

DEPARTMENT OF COMMERCE & INSURANCE

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

In Re:)
)
MEDICA INSURANCE COMPANY) **Market Conduct Investigation No. 392728**
(NAIC # 12459))

ORDER OF THE DIRECTOR

NOW, on this 30th day of August, 2023, Director, Chlora Lindley-Myers, after consideration and review of the Stipulation of Settlement and Voluntary Forfeiture (hereinafter “Stipulation”) entered into by the Division of Insurance Market Regulation (hereinafter “Division”), and Medica Insurance Company (NAIC #12459) (hereinafter “Medica”), relating to the market conduct investigation no. 392728, does hereby issue the following orders:

This order, issued pursuant to §374.046.15¹ and §374.280 is in the public interest.

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

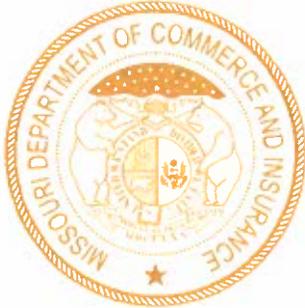
IT IS FURTHER ORDERED that Medica shall not engage in any of the violations of statutes and regulations set forth in the Stipulation, shall implement procedures to place it in full compliance with the requirements in the Stipulation and the statutes and regulations of the State of Missouri, and to maintain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

¹ All references, unless otherwise noted, are to Revised Statutes of Missouri 2016.

IT IS FURTHER ORDERED that Medica shall pay, and the Department of Commerce and Insurance, State of Missouri, shall accept, the Voluntary Forfeiture of \$10,000.00, payable to the Missouri State School Fund.

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 30th day of August, 2023.



Chlora Lindley Myers
Chlora Lindley-Myers
Director

**IN THE DEPARTMENT OF COMMERCE AND INSURANCE
STATE OF MISSOURI**

In Re:)
)
MEDICA INSURANCE COMPANY) **Market Conduct Investigation No. 392728**
(NAIC # 12459))

STIPULATION OF SETTLEMENT AND VOLUNTARY FORFEITURE

It is hereby stipulated and agreed by the Division of Insurance Market Regulation (hereinafter the “Division”), and Medica Insurance Company (NAIC #12459) (hereinafter “Medica”), 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, Medica 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 investigation of Medica, Investigation No. 392728; and

WHEREAS, based on the market conduct investigation of Medica the Division alleges that:

1. In 10 instances¹, Medica denied claims for Vitamin D testing in relation to the diagnosis, treatment and management of osteoporosis in violation of §376.1199.1 (3)².

¹ In a selective sample, this error was found in 10 of 32 files.

² All statutory references, unless otherwise noted, are to the 2016 Revised Statutes of Missouri.

2. Medica did not maintain reasonable standards for the settlement of claims for Vitamin D testing in relation to the diagnosis, treatment and management of osteoporosis in violation of §375.1007(3) and §375.1005.

3. Medica disseminated notices which included a time limit to request an external review in violation of §376.1387 and 20 CSR 100-5.020, and which allowed for an external review based on rescission of coverage in violation of §376.1363.5 and 20 CSR 100-5.010 (4).

4. Medica disseminated notices that limit requests for expedited review to the attending provider in violation of §376.1389.1.

5. Medica did not file an annual utilization review activities report for the years 2019 and 2020 and filed a late utilization review report for 2021 in violation of §376.1359.2 and 20 CSR 400-10.020.

6. Medica did not file a signed certificate of compliance for its 2019 and 2020 utilization review program and was late in filing its certificate for the 2021 program in violation of §376.1369 and 20 CSR 400-10.020 (1) and (2).

7. Medica's 2023 policy form number MO-PC-23-01 contained several provisions not in compliance with Missouri law in violation of §376.777.7 (2), §376.1387, §376.1389 and 20 CSR 100-5.020.

WHEREAS, Medica responds to these allegations as follows:

1. Medica believes it reasonably interpreted, in good faith, federal and Missouri law related to the obligations referenced herein. When the Division provided guidance on its interpretation of Missouri law related to those obligations, Medica revised its processes and standards to comply with the Division's guidance and instruction.

2. Medica represents that it inadvertently denied claims for Vitamin D testing, and that it voluntarily reprocessed duly submitted and eligible claims for Vitamin D testing in Missouri with dates of service after April 19, 2021. Medica reprocessed Vitamin D claims between December 2022 and mid-February 2023. Medica is still assessing a small population of Vitamin D claims for reprocessing. Medica reprocessed these claims prior to the Division's direction to reprocess the claims.
3. Medica responds to the Division's allegations set forth in paragraphs 1 and 2 in the preceding whereas clause as follows.
 - a. Medica inadvertently denied the ten (10) Vitamin D claims the Division noted and represents that it has since properly reprocessed and paid eight (8) of those ten (10) claims. Medica appropriately denied the remaining two (2) claims. Medica represents that it is now covering Vitamin D testing for the diagnosis, treatment, and management of osteoporosis in accordance with Missouri law.
4. Medica represents that it is updating its external review notices to clarify that the member, the member's representative or provider may submit an expedited review request.
5. Medica's 2023 policy forms were filed, reviewed, and approved by the Department's Market Regulation Division. Medica believes its 2023 policy forms, processes, and procedures, comply with Missouri state law. To address Finding 7, however, Medica represents that it will amend its plan year 2024 policy forms, processes and procedures to include more of the applicable statutory text verbatim.

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

A. **Scope of Agreement.** This Stipulation of Settlement and Voluntary Forfeiture (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.** Medica agrees to take remedial action bringing it into compliance with the statutes and regulations of Missouri and agrees to maintain those remedial actions at all times. Such remedial actions shall include the following:

1. Medica agrees to provide coverage for Vitamin D testing in relation to the diagnosis, treatment and management of osteoporosis as required by §376.1199.1(3).

2. Medica agrees to provide coverage for medically necessary Vitamin D testing.

3. Medica agrees to review all denied Vitamin D testing claims from April 19, 2021 to the date of the Order approving this Stipulation to evaluate whether the claim was in connection with the diagnosis, treatment and management of osteoporosis or was otherwise medically necessary. If the claim was made in connection with the diagnosis, treatment and management of osteoporosis or was otherwise medically necessary, Medica shall issue payment to the claimant for the testing, and include interest pursuant to §374.191. Medica agrees to issue a letter, subject to prior Department review, to impacted members informing members that a payment and interest has been paid on the claim. The letter shall also state that “as a result of a Missouri market conduct investigation, benefits and interests are payable on the claim.”

4. Medica agrees, for claims remediated prior to the effective date of the Stipulation as described in the fifth WHEREAS paragraph, it will make a separate payment for interest pursuant to §374.191 if the interest due is \$5.00 or greater.

5. Medica agrees to correct any and all deficiencies in their appeal notification document(s) to comply with §376.1387, §376.1389, and 20 CSR 100-5.010 (4).

6. Medica agrees to review all grievances received from January 1, 2020, to the date of the Order approving this Stipulation involving an adverse determination where a member or the member's authorized representative requested and was denied an external review due to a four month time limit. If any instances are identified, Medica shall communicate with the requestor of the external review to inquire as to whether he/she still wishes to pursue an external review. The communication with the requestor shall be documented pursuant to 20 CSR 100-8.040 (2) and (3). (A). For members who wish to pursue an external review, Medica shall forward such requests to the Department with a letter or electronic communication explaining that, as a result of a market conduct investigation, the external review request has been referred to the Department.

7. Medica agrees to file utilization review activities reports for the years 2019 and 2020 within 90 days of the date of the Order approving this Stipulation and to timely file utilization review activities reports in conformity with §376.1359.2 and 20 CSR 400-10.020.

8. Medica agrees to file a signed certificate of compliance for its utilization review program for 2019 and 2020 within 90 days of the date of the Order approving this Stipulation and to timely file signed certificates of compliance in conformity with §376.1369 and 20 CSR 400-10.020 (1) and (2).

9. Medica agrees to file an amendment to policy form MO-PC-23-01 via SERFF within 90 days of the date of the Order approving this Stipulation to bring the form into compliance with

§376.1387, §376.1389, and 20 CSR 100-5.020. The SERFF filing will include an explanation that the filing is being made as a result of a market conduct investigation.

C. **Compliance.** Medica agrees to file documentation pursuant to section 374.190 with the Division, in a format acceptable to the Division, within 90 days of the entry of an Order approving this Stipulation, of any remedial action taken to implement compliance with the terms of this Stipulation, including documentation of any refund or claim payments.

D. **Voluntary Forfeiture.** Medica agrees, voluntarily and knowingly, to surrender and forfeit the sum of \$10,000.00, such sum payable to the Missouri State School Fund, in accordance with §§374.049.11 and 374.280.2.

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

F. **Waivers.** Medica, after being advised by legal counsel, does hereby voluntarily and knowingly waive any and all rights to 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 investigation no. 392728.

G. **Amendments.** No amendments to this Stipulation shall be effective unless made in writing and agreed to by authorized representatives of the Division and Medica.

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

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

J. **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.

K. **Effect of Stipulation.** This Stipulation shall not become effective until entry of an Order by the Director of the Department (hereinafter "Director") approving this Stipulation.

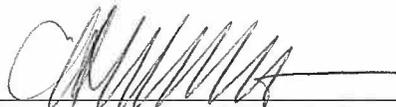
L. **Request for an Order.** The signatories below request that the Director issue an Order approving this Stipulation and ordering the relief agreed to in the Stipulation, and consent to the issuance of such Order.

DATED: August 10, 2023



Teresa Kroll
Chief Market Conduct Examiner
Division of Insurance Market Regulation

DATED: 7/27/23



Name: Carolyn H. Ringhofer
Title: Vice President & General Manager, IFB
Medica Insurance Company