STATE OF MISSOURI

DEPARTMENT OF COMMERCE & INSURANCE

P.O. Box 690, Jefferson City, Mo. 65102-0690

***In Re*:**	)	
	)	
AETNA HEALTH, INC. (NAIC #95109)	)	**Market Conduct Examination No. 332459**

ORDER OF THE DIRECTOR

NOW, on this 29th day of November, 2021, Director, Chlora Lindley-Myers, after consideration and review of the market conduct examination report of Aetna Health, Inc. (NAIC #95109) (hereinafter "Aetna"), examination report number #332459, prepared and submitted by the Division of Insurance Market Regulation (hereinafter "Division") pursuant to §374.205.3(3)(a)[1], does hereby adopt such report as filed. After consideration and review of the Stipulation of Settlement ("Stipulation"), relating to the market conduct examination #332459, the examination report, relevant work papers, and any written submissions or rebuttals, the findings and conclusions of such report are deemed to be the Director's findings and conclusions accompanying this order pursuant to §374.205.3(4). The Director does hereby issue the following orders:

This order, issued pursuant to §374.205.3(4) and §374.046.15. RSMo, is in the public interest.

IT IS THEREFORE ORDERED that Aetna and the Division having agreed to the Stipulation, the Director does hereby approve and agree to the Stipulation.

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[1] All references, unless otherwise noted, are to Revised Statutes of Missouri 2016, as amended, or to the Code of State Regulations, 2020, as amended.

IT IS FURTHER ORDERED that Aetna shall not engage in any of the violations of law and regulations set forth in the Stipulation, shall implement procedures to place it in full compliance with the requirements in the Stipulation and the statutes and regulations of the State of Missouri, and to maintain those corrective actions at all times, and shall fully comply with all terms of the Stipulation.

IT IS SO ORDERED.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of my office in Jefferson City, Missouri, this 21st day of November, 2021.

Chlora Lindley-Myers
Director

IN THE DEPARTMENT OF COMMERCE AND INSURANCE
STATE OF MISSOURI

***In Re*:**	**)**	
	)	
AETNA HEALTH, INC. (NAIC #95109)	**)**	**Market Conduct Examination No. 332459**

STIPULATION OF SETTLEMENT

It is hereby stipulated and agreed by the Division of Insurance Market Regulation (hereinafter, the "Division"), and Aetna Health, Inc. (hereinafter "Aetna"), as follows:

WHEREAS, the Division is a unit of the Missouri Department of Commerce and Insurance (hereinafter, the "Department"), an agency of the State of Missouri, created and established for administering and enforcing all laws in relation to insurance companies doing business in the State of Missouri;

WHEREAS, Aetna has been granted a certificate of authority to transact the business of insurance in the State of Missouri;

WHEREAS, the Division conducted a market conduct examination of Aetna, examination #332459; and

WHEREAS, based on the market conduct examination of Aetna, the Division alleges that:

1. Aetna failed to timely process and pay a second level grievance claim implicating the provisions of §375.1007(3) and §375.1007(4).[1]

2. In two instances, Aetna failed to provide an appeal acknowledgment letter to enrollees acknowledging the receipt of their first level grievance in violation of 20 CSR 100-1.030(2), §376.1382.2(1), and implicating the provisions of §375.1007(2).

[1] All references, unless otherwise noted, are to Missouri Revised Statutes 2016, as amended or to the Code of State Regulations, 2020, as amended.

3. In one instance, Aetna failed to provide an appeal acknowledgment letter to the enrollee acknowledging the receipt of their appeal, conduct a complete investigation of the complaint, inform the enrollee of their right to a second level review of the grievance, or inform the enrollee of their right to contact the Department in violation of §§376.1378.3, 376.1382.2(1), (2), and (3).

4. In two instances, Aetna failed to provide an appeal acknowledgment letter to enrollees acknowledging the receipt of their second level grievance in violation of 20 CSR 100-1.030(2), §376.1382, §376.1385.2, and implicating the provisions of §375.1007(2).

WHEREAS, the Division and Aetna have agreed to resolve the issues raised in the market conduct examination as follows:

A. **Scope of Agreement.** This Stipulation of Settlement (hereinafter, "Stipulation") embodies the entire agreement and understanding of the signatories with respect to the subject matter contained herein. The signatories hereby declare and represent that no promise, inducement or agreement not herein expressed has been made, and acknowledge that the terms and conditions of this agreement are contractual and not a mere recital.

B. **Remedial Action.** Aetna agrees to take remedial action bringing it into compliance with the statutes and regulations of Missouri and agrees to maintain such remedial actions at all times, to reasonably ensure that the errors noted in the market conduct examination and in this Stipulation do not recur. Such remedial actions shall consist of the following:

1. Aetna agrees to provide additional training to all analysts on the procedures for handling of appeals and grievances to comply with §376.1378, §376.1382, §376.1385, §376.1387, §376.1389, and 20 CSR 100-1.030.

2. Aetna agrees to conduct first level and second level appeals in accordance with the time frames set forth in §376.1382 and §376.1385.

3. Aetna agrees to promptly acknowledge first level and second level appeal requests in compliance with §376.1382 and §376.1385.

4. Aetna agrees to handle complaints involving the quality of health care services as grievances in accordance with the definition in §376.1350(17).

C. **Compliance.** Aetna agrees to file documentation with the Division, in a format acceptable to the Division, within 20 days of the entry of a final order of any remedial action taken to implement compliance with the terms of this Stipulation.

D. **Fees.** Aetna agrees to pay any reasonable fees expended by the Division in conducting its review of the documentation provided by the Company pursuant to Paragraphs B and C of this Stipulation.

E. **Penalties.** The Division agrees that it will not seek penalties against Aetna in connection with market conduct examination no. 332459.

F. **Non-Admission.** Nothing in this Stipulation shall be construed as an admission by Aetna, this Stipulation being part of a compromise settlement to resolve disputed factual and legal allegations arising out of the above referenced market conduct examination.

G. **Waivers.** Aetna, after being advised by legal counsel, does hereby voluntarily and knowingly waive any and all rights for procedural requirements, including notice and an opportunity for a hearing, and review or appeal by any trial or appellate court, which may have otherwise applied to the market conduct examination no. 332459.

H. **Changes.** No changes to this Stipulation shall be effective unless made in writing and agreed to by representatives of the Division and Aetna.

I. **Governing Law.** This Stipulation shall be governed and construed in accordance with the laws of the State of Missouri.

J. **Authority.** The signatories below represent, acknowledge and warrant that they are authorized to sign this Stipulation, on behalf of the Division and Aetna respectively.

K. **Counterparts.** This Stipulation may be executed in multiple counterparts, each of which shall be deemed an original and all of which taken together shall constitute a single document. Execution by facsimile or by electronically transmitted signature shall be fully and legally effective and binding.

L. **Effect of Stipulation.** This Stipulation shall not become effective until entry of a Final Order by the Director approving this Stipulation.

M. **Request for an Order.** The signatories below request that the Director issue an Order approving this Stipulation and ordering the relief agreed to in the Stipulation, and consent to the issuance of such Order.

DATED: 11-12-2021

Stewart Freilich
Chief Market Conduct Examiner and Senior Counsel
Division of Insurance Market Regulation

DATED: 11/10/2021

Gregory S. Martino, Assistant Vice President
Aetna Health, Inc.

FINAL MARKET CONDUCT EXAMINATION REPORT
Health Business of

Aetna Health, Inc.
NAIC #95109

MISSOURI SBS EXAMINATION #332459

NAIC MATS #MO-HICKSS1-124

November 10, 2021

Home Office
1425 Union Meeting Road
Blue Bell, PA 19422

STATE OF MISSOURI
DEPARTMENT OF COMMERCE & INSURANCE

JEFFERSON CITY, MISSOURI

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November 10, 2021

Honorable Chlora Lindley-Myers, Director
Missouri Department of Commerce and Insurance
301 West High Street, Room 530
Jefferson City, Missouri 65101

Director Lindley-Myers:

In accordance with your market conduct examination warrant, a targeted market conduct examination has been conducted of the specified lines of business and business practices of

Aetna Health, Inc. (NAIC #95109)

hereinafter referred to as Aetna or as the Company. This examination was conducted as a desk examination at the offices of the Missouri Department of Commerce and Insurance (DCI).

FOREWORD

This examination report is generally a report by exception. However, failure to criticize specific practices, procedures, products or files does not constitute approval thereof by the DCI.

During this examination, the examiners cited errors considered potential violations made by the Company. Statutory citations were as of the examination period unless otherwise noted.

When used in this report:

- "Company" refers to Aetna Health, Inc.
- "CSR" refers to the Missouri Code of State Regulations
- "DCI" refers to the Missouri Department of Commerce and Insurance
- "Director" refers to the Director of the Missouri Department of Commerce and Insurance
- "NAIC" refers to the National Association of Insurance Commissioners
- "RSMo" refers to the Revised Statutes of Missouri

SCOPE OF EXAMINATION

The DCI has authority to conduct this examination pursuant to, but not limited to, §§374.110, 374.190, 374.205, 375.938, and 375.1009, RSMo., conducted in accordance with §374.205.

The purpose of this examination was to determine if the Company complied with Missouri statutes and DCI regulations. The primary period covered by this review is January 1, 2015, through December 31, 2017, unless otherwise noted. Errors found outside of this time period may also be included in the report.

The examination was a targeted examination involving the following lines of business and business functions: Health Insurance in the areas of Complaint Handling and Grievance Procedures.

The examination was conducted in accordance with the standards in the NAIC's 2019 *Market Regulation Handbook*. As such, the examiners utilized the benchmark error rate guidelines from the NAIC *Market Regulation Handbook* when conducting reviews that applied a general business practice standard. The NAIC benchmark error rate for claims practices is seven percent (7%) and for other trade practices, it is ten percent (10%). Error rates exceeding these benchmarks are presumed to indicate a general business practice. The benchmark error rates were not utilized for reviews not applying the general business practice standard.

In performing this examination, the examiners reviewed only a sample of the Company's practices, procedures, products and files. Therefore, some noncompliant practices, procedures, products and files may not have been found. As such, this report may not fully reflect all of the practices and procedures of the Company.

COMPANY PROFILE

The Company was incorporated in the Commonwealth of Pennsylvania on May 7, 1981, and acquired the net assets and operations of a prepaid health care plan that had operated as a health maintenance organization ("HMO") in southeastern Pennsylvania since 1976. The Company commenced HMO operations in Pittsburgh in 1987 and in central Pennsylvania in 1994. Effective November 28, 2018, the Company and its affiliates became subsidiaries of CVS Health Corporation.

The Company has held a certificate of authority as an HMO in Missouri since 2009 and is also licensed in the following states: Alabama, Arizona, Colorado, District of Columbia, Delaware, Illinois, Indiana, Kansas, Kentucky, Maryland, Massachusetts, Nebraska, Nevada, North Carolina, Ohio, Oklahoma, South Carolina, Tennessee, Virginia, Washington, and West Virginia.

EXECUTIVE SUMMARY

The DCI conducted a targeted market conduct examination of Aetna Health, Inc. The examiners found the following areas of concern:

COMPLAINT HANDLING

- In one complaint that was a second level grievance, the Company overturned its original decision to deny the claim, but it failed to reprocess and pay the claim until 90 days later. Reference: §375.1007(3) and (4), RSMo.

GRIEVANCE PROCEDURES

- The Company failed to send acknowledgment letters for two first level grievances involving adverse determinations. Reference: §§376.1382.2(1), 375.1007(2), RSMo. and 20 CSR 100-1.030(2).

- The Company failed to process one first level grievance involving an adverse determination within 20 working days and did not send the enrollee a letter indicating the Company needed additional time to complete the review. Reference: §376.1382.2(2), RSMo.
- The Company failed to send an acknowledgement letter, failed to conduct a complete investigation, failed to inform the enrollee of their right to a second level review, and failed to inform the enrollee of their right to contact the DCI for assistance for one first level grievance that did not involve an adverse determination. Reference: §§376.1378.3 and 376.1382.2(1), (2) and (3), RSMo.
- The Company failed to send acknowledgement letters for two second level grievances involving adverse determinations. Reference: §§376.1382, 376.1385.2, 375.1007(2), RSMo. and 20 CSR 100-1.030(2).

EXAMINATION FINDINGS

I. COMPLAINT HANDLING

The complaint handling portion of the examination provides a review of the Company's complaint handling practices. The examiners reviewed how the Company handled complaints to ensure it was performing according to its own guidelines and Missouri statutes and regulations.

A. NAIC Complaint Handling Standard 1: All complaints are recorded in the required format on the regulated entity's complaint register.

Pursuant to §375.936(3), RSMo, and 20 CSR 100-8.040(3)(D), insurance companies are required to maintain a log or register of all written complaints received for the last three years. The log or register must include all Missouri complaints, including those sent to the DCI and those sent directly to the company. The examiners requested and reviewed the Company's complaint log as to content and format.

The Company's complaint log contained 43 records of complaints sent directly to the company and no records of complaints sent to the DCI. To verify the accuracy of the complaint log as to DCI complaints, the examiners reviewed the DCI complaint system. No DCI complaints for the Company were noted within the scope of the examination.

The examiners found no errors in this review.

B. NAIC Complaint Handling Standard 2: The regulated entity has adequate complaint handling procedures in place and communicates such procedures to policyholders.

To test for this standard, the examiners requested a copy of the Company's complaint handling procedure manual and reviewed it. The examiners also reviewed the member Evidence of Coverage documents to determine if the provisions communicate clear procedures on how to file a complaint.

The examiners found no errors in this review.

C. NAIC Complaint Handling Standard 3: The regulated entity takes adequate steps to finalize and dispose of the complaint in accordance with applicable statutes, rules and regulations and contract language.

To test for this standard, the examiners requested and reviewed the files for all 43 of the complaints listed in the complaint log to determine if the Company had adequately resolved the complaints. The examiners found the following error in this review.

Finding 1: In one complaint that was a second level grievance, the Company overturned its original decision to deny the claim, but it failed to reprocess and pay the claim until 90 days later.

Reference: §375.1007(3) and (4), RSMo.

D. NAIC Complaint Handling Standard 4: The time frame within which the regulated entity responds to complaints is in accordance with applicable statutes, rules and regulations.

To test for this standard, the examiners reviewed all 43 complaint files requested in Complaint Handling Standard 3 above to assess whether the Company responded in a timely manner. Since the examiners found that all 43 of the complaints were grievances as defined in §376.1350(17), RSMo, the timeliness errors noted are set forth below in the "Grievance Procedures" portion of this examination report.

II. GRIEVANCE PROCEDURES

The grievance procedures portion of the examination is designed to evaluate how well the company handles grievances. The Missouri definition of a "grievance" is set forth in §376.1350(17), RSMo.

A. NAIC Health Examination Grievance Procedure Standard 1: The health carrier treats as a grievance any written complaint, or any oral complaint that involves an urgent care request, submitted by or on behalf of a covered person regarding: 1) the availability, delivery or quality of health care services, including a complaint regarding an adverse determination made pursuant to utilization review; 2) claims payment, handling or reimbursement for health care services; or 3) matters pertaining to the contractual relationship between a covered person and the health carrier.

To test for this standard, the examiners reviewed the 43 complaint files requested in Complaint Handling Standard 3 above to assess whether the Company is correctly identifying and treating as grievances those complaints that meet the definition in §376.1350(17), RSMo.

The examiners found no errors in this review.

B. NAIC Health Examination Grievance Procedure Standard 2: The health carrier documents, maintains and reports grievances and establishes and maintains grievance procedures in compliance with applicable statutes, rules and regulations.

To test for this standard, the examiners requested the Company provide its grievance log in conjunction with the complaint log requested in Complaint Handling Standard 1 above. Since the company maintains a consolidated log (i.e., all complaints, including complaints that constitute grievances, are maintained in the same log), the examiners reviewed the complaint log to assess whether it meets the standards in §§376.1375 and 354.445, RSMo, and 20 CSR 400-7.110.

The examiners found no errors in this review.

C. NAIC Health Examination Grievance Procedure Standard 3: A health carrier has implemented grievance procedures, disclosed the procedures to covered persons, in compliance with applicable statutes, rules and regulations, and files with the commissioner a copy of its grievance procedures, including all forms used to process a grievance.

To test for this standard, the examiners requested and reviewed the Company's procedures specific to grievances in conjunction with the request for complaint handling procedures in Complaint Handling Standard 2 above. In addition, the examiners verified that the Company filed its grievance procedures with the DCI and that the Company informs enrollees of those procedures. The examiners also reviewed the member Evidence of Coverage documents to determine if the provisions communicate clear procedures on how to file a grievance.

The examiners found no errors in this review.

D. NAIC Health Examination Grievance Procedure Standard 4: The health carrier has procedures for and conducts first level reviews of grievances involving an adverse determination in compliance with applicable statutes, rules and regulations.

To test for this standard, the examiners identified 37 of the 43 complaint files requested in Complaint Handling Standard 3 above as first level reviews of grievances involving an adverse determination. The examiners reviewed all 37 of these files to see if they were handled in accordance with the requirements of §376.1382, RSMo, and the Company's written procedures. The examiners found the following errors in this review.

Finding 1: The Company failed to send acknowledgment letters for two first level grievances involving adverse determinations.

Reference: §§376.1382.2(1), 375.1007(2), RSMo. and 20 CSR 100-1.030(2)

Finding 2: The Company failed to process one first level grievance involving an adverse determination within 20 working days and did not send the enrollee a letter indicating the Company needed additional time to complete the review.

Reference: §376.1382.2(2), RSMo.

E. NAIC Health Examination Grievance Procedure Standard 5: The health carrier has procedures for and conducts standard reviews of grievances not involving an adverse determination in compliance with applicable statutes, rules and regulations.

To test for this standard, the examiners identified one of the 43 complaint files requested in Complaint Handling Standard 3 above as a first level review of a grievance that did not involve an adverse determination. The examiners reviewed this file to see if it was handled in accordance with the requirements of §376.1382, RSMo, and the Company's written procedures. The examiners found the following errors in this review.

Finding 3: For one first level grievance that did not involve an adverse determination, the Company failed to send an acknowledgment letter, failed to conduct a complete investigation, failed to inform the enrollee of their right to a second level review of the grievance, and failed to inform the enrollee of their right to contact the DCI for assistance.

Reference: §§376.1378.3 and 376.1382.2(1), (2) and (3), RSMo.

F. NAIC Health Examination Grievance Procedure Standard 6: The health carrier has procedures for voluntary reviews of grievances and conducts voluntary reviews of grievances in compliance with applicable statutes, rules and regulations.

To test for this standard, the examiners identified five of the 43 complaint files requested in Complaint Handling Standard 3 above as second level reviews of grievances. The examiners reviewed all five of these files to see if they were handled in accordance with the requirements of §376.1385, RSMo, and the Company's written procedures. The examiners found the following errors in this review.

Finding 4: The Company failed to send acknowledgment letters for two second level grievances involving adverse determinations.

Reference: §§376.1382, 376.1385.2, 375.1007(2), RSMo. and 20 CSR 100.1.030(2)

G. NAIC Health Examination Grievance Procedure Standard 7: The health carrier has procedures for and conducts expedited reviews of urgent care requests of grievances involving an adverse determination in compliance with applicable statutes, rules and regulations.

This standard deals with the expedited grievance review procedure in §376.1389, RSMo. When reviewing the complaint files requested in Complaint Handling Standard 3 above, the examiners noted that none of the complaints were grievances involving expedited reviews of urgent care requests. However, the examiners reviewed the grievance procedures requested in Health Examination Grievance Procedure Standard 3 above for appropriate expedited review procedures.

The examiners found no errors in this review.

III. CRITICISMS AND FORMAL REQUESTS TIME STUDY

This study is based upon the time required by the Company to provide the examiners with the requested material or to respond to criticisms. Missouri statutes and regulations require companies to respond to criticisms and formal requests within 10 calendar days. In the event an extension of time was requested by the Company and granted by the examiners, the response was deemed timely if it was received within the subsequent time frame. If the response was not received within the allotted time, the response was not considered timely.

A. Criticism Time Study

Number of Calendar Days to Respond	Number of Criticisms	Percentage of Total
0 to 10 days	2	100%
Over 10 days with extension	0	0%
Over 10 days without extension or after extension due date	0	0%
Totals	2	100%

The examiners found no errors in this review.

B. Formal Request Time Study

Number of Calendar Days to Respond	Number of Requests	Percentage of Total
0 to 10 days	7	100%
Over 10 days with extension	0	0%
Over 10 days without extension or after extension due date	0	0%
Totals	7	100%

The examiners found no errors in this review.

EXAMINATION REPORT SUBMISSION

Attached hereto is the Division of Insurance Market Regulation's Final Report of the examination of Aetna Health, Inc. (NAIC #95109), Examination Number 332459, MATS #MO-HICKSS1-124. This examination was conducted by John Korte, CIE, MCM, FLMI, AIRC, Examiner-In-Charge, Kembra Springs, Brad Gerling, and Aubrey Snyder, CIE, CPC, MCM. The findings in the Final Report were extracted from the Market Conduct Examiner's Draft Report, dated August 10, 2021. Any changes from the text of the Market Conduct Examiner's Draft Report reflected in this Final Report were made by the Chief Market Conduct Examiner or with the Chief Market Conduct Examiner's approval. This Final Report has been reviewed and approved by the undersigned.

11-12-2021
Date

Stewart Freilich
Chief Market Conduct Examiner