

**STATE OF OREGON  
DEPARTMENT OF CONSUMER AND BUSINESS SERVICES  
INSURANCE DIVISION**

In the Matter of **LifeWise,  
A Premera Health Plan, Inc.**

) **STIPULATION** and  
) **FINAL ORDER**  
) Case No. INS 01-07-008  
) File No. 2424 IV

**STIPULATION**

The Director of the Department of Consumer and Business Services (Director) has commenced the above entitled administrative proceeding, pursuant to Oregon Revised Statutes (ORS) 731.256, to take action against LifeWise, A Premera Health Plan, Inc. (LifeWise) for violating the Oregon Insurance Code.

LifeWise enters into this Stipulation to conclude this proceeding without further administrative or judicial proceeding, pursuant to ORS 183.415(5) and related rules.

LifeWise has fully read and understood the contents of this Stipulation and Final Order and, having been fully advised by legal counsel or had the opportunity to seek legal advice, waives any and all rights to receive a notice of proposed action and notice of rights and procedures in contested cases and to appeal, seek judicial review, or otherwise challenge this Stipulation and Final Order.

LifeWise agrees that entry of the Final Order below in no way limits or prevents further remedies, sanctions, or actions which may be available to the Director to enforce the Final Order, for violations of the Final Order, for conduct or actions of LifeWise that are not covered by the Final Order or against a party not covered by the Final Order.

The person signing this Stipulation on behalf of LifeWise represents that he or she is so authorized by LifeWise.

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LifeWise admits and agrees to the following facts, conclusions, and action:

### **Facts**

#### **1. Licensing.**

LifeWise has been licensed in Oregon as a life and health insurer from December 24, 1986 to present. LifeWise's company number with the Oregon Insurance Division (Division) is 2635 and its National Association of Insurance Commissioners (NAIC) identification number is 84930. LifeWise's main administrative office is located at 2020 SW 4<sup>th</sup> St., Ste. 1000, Portland OR 97201-4965.

#### **2. Failure To Promptly Provide Proper Explanation For Basis Of Denial.**

On March 13, 1999, McKenna Zinn, the 16-month-old daughter of Zachary and Danice Zinn, of Redmond, Oregon, suffered a serious injury to her face from a dog bite. Surgery was performed to repair the injury and was paid for by LifeWise pursuant to the provisions of the policy. The injury left a facial scar. Zachary Zinn and his family, including McKenna Zinn, had health insurance coverage through LifeWise during this time period and at all times material herein..

On September 22, 1999, McKenna Zinn's doctor requested preauthorization from LifeWise for payment of a laser revision treatment of the scar. The doctor provided information, including her chart notes, along with the request for preauthorization. The chart notes indicated that the doctor recommended waiting at least a year and possibly up to six years to perform the procedure. After reviewing and considering the information received, LifeWise denied the request by letter to the doctor dated October 11, 1999. The letter indicated that the procedure was excluded as cosmetic and that medical necessity to perform the procedure at that time was unsubstantiated from the documentation provided.

On May 11, 2000, McKenna Zinn's doctor again requested preauthorization from LifeWise for payment of the laser scar revision procedure. The doctor again provided the same information with her request except that the chart notes contained one additional entry, which indicated that the doctor now recommended waiting until McKenna Zinn was 10 or 12 years old. After reviewing and

considering the request again, LifeWise again denied the request by letter dated May 23, 2000. LifeWise only stated in this second denial that the procedure was excluded from coverage as a cosmetic procedure. LifeWise acknowledges that this second denial should have stated that the denial was based on it appearing to LifeWise from the information reviewed that the requested procedure was not medically necessary.

LifeWise conducted further review of its decision based on a complaint to and an inquiry by the Division. LifeWise, by letter to the insured dated June 28, 2000, indicated that the claim was denied as being for cosmetic surgery and an exclusion under the policy. This letter also should have indicated that the denial was based on it appearing to LifeWise from the information reviewed that the procedure was not medically necessary.

LifeWise failed to provide a proper explanation for the basis on which coverage was denied. The policy excludes from coverage cosmetic or reconstructive surgery unless such surgery is the result of an accidental bodily injury that occurs while a person is insured by the policy. McKenna Zinn's scar was the result of the dog bite injury and therefore the result of an accidental bodily injury under the terms of the policy. Although the policy authorized LifeWise to deny coverage for procedures that were not medically necessary, LifeWise failed to consistently and promptly provide the insured with the proper explanation for the denial.

### **Ultimate Facts**

LifeWise failed to promptly provide to the insured the proper explanation of the basis relied on in the insurance policy for denial of the claim for laser scar revision treatment.

### **Conclusions**

LifeWise violated ORS 746.230(1)(m) by failing to promptly provide the insured with the proper explanation of the basis actually relied upon in the insurance policy for denial of the claim for laser scar revision treatment.

**Action**

LifeWise shall pay a civil penalty in the sum of five thousand dollars (\$5,000) to the Oregon Department of Consumer and Business Services for the violation admitted to above. Payment shall be made within thirty (30) days of issuance of the Final Order by check payable to the "Department of Consumer and Business Services" and mailed to the Oregon Insurance Division, 350 Winter Street, NE, Room 440, Salem OR 97301-3833.

Dated March 13, 2002.

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**LifeWise, A Premera Health Plan, Inc.**

By: /s/ Mark A. Charpentier

Print: Mark A. Charpentier

Title: President & CEO

Authorized Representative

**APPROVED AS TO FORM:**

/s/ Pilar C. French

Pilar C. French, OSB #96288

Lane Powell Spears Lubersky, LLP

Attorney for LifeWise, A Premera Health Plan, Inc.

## **FINAL ORDER**

The Director adopts, and incorporates herein by this reference, the Facts, Ultimate Facts, Conclusions and Action in the above Stipulation as the Findings of Fact, Ultimate Findings of Fact, Conclusions of Law and Order, respectively, of this Final Order.

Dated: March 26, 2002.

/s/ Mary C. Neidig

Mary C. Neidig

Director

Department of Consumer and Business  
Services, State of Oregon

## **CERTIFICATE OF SERVICE**

I certify that on March 26, 2002 I served the above Stipulation and Final Order by mailing a true copy thereof in a sealed envelope, with first class postage prepaid, to the party named therein and to its attorney at their last known addresses:

LIFEWISE, A PREMERA HEALTH PLAN, INC.  
2020 SW 4<sup>th</sup> St., Ste. 1000  
Portland OR 97201-4965

PILAR C. FRENCH, ESQ.  
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/s/ Mitchel D. Curzon  
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