

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

In the Matter of **PacifiCare of Oregon, Inc.**            ) **STIPULATION** and  
                                                                                  ) **FINAL ORDER**  
                                                                                  ) Case No. INS 07-08-002

**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 PacifiCare of Oregon, Inc. (PacifiCare).

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

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

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

**Facts and Conclusions**

Licensing Information

PacifiCare has been licensed in Oregon as a domestic health care service contractor since 1/30/87. PacifiCare's principal business address is located in Lake Oswego, Oregon.

Refused to Pay Claim Without Conducting a Reasonable Investigation

PacifiCare is subject to enforcement action pursuant to ORS 746.230(1)(d) because of the following circumstances. ORS 746.230(1)(d) prohibits an insurer or other person from refusing to pay claims without conducting a reasonable investigation based on all available information. ORS 750.055(1)(g) makes ORS 746.230(1)(d) applicable to health care service contractors like PacifiCare. From 6/1/04 to 5/4/07, PacifiCare denied 840 claims. The claims indicated that they were for medical services classified under code 257.2 of the International

Classification of Diseases, Ninth Revision, Clinical Modification (ICD-9-CM). This code includes various services. PacifiCare insured some of the services but not others. PacifiCare denied the claims without investigating whether the claim was for a service that PacifiCare insured. A claimant, whose claim was denied, and who resided in Oregon, complained to the Insurance Division. The Insurance Division contacted PacifiCare about the complaint. Subsequently, PacifiCare reviewed the claims, determined that 234 of the claims should have been paid, paid the claims plus interest, and took corrective action.

#### Failed to Acknowledge and Act Promptly Upon Communication About Claim

PacifiCare is subject to enforcement action pursuant to ORS 746.230(1)(b) because of the following circumstances. ORS 746.230(1)(b) prohibits an insurer or other person from failing to acknowledge and act promptly upon communications relating to claims. ORS 750.055(1)(a) makes ORS 746.230(1)(b) applicable to health care service contractors like PacifiCare. On 10/24/06, a claimant mailed to PacifiCare, at its office in Cypress, California, a letter dated 10/24/06 requesting certain information relating to the claimant's claims. PacifiCare received the letter but did not respond. On 12/20/06, the claimant faxed a copy of the letter to PacifiCare. PacifiCare received the letter but did not respond. On 5/11/07, the Insurance Division informed PacifiCare that it had not responded to the claimant. On 6/8/07, PacifiCare sent a letter to the claimant providing the information requested.

#### Failed to Timely Respond to Director's Inquiry

PacifiCare is subject to enforcement action pursuant to ORS 731.296 because of the following circumstances. ORS 731.296 requires a person who is licensed in Oregon in any capacity under the Insurance Code to promptly and truthfully respond to an inquiry from the director. ORS 750.055(1)(a) makes ORS 731.296 applicable to health care service contractors like PacifiCare.

1. On 12/5/05, the Insurance Division mailed to PacifiCare, at its office in Cypress, California, a letter requesting certain information by 1/2/06. On 12/22/05, the Insurance Division received from PacifiCare a letter dated 12/21/05 which did

not provide the information requested. On 12/27/05, the Insurance Division mailed to PacifiCare a follow up letter requesting the information by 1/18/06. On 1/27/06, the Insurance Division received from PacifiCare a letter dated 1/25/06 which did not provide the information requested and explained that it was not provided because “PacifiCare does not track these issues.” On 4/17/06, the Insurance Division mailed to PacifiCare a second follow up letter requesting the information by 5/8/06 which was subsequently extended to 6/18/06. On 5/25/06, the Insurance Division received from PacifiCare a letter dated 5/24/06 providing the information. Thus, PacifiCare provided the information 143 days late from 1/2/06 to 5/25/06.

2. On 7/3/06, the Insurance Division mailed to PacifiCare, at its office in Cypress, California, a letter requesting certain information by 7/27/06. PacifiCare did not respond. On 1/12/07, the Insurance Division faxed to PacifiCare, at an office in Portland, Oregon, a note asking for assistance to get PacifiCare to respond. On 2/20/07, the Insurance Division received from PacifiCare a letter dated 2/15/07 which promised a response by 2/28/07. PacifiCare did not respond. On 4/4/07, the Insurance Division e-mailed to PacifiCare a follow up letter requesting the information. On 5/10/07, the Insurance Division received from PacifiCare a letter dated 8/8/06 which the Insurance Division had not previously received and which provided some but not all of the information requested. On 5/14/07, the Insurance Division e-mailed to PacifiCare a second follow up letter stating that PacifiCare’s letter dated 8/8/06 was inadequate, and requested the remaining information by 6/4/07. On 5/18/07, the Insurance Division received from PacifiCare an e-mail stating that “PacifiCare apologizes and acknowledges the delayed and inaccurate responses and accepts responsibility for not responding to the Insurance Division’s multiple requests as required under ORS 731.296 and OAR 836-080-0225(2).” PacifiCare took corrective action. Thus, PacifiCare did not provide all of the information, and the information that PacifiCare provided was provided 287 days late from 7/27/06 to 5/10/07.

**Action**

Pursuant to ORS 731.988, PacifiCare is assessed a civil penalty of \$34,000. 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 (4<sup>th</sup> 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 August 20, 2007

/s/ Nancy Monk  
[Signature of Representative]  
Nancy Monk  
[Printed Name of Representative]  
Vice President Government Affairs  
[Printed Title of Representative]  
PacifiCare of Oregon, 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 September 20, 2007

/s/ Cory Streisinger  
Cory Streisinger  
Director  
Department of Consumer and Business Services

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