STATE OF MAINE
DEPARTMENT OF PROFESSIONAL AND FINANCIAL REGULATION
BUREAU OF INSURANCE

IN RE: Maine Community Health Options NAIC Company Code: 15077 Maine License No. NPD214118 Docket No. INS-20-203	**CONSENT AGREEMENT AND ORDER**

Maine Community Health Options ("Health Options" or "the Company"), the Superintendent of the Maine Bureau of Insurance ("Superintendent"), and the Maine Office of the Attorney General ("Attorney General") hereby enter into this Consent Agreement pursuant to 10 M.R.S. § 8003(5)(B) to resolve, without resort to an adjudicatory proceeding, violations of the Maine Insurance Code and the Maine Bureau of Insurance Rules. As set forth in more detail below, a market conduct examination has identified violations of Bureau of Insurance Rule 850's requirements pertaining to claim denials and appeals.

STATUTORY AUTHORITY

1. Under 10 M.R.S. § 8003(5)(A-1) and 24-A M.R.S. § 12-A, the Superintendent may issue a warning, censure or reprimand to a licensee; may suspend, revoke or refuse to renew the license of a licensee; may impose conditions of probation on a licensee; may levy a civil penalty against a licensee; or may take any combination of such actions in response to the licensee's violation of any insurance law, rule, regulation, subpoena or order of the Superintendent.

2. Pursuant to 10 M.R.S. § 8003(5)(B), the Superintendent may resolve an investigation without further proceedings by entering into a consent agreement with a licensee and with the consent of the Attorney General.

STATEMENT OF FACTS

A. Background

3. The Superintendent of Insurance is the State official charged with administering and enforcing Maine's insurance laws and regulations, and the Bureau of Insurance is the administrative agency with such jurisdiction.

4. The Superintendent has jurisdiction over this matter pursuant to the powers set forth in the Insurance Code generally, as well as the specific provisions of 24-A M.R.S. §§ 12-A and 211 and 10 M.R.S. § 8003.

5. Maine Community Health Options has been licensed in Maine as a domestic non-profit insurance company since 2013, holding Maine Certificate of Authority number NPD214118. Its NAIC Code is 15077 and it is domiciled in Maine.

6. 24-A M.R.S. § 221(5) requires the Superintendent to examine, no less frequently than once every five years, each domestic health carrier offering a health plan in Maine. A targeted market conduct examination of Health Options, the results of which serve as the basis for this Consent Agreement, was accordingly called and conducted pursuant to 24-A M.R.S. §§ 211 and 221.

7. The review period for the examination included claim denials and appeal requests initiated from October 1, 2017, through September 30, 2018.

8. The examiners conducted an on-site exam at the Health Options office in Lewiston, Maine, from August 12, 2019, through August 23, 2019.

9. The examiners tested the Company's compliance with certain requirements for claim denials, first level appeals, second level appeals, and expedited appeals that are set forth in Maine Bureau of Insurance Rule 850 § 8 and § 9. Rule 850 provides different requirements for appeals of health care treatment decisions, appeals of adverse benefit determinations that do not involve health care treatment decisions, and expedited appeals.

10. The scope of the examination of appeals was limited to those appeals where Health Options upheld the original determination. Appeals where the original determination was overturned were excluded from the examination.

11. The Examination found several instances of noncompliance with Rule 850, which are set forth in more detail below and in the examiners' Market Conduct Examination Report ("Exam Report").

12. Where Rule 850, in part, is testing the presence of certain items in a form letter, a failure to include one item within a form letter may lead to a failure for other files being tested as all files use the same form.

13. Health Options cooperated with the examiners throughout this exam and proactively made changes to their forms in advance of receiving the Exam Report.

B. First Level Appeals involving Health Care Treatment Decisions

14. Rule 850 § 3(A) states that "[a]ll adverse health care treatment decisions denying benefits to a covered person are subject to the appeals procedures set forth in subsection 8(G) and 8(G-1)."

15. As stated in the Exam Report, Health Options was not compliant in some areas examined because it either failed to follow a procedure set forth in § 8(G) or failed to include

information required by § 8(G) in the written notice of the adverse appeal decision that was sent to the member.

16. Each sample file included an "Appeals Rights and Information" form. The form omitted some of the specific statements required by 24-A M.R.S. § 4312(3) and 850 § 8(G)(1)(a).

17. Examiners also found that some files did not include sufficient statements of the reviewers' understanding of the reasons for the appeals.

18. Additionally, examiners found that several notices that were sent to members failed to completely identify the person evaluating the appeal. Health Options has confirmed that this was an error made by one of its vendors. Health Options agrees it is responsible for the performance of its vendor.

C. Second Level Appeals involving Health Care Treatment Decisions

19. Rule 850 § 3(A) states that "[a]ll adverse health care treatment decisions denying benefits to a covered person are subject to the appeals procedures set forth in subsection 8(G) and 8(G-1)."

20. As stated in the Exam Report, Health Options was not compliant in all areas examined because it either failed to follow a procedure set forth in § 8(G-1) or failed to include information required by § 8(G-1) in the written notice of the adverse appeal decision that was sent to the member.

21. Each sample file included an "Appeals Rights and Information" form. The form omitted some of the specific statements required by 24-A M.R.S. § 4312(3).

22. Examiners also found that some files did not include sufficient statements of the reviewers' understanding of the reasons for the appeals.

D. First Level Appeals of Adverse Benefit Determinations

23. Rule 850 § 3(A) states that "[a]ll requests for review of 'adverse benefit determinations,' other than 'health care treatment decisions,' are subject to the grievance procedures set forth in section 9."

24. As stated in the Exam Report, Health Options was not compliant in some areas examined because it failed to include information required by § 9 in the written notice of the adverse appeal decision that was sent to the member.

25. Specifically, when upholding a denial on the basis of language in the Member Benefit Agreement (MBA), Health Options did not always refer to a specific location within the text of the MBA.

26. Examiners also found that some files did not include sufficient statements of the reviewers' understanding of the reasons for the appeals.

E. Second Level Appeals of Adverse Benefit Determinations

27. Rule 850 § 3(A) states that "[a]ll requests for review of 'adverse benefit determinations,' other than 'health care treatment decisions,' are subject to the grievance procedures set forth in section 9."

28. As stated in the Exam Report, Health Options was not compliant in some areas examined because it either failed to follow a procedure set forth in § 9 or failed to include information required by § 9 in the written notice of the adverse appeal decision that was sent to the member.

29. Specifically, Health Options did not hold some meetings within 45 days of receiving the request for the second level review and did not always refer to a specific location within the text of the MBA when relying on language from the MBA to uphold a denial.

F. Expedited Appeals

30. Rule 850 § 3(A) states that "[a]ll adverse health care treatment decisions denying benefits to a covered person are subject to the appeals procedures set forth in subsection 8(G) and 8(G-1)."

31. The specific requirements pertaining to expedited appeals are set forth in Rule 850 § 8(G)(2).

32. As stated in the Exam Report, Health Options was not compliant in some areas examined because it failed to include information required by § 8(G)(2) in the written notice of the adverse appeal decision that was sent to the member.

33. Each sample file included an "Appeals Rights and Information" form. The form omitted some of the specific statements required by 24-A M.R.S. § 4312(3).

G. Claim Denials / Adverse Benefit Determinations

34. Rule 850 § 9(A) states that "[f]or any adverse benefit determination that does not involve medical issues, the carrier shall provide written notice that includes the information required [by § 9(A)(1) through § 9(A)(11)]."

35. The examiners' review of a sample population of sixty (60) files revealed that the Company did not comply with Rule 850 because the written notices it sent to its members did not include all of the information required by the tested subsections of § 9(A)(1) through § 9(A)(11).

36. As stated in the Exam Report, Health Options was not compliant in some areas examined because it failed to include required information in the written notice of the adverse benefit determination that was sent to the member.

37. Specifically, the Health Options explanation of benefits (EOB) form did not include a statement that diagnosis codes and treatment codes and their corresponding means would be provided upon request.

VIOLATIONS OF LAW

38. As set forth in Paragraphs 16 through 37, Health Options violated Rule 850 because it failed to meet all of the requirements set forth in Rule 850 §§ 8 and 9 for claim denials, first level appeals, second level appeals, and expedited appeals in the files reviewed by the examiners.

COVENANTS

39. Health Options agrees to the Statement of Facts and Violations of Law stated above and agrees that such actions make it subject to disciplinary action.

40. No later than sixty (60) days after executing this Consent Agreement, Health Options will remit to the Maine Bureau of Insurance a company check in the amount of Thirty Thousand Dollars ($30,000) payable to the Treasurer of the State of Maine.

41. The Superintendent has provided Health Options with a Corrective Action Plan to ensure that Health Options has taken, or will take, steps to correct the procedural deficiencies found during the Examination and set forth in the Exam Report, which is hereby incorporated by reference.

42. Health Options has returned its completed Corrective Action Plan to the Superintendent for his review and approval. The Plan includes, as attachments, all form letters and notices that have been revised by Health Options based on the examiners' findings.

43. The parties to this Consent Agreement understand that nothing herein shall affect any right or interest which any person not a party to this Agreement may possess.

44. This Consent Agreement is not subject to appeal. Health Options waives any right it might have to appeal any matter that is a subject of this Consent Agreement.

45. This Consent Agreement constitutes an Order of the Superintendent. A violation of its terms is enforceable by the Superintendent pursuant to 24-A M.R.S. §§ 12-A and 211.

46. This Consent Agreement is also enforceable by an action in Maine Superior Court pursuant to 24-A M.R.S. § 214, 10 M.R.S. § 8003(5)(B), and 14 M.R.S. § 3138.

47. The effective date of this Consent Agreement is the date of the Superintendent's signature.

48. This Consent Agreement may be modified only by a written agreement executed by all of the parties hereto. Any decision to modify, continue or terminate any provision of this Consent Agreement rests in the discretion of the Superintendent and the Attorney General.

49. This Consent Agreement is a public record subject to the provisions of the Maine Freedom of Access Act. It will be available for public inspection and copying as provided by 1 M.R.S. § 408-A and will be reported to the National Association of Insurance Commissioners'(NAIC) Regulatory Information Retrieval System "RIRS" database.

50. By the duly-authorized signature of its representative on this Consent Agreement, Health Options warrants that it has consulted with counsel before signing the Consent Agreement or has knowingly and voluntarily decided to proceed in this matter without consulting counsel, that it understands this Consent Agreement, and that it enters into the Consent Agreement voluntarily and without coercion of any kind from any person.

51. In return for Health Options' execution of and compliance with the terms of this Consent Agreement, the Superintendent and the Attorney General agree to forego pursuing further disciplinary measures or other civil or administrative sanctions arising under the Maine Insurance Code for the specific conduct described in this Consent Agreement, other than those sanctions agreed to herein. However, should Health Options fail to comply with or violate this Consent Agreement, it may be subject to any available remedy under the law for such a failure or violation.

[THE REMAINDER OF THIS PAGE IS LEFT BLANK INTENTIONALLY]

MAINE COMMUNITY HEALTH OPTIONS

Dated: May 14, 2021

Kevin Lewis
CEO

FOR THE OFFICE OF THE ATTORNEY GENERAL

Dated: June 1, 2021

Thomas C. Sturtevant
Assistant Attorney General

THE MAINE SUPERINTENDENT OF INSURANCE

Dated: May 24, 2021

Eric A. Cioppa
Superintendent