

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

In the Matter of **Chickering Claims
Administrators, Inc.**

) **STIPULATION** and
) **FINAL ORDER**
) Case No. INS 06-01-016

STIPULATION

The Director of the Oregon Department of Consumer and Business Services (director) commenced this administrative proceeding, pursuant to Oregon Revised Statutes (ORS) 731.256, to take enforcement action against Chickering Claims Administrators, Inc. (Chickering).

Chickering desires to conclude this proceeding without a hearing by entering into this stipulation pursuant to ORS 183.415(5).

Chickering waives all rights relative to an administrative hearing and judicial review thereof.

Chickering stipulates to the following facts, conclusions, action, and to the issuance of a final order incorporating this stipulation.

Facts and Conclusions

Licensing Information

Chickering has been licensed in Oregon as a third party administrator since 1/2/96. Chickering's last recorded principal business address is located in Cambridge, Massachusetts.

Failed to Acknowledge and Act Promptly Upon Communication About Claim

Chickering violated ORS 746.230(1)(b) in one instance by engaging in the following conduct. ORS 746.230(1)(b) prohibits an insurer or other person from failing to acknowledge and act promptly upon communications relating to claims. At all relevant times, Pamela A. Kwiatkowski (Kwiatkowski), then of Tangent, Oregon, was a student attending Oregon State University (OSU) in Corvallis, Oregon. Kwiatkowski was covered under a group health insurance policy, number 711116, issued to OSU by Aetna Life Insurance Company and administered by

Chickering. On 3/9/04, Chickering received from Regina J. Grassman (Grassman), Oncology Coordinator, The Corvallis Clinic, PC in Corvallis, Oregon, a letter dated 3/2/04. The clinic had provided some medical services to Kwiatkowski, and Kwiatkowski had filed a claim with Chickering for payment of the medical services. In the letter, Grassman asked Chickering to confirm in writing certain information, relating to one of Kwiatkowski's claims, that Chickering had told Grassman on the telephone on two previous occasions. Chickering was required to respond by 4/10/04 pursuant to OAR 836-080-0225(3). Chickering did not respond to Grassman. In a letter dated 10/28/05, Chickering explained that "Chickering did not respond directly to Grassman [because] the examiner was to print out and present this letter to a claims supervisor for a response [but] the examiner, based upon a note in the file referencing a response to the [Insurance Division] on this issue, made a judgment that it was not necessary to forward Grassman's letter to a supervisor for a response."

Failed to Truthfully Respond to Director's Inquiry

Chickering violated ORS 731.296 in one instance by engaging in the following conduct. ORS 731.296 requires a person licensed in Oregon as, *inter alia*, a third party administrator, to promptly and truthfully respond to inquiries from or on behalf of the director. On 3/10/04, the Insurance Division received a complaint from Kwiatkowski about Chickering. On 3/12/04, the Insurance Division mailed to Chickering a letter requesting certain information about the complaint by 4/2/04. On 3/17/04, Chickering received the letter. On 4/2/04, the Insurance Division received by mail from Chickering a letter dated 3/25/05 stating *inter alia* that "[r]egarding the pharmacy expenses for the [drug] Neupogen, Aetna Pharmacy Management has provided the maximum policy pharmacy benefits of \$1,000, so further pharmacy expenses would not be available." This statement was not true. In a letter dated 10/28/05, Chickering explained that "the responding Quality Assurance Specialist ('QAS') [who wrote Chickering's letter dated 3/25/05] erroneously reported that the maximum benefit had been paid based on the existence of a customer service note indicating that the prescription maximum had

been met. This representation was made by a provider to a customer service representative and recorded in the claims file. The QAS failed to independently verify this notation. This procedural breach has been addressed with the QAS.”

Failed to Promptly and Equitably Settle Claim

Chickering, violated ORS 746.230(1)(f) in one instance by engaging in the following conduct. ORS 746.230(1)(f) prohibits an insurer or other person from not attempting, in good faith, to promptly and equitably settle claims in which liability has become reasonably clear. On an unknown date, Kwiatkowski filed a claim with Chickering for a prescription of the drug Epirubicin. On 5/7/04, Chickering denied the claim because Chickering considered the use of the drug to be experimental. It was not true that Chickering considered the drug was experimental. In a letter dated 7/21/04, Chickering stated that “there seems to be a question concerning that denial of chemotherapy on the basis that the particular drug being used is experimental. I have personally researched that issue and have found no basis for that determination. I have authorized the payment of the chemotherapy services utilizing the drug Epirubicin. We have instructed our claim examiners to adjust and process these claims.” In a letter dated 10/28/05, Chickering explained that “Chickering denied one claim as experimental for the drug Epirubicin due to examiner error. This denial occurred on May 7, 2004 by an inexperienced examiner ... who did not obtain the required supervisor approval. This examiner is no longer with the company. This denial was communicated to Kwiatkowski and the provider of service via an Explanation of Benefits. The denial of this claim as experimental was reversed by a Chickering claims supervisor as indicated in a letter to the [Insurance Division] dated July 21, 2004.”

Action

Pursuant to ORS 731.988, Chickering is assessed a civil penalty of \$5,000. The payment shall be made in the form of a check payable to the "Department of Consumer and Business Services" for the full amount due. The payment shall be delivered to the Insurance Division at the Labor and Industries Building, 350 Winter Street NE, Room 440 (4th Floor), Salem, Oregon; or mailed to the Insurance

Division at PO Box 14480, Salem, OR 97309-0405. The payment shall be *received* by the Insurance Division by the date of the final order.

Dated February 21, 2006

/s/ Paul V. Silva
[Signature of Representative]
Paul V. Silva
[Printed Name of Representative]
Chief Operating Officer
[Printed Title of Representative]

Chickering Claims Administrators, Inc.

FINAL ORDER

The director incorporates herein the above stipulation, adopts it as the director's final decision in this proceeding, and orders that the action stated therein be taken.

Dated March 1, 2006

/s/ Joel Ario
Joel Ario
Administrator
Insurance Division
Department of Consumer and Business Services

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