



OFFICE OF  
INSURANCE COMMISSIONER

In the Matter of	)	No. 08-0160
	)	
The Market Conduct Examination of	)	FINDINGS, CONCLUSIONS,
	)	AND ORDER ADOPTING REPORT
<b>Washington State Health Insurance</b>	)	OF
<b>Pool</b>	)	
	)	MARKET CONDUCT EXAMINATION
	)	
A Non-profit Entity	)	

**BACKGROUND**

An examination of the market conduct of **Washington State Health Insurance Pool** (WSHIP) as of April 30, 2007 was conducted by examiners of the Washington Office of the Insurance Commissioner (OIC). WSHIP is a non-profit entity authorized by the state of Washington in Chapter 48.41 RCW. This examination was conducted in compliance with the laws and regulations of the state of Washington and in accordance with the procedures promulgated by the National Association of Insurance Commissioners and the OIC.

The examination report with the findings, instructions, and recommendations was transmitted to WSHIP for its comments on September 10, 2008. WSHIP's response to the report is attached to this order only for the purpose of providing convenient review of the response.

The Commissioner or a designee has considered the report, the relevant portions of the examiners' work papers, and submissions by WSHIP.

Subject to the right of WSHIP to demand a hearing pursuant to Chapters 48.04 and 34.05 RCW, the Commissioner adopts the following findings, conclusions, and order.

**FINDINGS**

Findings in Examination Report. The Commissioner adopts as findings the findings of the examiners as contained in pages 3 through 35 of the report.



## CONCLUSIONS

It is appropriate and in accordance with law to adopt the attached examination report as the final report of the market conduct examination of **Washington State Health Insurance Pool** and to order WSHIP to take the actions described in the Instructions and Recommendations sections of the report. The Commissioner acknowledges that WSHIP may have implemented the Instructions and Recommendations prior to the date of this order. The Instructions and Recommendations in the report are an appropriate response to the matters found in the examination.

## ORDER

The market conduct examination report as filed, attached hereto as Exhibit A, and incorporated by reference, is hereby ADOPTED as the final examination report.

WSHIP is ordered as follows, these being the Instructions and Recommendations contained in the examination report on page 26 through 27.

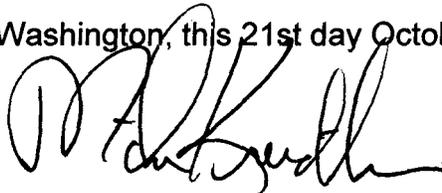
1. WSHIP is ordered to require the administrator to comply with RCW 48.03.030(1) and retain complete underwriting and complaint files in order to be able to better facilitate future examinations and provide all records. Instruction 1, Examination Report page 26.
2. WSHIP is ordered to be the last payor of benefits in accordance with RCW 48.41.210. Instruction 2, Examination Report page 26.
3. WSHIP is ordered to calculate prior coverage for the purposes of calculating a pre-existing condition credit by using the date of application to the commercial carrier. WSHIP is ordered to review its records to ensure that pre-existing condition credits have been calculated appropriately and that claims have not been improperly denied. RCW 48.41.110(8). Instruction 3, Examination Report page 26.
4. It is ordered that WSHIP consider defining the difference between a complaint and an appeal and provide applicants and members with a written procedures outlining how each will be handled. Recommendation 1, Examination Report page 26.
5. It is ordered that WSHIP consider following its written procedures and respond to all appeals within 5 days of receipt of the appeal. Recommendation 2, Examination Report page 26.
6. It is ordered that WSHIP consider following its written procedures and

resolve all appeals and grievances within 30 days of receipt of complete information. Recommendation 3, Examination Report page 26.

7. It is ordered that the Board of WSHIP consider not allowing the Executive Director to make decisions on appeals and grievances outside the scope of her authority. Recommendation 4, Examination Report page 27.
8. It is ordered that the Board of WSHIP consider requiring the WSHIP administrator to implement audit procedures that will ensure timely payment of claims. Recommendation 5, Examination Report page 27.
9. It is ordered that the Board of WSHIP consider conducting regular audits of its administrators to assure contractual obligations are met. Recommendation 6, Examination Report page 27.
10. It is ordered that WSHIP consider requiring BMI to follow up on members who do not return annual eligibility verification forms. Recommendation 7, Examination Report page 27.
11. It is ordered that the Board of WSHIP consider requiring that any decisions regarding payments and penalties assessed to administrators that are contrary to the administrators' contract with WSHIP be fully discussed with the Board and documented in the Board meeting minutes. Recommendation 8, Examination Report page 27.

IT IS FURTHER ORDERED THAT, WSHIP file with the Chief Market Conduct Examiner, within 90 days of the date of this order, a detailed report specifying how the Company has addressed each of the requirements of this order.

ENTERED at Olympia, Washington, this 21st day October 2008.



MIKE KREIDLER  
Insurance Commissioner



Kären Larson, Executive Director  
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**RECEIVED**  
SEP 30 2008  
INSURANCE COMMISSIONER  
COMPANY SUPERVISION

September 26, 2008

James T. Odiome, CPA, JD  
Deputy Insurance Commissioner  
Company Supervision Division  
Office of the Insurance Commissioner  
PO Box 40255  
5000 Capitol Blvd.  
Tumwater, WA 98501.

**Re: Report of Market Conduct Examination of Washington State Health Insurance Pool (WSHIP) – Review of Factual Material**

Dear Mr. Odiome:

Thank you for the opportunity to provide our review of the factual material presented in the draft examination report. We would like to suggest the following edits or revisions:

**Item 1:** Page 8, first paragraph: The report states, “WSHIP coverage is also available to residents of Washington State counties where commercial, individual medical insurance or commercial Medicare supplemental insurance is not available to the general public.”

Company response: Only the availability of individual medical insurance is called out in statute. Unavailability of commercial Medicare supplemental insurance in a Washington county is not a criterion for eligibility. (See RCW 48.41.100(1)(c) and (d))

**Item 2:** Page 8, second paragraph: The report states, “Any commercial insurer providing disability or stop loss insurance, any health care service contractor (HCSC) and any health maintenance organization (HMO) that accepts or denies health coverage to individual applicants in Washington participates in the operations of WSHIP.”

Company response: Self-funded multiple employer welfare arrangement as defined in RCW 48.125.010 and the Washington state health care authority as issuer of the state uniform medical plan are also members. Membership is not limited to those entities selling individual products, but includes all of those selling health coverage. (See RCW 48.41.030 (10) and (14))

**Item 3:** Page 8, paragraph four, states: "As of December 31, 2006, the Board members were:"

Company response: Mr. Sean Corry and Ms. Bernie Dochnahl were not members of the Board after 5/31/06.

**Item 4:** Page 9, first paragraph below chart, incorrectly states Ms. Larson's hire date as May 24, 2001.

Company response: Ms. Larson was hired on May 14, 2001.

**Item 5:** Page 9, first paragraph, states, "BMI's proposal to continue acting as administrator was unanimously accepted during the October 2, 2006 Board Meeting."

Company response: The correct date of the Board meeting is October 12, 2006.

**Item 6:** Page 9, paragraph two, states, "The Board approved recertification of the SHQ on October 1, 2006."

Company response: The Board approved recertification of the SHQ May 11, 2006. The effective date for the recertified SHQ was October 1, 2006.

**Item 7:** Page 9, paragraph three, states, "During the recertification of the SHQ in 2006 by WSHIP, it was found that approximately 20% of denials by commercial carriers are subsequently overturned and coverage issued by the commercial carrier."

Company response: Suggest that the word "found" be replaced by "noted". The number of reversals was known by the WSHIP Board prior to the May 11, 2006, SHQ recertification; reversals were reported on the WSHIP directors' portion of the website and in the monthly Operations Report, which was included in Board materials at every meeting during the audit period.

*Subsequent event: The Board issued an RFP in 2007 for an actuarial firm to consult on the recertification of the Standard Health Questionnaire effective April 1, 2008. The reversal rate was called out on the RFP as something to be addressed by the actuaries. A new firm, Reden & Anders, was chosen at the May 10, 2007 Board meeting. The average reversal rate has averaged 9% for the first five months of use of the new questionnaire.*

**Item 8:** Page 13, paragraph two, states: "The procedures require decisions on grievances and appeals to be made within 30 days of receipt of complete information."

Company response: WSHIP's procedures in effect during the examination period state the decision is to be made within 30 days of the committee's receipt of complete information needed to respond to the appeal.

**Item 9:** Page 14, first bullet – states that in each instance of review a procedure was found to be experimental or investigative and therefore not covered. Company response: Our records indicate that upon obtaining additional information from the enrollee's physician the WSHIP medical reviewer agreed that the treatment should be covered because it was improving the condition of the enrollee and preventing the need for more costly treatment in the United States. The treatment was approved by the Executive Director as a benefit exception.

**Item 10:** Page 14, second bullet – The Executive Director reviewed the file and approved payment for the requested treatment without review by the Grievance Committee.

Company response: We would appreciate it if you would include the fact that the Executive Director reviewed the contract language pertaining to the benefit in question and found that it did not support a denial.

**Item 11:** Claims Standards 2 and 6 were approved with comment.

*Subsequent event: WSHIP's administrators BMI and Medco have both been audited subsequent to the OIC audit period. The BMI audit was begun in June 2007 and presented to the WSHIP Board on January 10, 2008. A second limited audit of computer setup for new products was initiated in May 2008 and will be reported to the Board on November 15, 2008. The Medco audit was begun in May 2008 and is scheduled for completion in December 2008. It will be reported to the Board on January 8, 2009.*

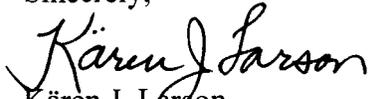
**Item 12:** Page 22, paragraph 2, states, "BMI did not credit any pre-existing condition waiting period for file OIC N46. In calculating the 63-day period immediately preceding the date of application for a new plan BMI used the date the application was received by the Pool, not the date of rejection by an insurance carrier."

Company response: RCW 48.41.110 (9) does not address the date of rejection by the carrier, but rather the date application was made to the carrier.

Page 4  
Mr. James Odiorne  
September 26, 2008

Thank you for the opportunity to present our corrections to factual errors in the draft examination report.

Sincerely,

A handwritten signature in black ink that reads "Karen J. Larson". The signature is written in a cursive style with a large initial "K".

Kären J. Larson  
Executive Director

CC: Vernon E. Stoner, Chief Deputy Insurance Commissioner  
Sally Eastman, Chief Market Conduct Examiner