

FEB 10 2010

DEPT OF INSURANCE
BY *CB*

STATE OF ARIZONA
ARIZONA DEPARTMENT OF INSURANCE

In the Matter of:)
)
HEALTH NET OF ARIZONA, INC.)
NAIC #95206)
)
Respondent.)

Docket No. 10A-027-INS

CONSENT ORDER

On October 14, 2008 the Arizona Department of Insurance ("Department") called a health insurance compliance examination ("Examination") of Health Net of Arizona, Inc., ("HNAZ" or "Company") covering the time period January 1, 2007 through December 31, 2008 ("Examination Period"). The Examination Period was divided into four six-month periods ("Partial Examination Periods" or "PEPs") as follows:

- PEP 1: January 1, 2007 – June 30, 2007
- PEP 2: July 1, 2007 – December 31, 2007
- PEP 3: January 1, 2008 – June 30, 2008
- PEP 4: July 1, 2008 – December 31, 2008

The Report of the Health Insurance Compliance Examination of Health Net of Arizona, Inc., dated July 29, 2009 ("Report"), which is included herein by reference, alleges that Health Net of Arizona, Inc. violated Arizona Revised Statutes (A.R.S.) §§ 20-2533 through 20-2536, A.R.S. § 20-1077, A.R.S. § 20-1074 and A.R.S. § 20-3102. The Company wishes to resolve this matter without formal proceedings. Health Net of Arizona, Inc. admits the following Findings of Fact are true and consents to the entry of the following Conclusions of Law solely for the purpose of resolving the allegations contained in the Report, and consents to the entry of the following Order.

1
2 **FINDINGS OF FACT**

3 I. Jurisdiction.

4 Health Net of Arizona, Inc. is, and throughout the Examination Period was,
5 authorized to operate as a health care services organization pursuant to a
6 Certificate of Authority issued by the Arizona Insurance Director ("Director").
7

8 II. Utilization Review and Health Care Appeals.

9 A. During PEP 2, in 1 of 15 (7% of) health care appeals, HNAZ failed to
10 provide a health care appeals information packet to the member within five
11 business days after the appeal was initiated. In the files the Department
12 reviewed for PEPs 1, 3 and 4, the Department did not find a significant
13 number of files with this violation.

14 B. During PEP 2, in 1 of 1 (100% of) requests for expedited medical review,
15 HNAZ failed to inform the member and the member's treating provider of
16 the expedited decision within one business day. In the files the
17 Department reviewed for PEPs 1, 3 and 4, the Department did not find a
18 significant number of files with this violation.

19 C. During PEPs 1 and 3, in 2 of 2 (100% of) expedited medical reviews where
20 there was an adverse decision, HNAZ failed to notify the member or the
21 member's treating provider by telephone and mail of the adverse decision
22 or of the member's option to immediately proceed to an expedited appeal.
23 In the files the Department reviewed for PEPs 2 and 4, the Department did
24 not find a significant number of files with this violation.
25

1 D. During PEPs 1 and 2, in 2 of 32 (6% of) requests for informal
2 reconsiderations, HNAZ failed to mail a written acknowledgment to the
3 member within five business days after receiving the request, or failed to
4 mail a written acknowledgment to the member's treating provider within five
5 business days after receiving the request or failed to do either. In the files
6 the Department reviewed for PEPs 3 and 4, the Department did not find a
7 significant number of files with this violation.

8 E. During PEP 3, in 2 of 19 (11% of) informal reconsiderations, HNAZ failed
9 to mail notice of the utilization review agent's decision to the member within
10 thirty days after receiving a request for informal reconsideration, or to mail
11 notice of the utilization review agent's decision to the member's treating
12 provider within thirty days after receiving a request for informal
13 reconsideration, or to include the criteria used and the clinical reasons for
14 the decision. In the files the Department reviewed for PEPs 1, 2 and 4, the
15 Department did not find a significant number of files with this violation.

16 F. During PEP 2, in 1 of 3 (33% of) formal appeals, HNAZ failed to mail a
17 written acknowledgment to the member and the member's treating
18 provider within five business days after receiving the formal appeal. In the
19 files the Department reviewed for PEPs 1, 3 and 4, the Department did not
20 find a significant number of files with this violation.

21 G. During PEP 2, in 1 of 3 (33% of) formal appeals, HNAZ denied the appeal
22 and did not initiate the external independent review process or provide the
23 member with notice of the option to proceed to an external independent
24 review. In the files the Department reviewed for PEPs 1, 3 and 4, the
25 Department did not find a significant number of files with this violation.

1 III. Use of Freestanding Urgent Care Centers.

2 A. During the Examination Period, HNAZ failed to recredential freestanding
3 urgent care centers at least every two years.

4
5 IV. Contract Termination; Duty To Report; Provision For Continued Services
6 During Insolvency.

7 A. During the Examination Period, in 100% of Provider Participation
8 Agreements reviewed, HNAZ failed to include a statement that required the
9 provider to provide services to members if HNAZ were to become insolvent
10 or the language was incorrect.

11
12 V. Provider Grievances.

13 A. During the Examination Period, HNAZ failed to establish or have an
14 effective internal system for resolving payment disputes and contractual
15 grievances, including:

- 16 1. Failed in 29 of 200 (15% of) health care provider grievances, to
17 categorize health care provider grievances accurately.
- 18 2. Failed in 28 of 200 (14% of) health care provider grievances, to
19 timely resolve health care provider grievances within the
20 timeframe HNAZ established.

1
2 **CONCLUSIONS OF LAW**

3 I. Jurisdiction.

4 The Director has the authority to enter and enforce this Order. A.R.S. § 20-
5 142.

6
7 II. Utilization Review and Health Care Appeals.

8 A. During PEP 2, Health Net of Arizona, Inc. violated A.R.S. § 20-2533(C) by
9 failing to provide a health care appeals information packet to the member
10 within five business days after the date the appeal was initiated.

11 B. During PEP 2, in requests for expedited medical review, Health Net of
12 Arizona, Inc. violated A.R.S. § 20-2534(B) by failing to inform the member
13 and the member's treating provider of the expedited decision within one
14 business day.

15 C. During PEPs 1 and 3, in expedited medical reviews where there was an
16 adverse decision, Health Net of Arizona, Inc. violated A.R.S. § 20-2534(C)
17 by failing to notify the member or the member's treating provider by
18 telephone and mail of the adverse decision or of the member's option to
19 immediately proceed to an expedited appeal.

20 D. During PEPs 1 and 2 in requests for informal reconsideration, Health Net
21 of Arizona, Inc. violated A.R.S. § 20-2535(B) by failing to mail a written
22 acknowledgment to the member within five business days after receiving
23 the request, or failed to mail a written acknowledgment to the member's
24 treating provider within five business days after receiving the request or
25 failed to do either.

- 1 E. During PEP 3 in informal reconsiderations, Health Net of Arizona, Inc.
2 violated A.R.S. § 20-2535(D) by failing to mail notice of the utilization
3 review agent's decision to the member within thirty days after receiving a
4 request for informal reconsideration, or to mail notice of the utilization
5 review agent's decision to the member's treating provider within thirty days
6 after receiving a request for informal reconsideration, or to include the
7 criteria used and the clinical reasons for the decision.
- 8 F. During PEP 2 in formal appeals, Health Net of Arizona, Inc. violated
9 A.R.S. § 20-2536(B) by failing to mail a written acknowledgment to the
10 member and the member's treating provider within five business days
11 after receiving the formal appeal.
- 12 G. During PEP 2 in formal appeals, when Health Net of Arizona, Inc. denied
13 the appeal and did not initiate the external independent review process,
14 violated A.R.S. § 20-2536(G) by failing to provide the member with notice
15 of the option to proceed to an external independent review.

16
17 III. Use Of Freestanding Urgent Care Centers.

- 18 A. During the Examination Period, Health Net of Arizona, Inc. violated A.R.S.
19 § 20-1077(3) by requiring its members to use a freestanding urgent care
20 center as a condition of coverage or a reduction in copayment,
21 coinsurance or deductible amounts for covered health care services and
22 did not recredential the freestanding urgent care centers at least every two
23 years.
- 24
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1 IV. Contract Termination; Duty To Report; Provision For Continued Services
2 During Insolvency.

3 A. During the Examination Period, Health Net of Arizona, Inc. violated A.R.S.
4 § 20-1074(B) by failing to include a statement in the Company's Provider
5 Participation Agreements that required the provider to provide services to
6 members if Health Net of Arizona, Inc. were to become insolvent or the
7 language was incorrect.

8
9 V. Provider Grievances.

10 A. During the Examination Period, Health Net of Arizona, Inc. violated A.R.S. §
11 20-3102(F) by failing to establish or have an effective internal system for
12 resolving payment disputes and contractual grievances, including:

- 13 1. Failing to categorize health care provider grievances accurately.
- 14 2. Failing to timely resolve health care provider grievances within the
15 timeframe the Company established.

1
2 ORDER

3 **IT IS HEREBY ORDERED THAT:**

4 1. Utilization Review And Health Care Appeals. Within 90 days of the filed date of
5 this Order, Health Net of Arizona, Inc. shall submit to the Arizona Department of
6 Insurance for the Director's approval a Corrective Action Plan (CAP 1) regarding
7 the Company's utilization review and health care appeals violations set forth in this
8 Consent Order. CAP 1 shall provide specific steps that Health Net of Arizona, Inc.
9 has taken or will take by certain dates to assure that by a specified implementation
10 date, the Company is:

- 11 a. Providing a health care appeals information packet to members within five
12 business days after the date the appeal was initiated.
- 13 b. In requests for expedited medical review, notifying the member and the
14 member's treating provider of the expedited decision within one business
15 day.
- 16 c. In requests for expedited medical review where there was an adverse
17 decision, notifying the member and the member's treating provider by
18 telephone and mail of the adverse decision and of the member's option to
19 immediately proceed to an expedited appeal.
- 20 d. In requests for informal reconsideration, mailing a written acknowledgment
21 to the member within five business days after receipt of the request, and
22 mailing a written acknowledgment to the member's treating provider within
23 five business days after receipt of the request.
- 24
25

1 e. Mailing a notice of the utilization review agent's decision to the member
2 within thirty days after receipt of a request for informal reconsideration, and
3 mailing notice of the utilization review agent's decision to the member's
4 treating provider within thirty days after receipt of a request for informal
5 reconsideration, and including the criteria used and the clinical reasons for
6 the decision.

7 f. In formal appeals, mailing a written acknowledgment to the member and the
8 member's treating provider within five business days after receipt of the
9 formal appeal.

10 g. In formal appeals, when at the conclusion of the formal appeal process the
11 utilization review agent denies the appeal and does not initiate the external
12 independent review process, providing the member with notice of the option
13 to proceed to an external independent review.

14 2. Use Of Freestanding Urgent Care Centers. Within 90 days of the filed date of this
15 Order, Health Net of Arizona, Inc. shall submit to the Arizona Department of
16 Insurance for the Director's approval a Corrective Action Plan (CAP 2) regarding
17 the Company's violations set forth in this Consent Order for recredentialing
18 freestanding urgent care centers. CAP 2 shall provide specific steps Health Net of
19 Arizona, Inc. has taken or will take by certain dates to recredential the freestanding
20 urgent care centers at least every two years.

21 3. Contract Termination; Duty To Report; Provision For Continued Services During
22 Insolvency. Within 90 days of the filed date of this Order, Health Net of Arizona,
23 Inc. shall submit to the Arizona Department of Insurance for the Director's approval
24 a Corrective Action Plan (CAP 3) regarding the Company's Provider Participation
25 Agreement violations for continued service during insolvency set forth in this

1 Consent Order. CAP 3 shall provide specific steps Health Net of Arizona, Inc. has
2 taken or will take to include, in Provider Participation Agreements, a statement
3 requiring the provider to provide services to members if Health Net of Arizona, Inc.
4 were to become insolvent or including the language found in the Arizona Revised
5 Statutes.

6 4. Provider Grievances. Within 90 days of the filed date of this Order, Health Net of
7 Arizona, Inc. shall submit to the Arizona Department of Insurance for the Director's
8 approval a Corrective Action Plan (CAP 4) regarding the Company's health care
9 provider grievance violations set forth in this Consent Order. CAP 5 shall provide
10 specific steps Health Net of Arizona, Inc. has taken or will take by certain dates to
11 assure that by a specified implementation date, establish or have an effective
12 internal system for resolving payment disputes and contractual grievances by:

- 13 a. Categorizing health care provider grievances accurately.
- 14 b. Timely resolving health care provider grievances within the timeframe the
15 Company established.

16 5. Progress in Development of CAP. Until the Director approves each CAP or CAP
17 item, Health Net of Arizona, Inc. shall report to the Director each month about its
18 progress in development each CAP or CAP item. Each such monthly report shall
19 include a current draft of that CAP or CAP item. The first monthly CAP
20 development reports are due to the Director thirty days from the date of this Order.

21 6. Corrective Action Plan Requirements. Each CAP described above shall:

- 22 a. Specify any items of CAP 1 ('a' through 'g'), CAP 2, CAP 3 or CAP 4 that
23 the Director has either approved as ready for implementation or accepted as
24 implemented before the date of the report and for each one;

- 1 i. documentation of the implementation or progress toward
2 implementation, as applicable,
- 3 ii. a plan for post implementation Quality Improvement review and
4 follow-up, and
- 5 iii. the name and contact information for one individual responsible
6 and accountable for ongoing implementation of each CAP or any
7 item of the CAP.
- 8 b. Specify any items of CAP 1 ('a' through 'g'), CAP 2, CAP 3 or CAP 4 that
9 the Director has not approved as ready for implementation or accepted as
10 implemented as of date of the report and for each one include:
- 11 i. enough detail to allow the Director to determine whether the CAP
12 will accomplish its purpose,
- 13 ii. include testing before final implementation of the CAP or any item
14 of the CAP,
- 15 iii. include post implementation Quality Improvement review and
16 follow-up, and
- 17 iv. identify the name and contact information for one individual
18 responsible and accountable for ongoing implementation of each
19 CAP or any item of the CAP.
- 20 c. Provide for Health Net of Arizona, Inc. to report to the Director each month
21 starting thirty days from the date the Director approves the CAP regarding
22 development and implementation of each approved CAP or any item of the
23 CAP, in a form that includes documentation and is approved by the Director.
24 If the CAP or any item of the CAP has been implemented, provide
25 documentation that demonstrates the results of the changes. If the CAP or

1 any item of the CAP is in the process of implementation, provide
2 documentation that demonstrates the progress that has been made toward
3 implementation.

4 d. Provide that within ten business days of receiving notice that the Director
5 has approved a CAP or any item of the CAP, Health Net of Arizona, Inc.
6 shall submit to the Director evidence that the Company has communicated
7 the CAP or any item of the CAP to the appropriate personnel and begun
8 implementation. Evidence of communication and implementation includes,
9 without limitation, memorandums, bulletins, e-mails, correspondence,
10 procedure manuals, print screens and training materials.

11 7. Civil Penalty. Health Net of Arizona, Inc. shall pay a civil penalty of \$83,500.00 to
12 the Director for deposit in the State General Fund for violations cited above as
13 Conclusion of Law. Health Net of Arizona, Inc. shall remit this civil penalty to the
14 Life & Health Division of the Department prior to the Department filing of this Order.

15
16 The Department will file the Report of the Health Insurance Compliance Examination
17 of Health Net of Arizona, Inc. upon the filing of this order.

18
19
20 DATED at Phoenix, Arizona this 9th day of February, 2010.

21
22 

23 Christina Urias
24 Director of Insurance
25

1
2 **CONSENT TO ORDER**

- 3 1. Health Net of Arizona, Inc. has reviewed the foregoing Order and carefully
4 considered it in conjunction with its other business and regulatory requirements.
5 Health Net of Arizona, Inc. believes that it is able and prepared to comply fully with
6 the Order, notwithstanding any of its other business and regulatory requirements.
- 7 2. Health Net of Arizona, Inc. admits the jurisdiction of the Director of Insurance,
8 State of Arizona, admits the Findings of Fact and consents to the entry of the
9 Conclusions of Law solely for the purposes of resolving the allegations contained
10 in the Report and consents to entry of the Order.
- 11 3. Health Net of Arizona, Inc. is aware of the right to a hearing, at which it may be
12 represented by counsel, present evidence and cross-examine witnesses. Health
13 Net of Arizona, Inc. irrevocably waives the right to such notice and hearing and to
14 any court appeals related to this Order.
- 15 4. Health Net of Arizona, Inc. states that no promise of any kind or nature whatsoever
16 was made to it to induce it to enter into this Consent Order, and that it has entered
17 into this Consent Order voluntarily.
- 18 5. Health Net of Arizona, Inc. acknowledges that the acceptance of this Order by the
19 Director of the Arizona Department of Insurance is solely for the purpose of settling
20 this matter. This Order does not preclude any other agency or officer of this state
21 or its subdivisions or any other person from instituting proceedings, whether civil,
22 criminal, or administrative, as may be appropriate now or in the future and does not
23 preclude the Department from instituting proceedings as may be appropriate on
24 other matters now or in the future.

6. Chuck M. Sowers, who holds the office of President of Health Net of Arizona, Inc. is authorized to enter into this Order for Health Net of Arizona, Inc. and on its behalf.

HEALTH NET OF ARIZONA, INC.

2/1/10

Date

By Gay Ann Williams
~~Chuck M. Sowers~~ Gay Ann Williams
~~President~~ Vice President
Health Net of Arizona, Inc. Regulatory Affairs

1 COPY of the foregoing mailed/delivered
2 this 10th day of February, 2010, to:

3 Gerrie Marks
4 Deputy Director
5 Mary Butterfield
6 Assistant Director
7 Consumer Affairs Division
8 Helene I. Tomme
9 Market Oversight Division
10 Dean Ehler
11 Assistant Director
12 Property & Casualty Division
13 Steve Ferguson
14 Assistant Director
15 Financial Affairs Division
16 David Lee
17 Chief Financial Examiner
18 Alexandra M. Shafer
19 Assistant Director
20 Life and Health Division
21 Terry L. Cooper
22 Fraud Unit Chief

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24 2910 North 44th Street, Suite 210
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Health Net of Arizona, Inc.
Chuck M. Sowers
President
1230 West Washington Street, Suite 401
Tempe, Arizona 85281 – 1245

Cusney Burton
