COMMONWEALTH OF KENTUCKY
PUBLIC PROTECTION CABINET
DEPARTMENT OF INSURANCE

IN THE MATTER OF:

Humana Insurance Company
1100 Employers Blvd.
De Pere, WI 54115

NAIC No. 73288
DOI No. 301104
MC File No. 2019-09
Legal File No. 2019-0090

AGREED ORDER

WHEREAS, Humana Insurance Company ("HIC" or "Company") is an insurance company authorized to transact business in the Commonwealth of Kentucky;

WHEREAS, pursuant to KRS 304.2-090, KRS 304.2-100, KRS 304.2-230 and all other applicable law, the Kentucky Department of Insurance ("DOI" or "Department") conducted a targeted Market Conduct Examination of the activities of HIC for the time period of January 1, 2014 through August 1, 2019;

WHEREAS, the Market Conduct Examination Report revealed the following violations of the Kentucky Revised Statutes and Kentucky Administrative Regulations:

(1) The Company failed to ensure only a licensed physician made a utilization review decision as not medically necessary or experimental and investigational in the initial adverse benefit determination, in violation of **KRS 304.17A-607(1)(b)(1)**.

(2) The Company failed to include the state of licensure, medical licensure number and title of reviewer in the initial adverse benefit determination of a medical determination, in violation of **KRS 304.17A-607(1)(j)(2)**.

(3) The Company failed to include a description of alternative benefits in the initial adverse benefit determination, in violation of **KRS 304.17A-607(1)(j)(3)**.

(4) The Company failed to include complete instructions regarding the internal appeal in the initial adverse benefit determination including in the form of an explanation of benefit in accordance with **KRS 304.17A-607(1)(j)(4)**.

(5) The Company failed to include the state of licensure, medical license number, and title of reviewer in an adverse benefit determination upheld on appeal notification, in violation of **KRS 304.17A-617(2)(e)(2)**.

(6) The Company failed to provide a description of alternative benefits in an adverse benefit determination upheld on appeal, in violation of **KRS 304.17A-617(2)(e)(3)**.

(7) The Company failed to provide instructions for an external review in an adverse benefit determination upheld on appeal notification, in violation of **KRS 304.17A-617(2)(e)(4)**.

(8) The Company failed to provide instructions for filing a request for review with the Department on a coverage denial in an adverse benefit determination upheld on appeal notification, in violation of **KRS 304.17A-617(2)(e)(4)**.

(9) The Company failed to have an adverse benefit determination upheld on appeal notification signed by a Kentucky Medical Director, in violation of **KRS 304.17A-545(1)(d)**.

(10) The Company failed to include the right to request a board eligible or certified physician if involving a specialty or subspecialty in the initial adverse benefit determination, in violation of **806 KAR 17:280 Section 4(1)(f)(2)(ii)**.

(11) The Company failed to include the right of review of a coverage denial by the Department following completion of the internal appeal process in the initial adverse benefit determination in violation of **806 KAR 17:280 Section 4(f)2**.

(12) The Company failed to include the right to an external review by an independent review entity in the initial adverse benefit determination, in violation of **806 KAR 17:280 Section 4(f)2**.

(13) The Company failed to provide instructions for initiating an external review in an adverse benefit determination upheld on appeal notification, in violation of **806 KAR 17:290 Section 2(1)(a)(3)(b)**.

(14) The Company failed to provide in a clear and concise manner how to complete necessary forms, including a medical records release form or written authorization of representation for an external review in an adverse benefit determination upheld on appeal notification, in violation of **806 KAR 17:290 Section 2(a)(3)(b)**.

(15) The Company failed to include the availability of a simultaneous internal-external expedited review in the initial adverse benefit determination, in violation of **45 CFR § 147.136(c)(2) and** the guidance offered in **KDOI Bulletin 2011-08**.

(16) The Company failed to comply in full or in part with their own utilization review policies and procedures filed with the Department, (MML-028-12, HCS-CL-02-141, Letter Templates, CIT -034-09, HCS-CL-02-143), in violation of **KRS 304.17A-607(1)(l)**.

(17) The Company failed to provide a statement of the specific medical and scientific reasons for denying coverage or a statement to identify the provision of the schedule of benefits or exclusions that demonstrates coverage is not available in an initial adverse benefit determination, pursuant to **KRS 304.17A-617(2)(e)(1)**.

(18) The Company issued an adverse benefit determination with improper adverse benefit determination rights. Retrospective emergency services represents a denial of coverage, therefore, subject to a review by the Department. Therefore, Company denial of emergency services based on a medical determination versus on the utilization of a prudent person standard, is a violation of **KRS 304.17A-640(1)**.

(19) The Company failed to provide a member the correct timeframe for completion of an initial appeal in an adverse benefit determination when an EOB was utilized, in violation of **KRS 304.17A-617(2)(a)**.

(20) The Company, while allowing a second level appeal, failed to provide a final adverse benefit determination to be completed in mandated timeframes for adverse benefit determination upheld on initial appeal determination in violation of **KRS 304.17A-617 (2)(a)**.

(21) The Company failed to provide/submit policies regarding the second level appeal process the Department in violation of **KRS 304.17A-607(3)**.

(22) The Company failed to submit names of the entities for which the private review agent is performing utilization review in violation of **KRS 304.17A-607(4)**.

WHEREAS, DOI prepared a report of the results of the Market Conduct Examination;

WHEREAS, pursuant to KRS 304.2-260, the Company has the right to request a hearing relative to the Market Conduct Examination Report;

WHEREAS, HIC has chosen to enter into this Agreed Order in lieu of an administrative hearing relative to the Market Conduct Examination Report;

WHEREAS, HIC understands and agrees that, by entering into this Agreed Order, the Company waives its right to a hearing or judicial review of this matter;

NOW, THEREFORE, after consideration and review of the Market Conduct Examination Report of HIC, it is **AGREED** and **ORDERED**, pursuant to KRS 304.2-260(3), that said Report is hereby adopted in its entirety as fully set forth, herein.

WHEREAS, it is further **AGREED** and **ORDERED**, pursuant to KRS 304.2-260(3)(a), that HIC shall complete all corrective action contained in the Final Market Conduct Examination Report.

It is further **AGREED** and **ORDERED**, pursuant to KRS 304.2-260(3)(a), KRS 304.3-200, and KRS 304.99-020, that HIC shall pay a civil penalty in the amount of **Ten Thousand Dollars ($10,000)** in settlement for any and all violations arising from the Market Conduct Examination.

It is further **AGREED** and **ORDERED** that the terms of this Agreed Order shall not limit, inhibit, or restrict the DOI's ability to investigate individual complaint files, regardless of their sources, which may involve HIC; nor shall this Agreed Order limit, inhibit, or restrict in any

manner the Department's ability to take disciplinary action against HIC for any proven violations identified through the course of any specific individual investigation.

It is further **AGREED** and **ORDERED** that any use of this Agreed Order for competitive purposes will be deemed grounds for revocation of any applicable licenses or Certificates of Authority.

It is further **AGREED** and **ORDERED** that HIC shall comply with the terms of this Agreed Order within sixty (60) days of the effective date of said Order. The civil penalty in the amount of **Ten Thousand Dollars ($10,000)** shall also be submitted to the Department within the above stated time frame in the form of a certified check or Company check made payable to the Kentucky State Treasurer.

HIC, through the Company's authorized representatives, expressly states that they have read and agree with the statements contained in this Agreed Order and that they sign with full and complete knowledge of their right to demand a hearing in lieu of this Agreed Order, at which hearing HIC would be entitled to be represented by an attorney, to cross-examine witnesses for DOI, and to present evidence on the Company's own behalf.

Done and Effective this 12 day of January, 2021 ~~2020~~.

Signature is on file with the original document

Sharon P. Clark, Commissioner
Kentucky Department of Insurance

AGREED TO:

Signature is on file with the original document

By: _____

As Authorized Representative of Humana Insurance Company.

Date: January 4, 2021

Printed Name: Charles Dixon

Printed Title: Senior Compliance Professional

CERTIFICATE OF SERVICE

This is to certify that the original of the foregoing Agreed Order was hand delivered to:

Custodian of Records
Kentucky Department of Insurance
500 Mero Street, 2 SE 11
Frankfort, KY 40601

and that a true and correct copy of the foregoing Agreed Order was served by certified mail, return receipt requested, to:

Charles Dixon, Jr., MCM
Senior Compliance Professional/ Commercial & Specialty Regulatory Compliance
Humana Insurance Company
500 West Main Street
Louisville, KY 40202

And that a true and accurate copy of the foregoing Agreed Order was sent by electronic delivery to:

Russ Hamblen, PIR, AIC, MCM
Chief Examiner
Market Conduct Branch
Kentucky Department of Insurance
500 Mero Street, 2 SE 11
Frankfort, KY 40601
Russell.Hamblen@ky.gov

On this 14th day of January, ~~2020~~ 2021.

Signature is on file with the original document

Zach Johnson, Attorney
Office of Legal Services
Insurance Legal Division
500 Mero Street, 2 SE 11
Frankfort, KY 40601
(502) 564-6032