of the insurer filed with the chief insurance regulatory official of the insurer's domiciliary jurisdiction and are in accordance with requirements of insurance or other accounting principles prescribed or permitted under the law and regulations of that jurisdiction. Any ultimate controlling person who is an individual may file personal financial statements that are reviewed rather than audited by an independent public accountant. The review shall be conducted in accordance with standards for review of personal financial statements published in the *Personal Financial Statements Guide* by the American Institute of Certified Public Accountants. Personal financial statements shall be accompanied by the independent public accountant's Standard Review Report stating that the accountant is not aware of any material modifications that should be made to the financial statements in order for the statements to be in conformity with generally accepted accounting principles. 31 Pa. Code §25.23

(e) Respondent's failures to file the reviewed financial statement of the ultimate controlling persons, as described above in paragraphs 4(f) and 3(g) violate Chapter 25 of Title 31 of the Pennsylvania Code.

(f) Respondent's violations of 40 P.S. §991.1404 are punishable by the following:

Any insurer failing without just cause to file any registration statement

shall be required, after notice and hearing, to pay a penalty not to exceed \$500 for each day's delay, not to exceed \$25,000. 40 P.S. §991.1410.

ORDER

6. 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 a civil penalty of Ten Thousand Dollars (\$10,000.00) to the Commonwealth of Pennsylvania. Payment of this penalty shall be made by certified check or money order, 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 may be enclosed with the Consent Order, but must be paid in any event no later than thirty (30) days after the date of the Consent Order.

7. 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 Department may pursue any and all legal remedies available, including, but not limited to, the following: The Department may enforce the provisions of this Order in an

administrative action under any relevant provision of law; and/or regulation or, if applicable, the Department may enforce the provisions of this Order in any court of law or equity having jurisdiction.

8. 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 relevant provision of law and/or regulation.

9. 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.

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

11. 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.

12. This Order shall be final upon execution by the Deputy Insurance Commissioner. Only the Insurance Commissioner or the duly authorized Deputy Insurance Commissioner is

authorized to bind the Insurance Department with respect to the settlement of the alleged violation of law contained herein, and this Consent Order is not effective until executed by the Insurance Commissioner or the duly authorized Deputy Insurance Commissioner.

BY: CAPITAL HEALTH PLANS, INC.,
Respondent



President / Vice President



Secretary / Treasurer



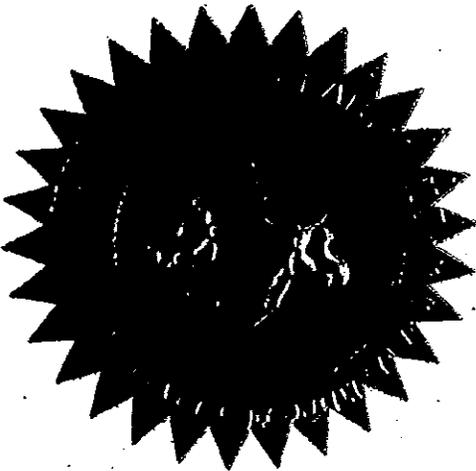
RANDOLPH L. ROHRBAUGH
Deputy Insurance Commissioner
Commonwealth of Pennsylvania

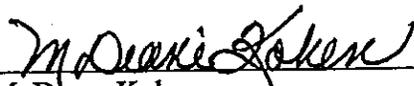
BEFORE THE INSURANCE COMMISSIONER
OF THE
COMMONWEALTH OF PENNSYLVANIA

IN RE: The Act of April 9, 1929, P.L. 177, No. 175, known as The
Administrative Code of 1929

AND NOW, this 29 day of April, 2002, Randolph L.

Rohrbaugh, Deputy Insurance Commissioner, is hereby designated as the
Commissioner's duly authorized representative for purposes of entering in and executing
Consent Orders. This delegation of authority shall continue in effect until otherwise
terminated by a later Order of the Insurance Commissioner.





M. Diane Koken
Insurance Commissioner