

**REPORT ON EXAMINATION**

of the

**CARITEN HEALTH PLAN INC.  
1420 CENTERPOINT BLVD.  
KNOXVILLE, TENNESSEE**

as of

**JUNE 30, 2008**

**DEPARTMENT OF COMMERCE AND INSURANCE**

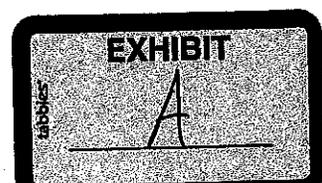
**STATE OF TENNESSE**

**NASHVILLE, TENNESSE**

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Dept. of Commerce & Insurance  
Company Examinations



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Nashville, Tennessee  
March 13, 2009

Honorable Leslie A. Newman  
Commissioner  
State of Tennessee  
Department of Commerce and Insurance  
Nashville, Tennessee 37243

Dear Commissioner:

Pursuant to your instructions and in accordance with Tennessee insurance laws, and regulations the Market Regulation Handbooks adopted by the National Association of Insurance Commissioners ("NAIC"), a market conduct examination was made of the condition of affairs of the

**CARITEN HEALTH PLAN INC.**  
1420 CENTERPOINT BOULEVARD  
KNOXVILLE, TENNESSEE

hereinafter and generally referred to as the "Company," and a report thereon is submitted as follows:

### **INTRODUCTION**

This examination was called by the Commissioner of Commerce and Insurance, state of Tennessee ("Commissioner") and commenced on November 19, 2008. The examination was conducted by duly authorized representatives of the Department of Commerce and Insurance, state of Tennessee ("Department") in accordance with the NAIC Market Regulation Handbook.

### **SCOPE OF THE EXAMINATION**

This examination report covers the period from July 1, 2003 through June 30, 2008.

The examination of the market conduct condition was conducted in accordance with guidelines and procedures contained in the NAIC Market Conduct Examiners Handbook. During the course of the examination, procedure reviews accompanied by file reviews were utilized to determine the Company's compliance with Tennessee insurance laws and regulations. The Company's operations, practices, and compliance with applicable statutes and regulations were reviewed.

In addition, the following topics were reviewed:

Company History  
Audit Functions  
Marketing and Sales  
Policyholder Services

A previous financial examination was conducted as of December 31, 2005, by authorized representatives of the Department. Two (2) recommendations were made regarding market conduct and policyholder equity in the previous financial examination.

- 1) The HMO should implement a consistent system for responding to all grievances, including Department inquires. The system should comply with Tenn. Code Ann. § 56-32-210(c)(5) which stipulates that review of each grievance by a grievance committee, "shall be held within ten (10) working days, such an extension not to exceed an additional ten (10) working days. Based upon testing conducted during the examination it does not appear as if the Company has made compliance corrections.
- 2) The HMO's complaint register was sampled and reviewed. Grievance letters sent to members were not in compliance with Tenn. Code Ann. § 56-32-210(c)(5) providing a name designed to coordinate the grievance review. Based upon testing during the examination, the grievance letters did contain the contact for coordinating an additional grievance review.

### **HMO HISTORY**

The HMO was incorporated on September 13, 1995, as a for profit corporation under the provisions of the Tennessee Corporation Act, with the name "PHP Health Plan Inc." The HMO was certified on December 31, 1995 and commenced business on January 1, 2006. The Company amended the HMO name to "Cariten Health Plan Inc.," and was issued a new certificate of authority on January 7, 1997. The Company was acquired by Humana on October 31, 2008. The acquisition occurred outside of the examination scope; however, individuals from Humana expanded their roles throughout the examination process.

### **EXAMINATION RESULTS AND FINDINGS**

#### **Company Operations and Management:**

During the examination the Company was unable to provide: a complete complaint/grievance register detailing 42 Department complaints, 4 cancelled checks or other forms of payment identification, and 13 policy form approvals. Failing to provide complete and accurate documentation is a violation of Tenn. Code Ann. § 56-1-409(b).

*It is recommended that the Company establish a means to comply with Tenn. Code Ann. § 56-1-409(b) and make freely available all records upon request.*

### **Complaint Handling:**

The Company defines complaints as a verbal expression of dissatisfaction. A selection of complaints from the department were reviewed against Company records, presuming that Complaints would include both verbal and written complaints in accordance with Tenn. Code Ann. § 56-8-104(11).

The examiners find the Company did not maintain a complete record of all complaints received by the Company. The Company was unable to locate 42 complaints submitted by the Department. The Department provided two listing of complaints files, one at the onset and the other during the examination identified as "Cariten." Using the information provided, the Company was unable to identify which of the Cariten companies were responsible for the 42 mentioned complaints.

*It is recommended that the Company comply with Tenn. Code Ann. § 56-8-104(11).*

### **Producer Licensing:**

The producer licensing review focused on two major areas; reconciling records between the Company and the Department and determining if producers were properly appointed at the time of solicitation.

A review of producing licensing records was conducted to ensure that the Company is properly appointing agents in accordance with Tenn. Code Ann. § 56-6-115(c) and (h). Records received from the Company detailed six agents on the Company's listing which were not listed with the Department. The Company was unable to provide documentation as to when these agents were appointed and are in violation of Tenn. Code Ann. § 56-6-115(c). Additionally, the Company accepting applications, issuing policies and paying commissions to these un-appointed agents is a violation Tenn. Code Ann. § 56-6-115(h).

*It is recommended that the Company comply with Tenn. Code Ann. § 56-6-115(c). It is also recommended that the Company establish procedures to ensure they do not accept applications, issue policies, or pay commissions to any producer unless they are properly appointed in compliance with Tenn. Code Ann. § 56-6-115(h).*

Producer licensing was reviewed in the sample of policy files provided to examiners. The Company markets its products utilizing both a broker and Company employee sales representative. The broker must be properly appointed per Tenn. Code Ann. § 56-32-114, however HMO employee sales representatives are not required to be appointed. Of the 50 files were selected for review, 10 of the 50 or 20% of the policies issued were solicited by non-appointed brokers a violation of Tenn. Code Ann § 56-32-114.

*It is recommended that the Company comply with Tenn. Code Ann. § 56-32-114 and only select business from producers who are properly appointed at the time of solicitation.*

### **Underwriting:**

The examiners selected a sample of 50 files from a population of 139 files issued by the Company during the examination period. Files were reviewed for compliance with Tennessee laws and regulations including the use of properly approved policy forms and rates.

A review of policy forms was conducted to determine if the Company is in compliance with Tenn. Code Ann. § 56-32-107(a)(2). In the 50 files selected for review the Company issued 23 policies, or 46%, utilizing forms which the Company could not document as approved by the Department. The Company is in violation of Tenn. Code Ann. § 56-32-107(a)(2).

***It is recommended that the Company comply with Tenn. Code Ann. § 56-32-107(a)(2) by developing policies and procedures to track form approvals and ensure policies are not issued with unapproved forms.***

Tenn. Code Ann. § 56-32-107(b)(1) requires that rates be filed and approved prior to use. The examination team has been unable to verify the rates utilized by the Company comply with Tennessee laws and regulations. The Company utilizes complex rating modules that incorporate rating factors not included in the rate filings submitted to the Department for approval.

***It is recommended that the Company comply with Tenn. Code Ann. § 56-32-107(b)(1).***

### **Paid Claims:**

The examination's comprehensive scope was predicated on determination of the Company's prompt pay compliance with Tenn. Code Ann. § 56-7-109. Review standards focused on communication, investigation, resolution, documentation, and handling within policy provisions. The paid claims review consisted of reviewing 100 paid claims from a population of 805,340 claims received during the examination period. Claims were reviewed to determine if the claim was considered clean or unclean, if the claim was paid timely and if all documentation was presented. Consideration was given for statutory timeframe allowances for both electronic and paper claims.

The review of the paid claims showed that 11% of sampled claims were not timely notified regarding unclean claims. Four paper claims were in violation of Tenn. Code Ann. § 56-7-109(b)(1)(A)(iii) for failing to notify the claimant that the claim unclean within thirty (30) days and seven electronic claims were in violation of Tenn. Code Ann. § 56-7-109(b)(1)(B)(iii) for failing to notify the claimant that the claim was unclean within twenty-one (21) days.

***It is recommended that the Company develop a plan to properly ensure that all unclean claims are handled in accordance with Tenn. Code Ann. § 56-7-109.***

The review of the paid claims showed that 11% of sampled population was not paid according to prompt pay standards. Four (4) claims were paper claims in violation of Tenn. Code Ann. § 56-7-109(b)(1)(A) for failing to pay the claimant within thirty (30) days. Seven (7) electronic claims in violation of Tenn. Code Ann. §56-7-109(b)(1)(B) for failing to pay the claimant within twenty-one (21) days.

The paid claim population was tested to determine prompt pay compliance with Tenn. Code Ann. § 56-7-109. The table below details by year the percentage of claims both paper and electronically and the percentage paid promptly.

Cariten Health Plan, Inc. Electronically Reported Claims Paid within 21 Days of Reported Date		Cariten Health Plan, Inc. Paper Reported Claims Paid within 30 Days of Reported Date	
<u>Year</u> <u>Reported</u>	<u>Percent</u> <u>Response</u>	<u>Year</u> <u>Reported</u>	<u>Percent</u> <u>Response</u>
2003	97.27%	2004	88.65%
2004	92.81%	2005	88.91%
2005	80.79%	2006	85.54%
2006	89.79%	2007	82.84%
2007	88.32%	2008	80.22%
2008	85.62%		

*It is recommended that the Company develop a comprehensive plan to properly address and pay/deny all claims whether paper or electronic within statutory timeframes for Tenn. Code Ann. § 56-7-109 compliance.*

**Denied Claims:**

The denied claims sample consisted of 100 claims out of a population of 132,788 denied during the examination period. Claims were reviewed to determine if the claim was considered clean or unclean, if the claim was denied timely, if the claim was denied after performing a complete investigation and if all documentation was presented. Consideration was given for statutory timeframe allowances for both electronic and paper claims.

The review of the denied claims showed that 30% of sampled population claimants were not timely notified of unclean claims. Thirteen (13) paper claims were in violation of Tenn. Code Ann. § 56-7-109(b)(1)(A)(iii) for failing to notify the claimant that the claim was unclean within thirty (30) days and fifteen (15) electronic claims were in violation of Tenn. Code Ann. §56-7-109(b)(1)(B)(iii) for failing to notify the claimant that the claim was unclean within twenty-one (21) days. Two (2) files were missing documentation.

*It is recommended that the Company develop a plan to properly ensure that all unclean claims are properly addressed in accordance with Tenn. Code Ann. § 56-7-109*

The denied claim review further detailed that the claims identified as failing to meet cleanliness requirements were based upon manual claims adjustments for the purpose of recouping previously paid claims amounts. The Company made unapproved contractual changes related to reimbursements, which they then applied to current claims. The recoupment technique utilized is in violation of Tenn. Code Ann. § 56-7-110(g)(6) for failing to inform the claimants of the Company's intent. Additionally, performing unapproved contractual changes related to reimbursements is a violation of Tenn. Code Ann. § 56-7-1013.

A review of denied claims showed that 30% of sampled population was not processed in accordance with prompt pay standards. Thirteen (13) paper claims were in violation of Tenn. Code Ann. § 56-7-109(b)(1)(A) for failing to deny the claimant within thirty (30) days and fifteen (15) electronic claims were in violation of Tenn. Code Ann. § 56-7-109(b)(1)(B) for failing to deny the claimant within twenty-one (21) days. Additionally, the Company could not provide complete documentation for two (2) files.

***It is recommended that the Company comply with Tenn. Code Ann. § 56-7-109. Also, see the paid claim findings for additional recommendations.***

Denied claim adjustments additionally identified where a claim was initially denied timely, but reopened for an "adjustment" for not being handled correctly. The initial denial identified the Company's failure to perform a complete reasonable investigation, which is a violation Tenn. Code Ann. § 56-8-105. Seven (7) policies were identified as being denied for late claim filings or membership was inactive at the time of service. In each of the seven (7) claims the claim filings were in effect timely and the member was active at the time of service.

***It is recommended that the Company readdress all claim handling manuals to place additional emphasis on conducting reasonable investigations to ensure Tenn. Code Ann. § 56-8-105 compliance.***

### **Grievances**

The examiners reviewed 50 grievances from a population of 3,623 grievances received during the examination period. Grievance files were reviewed to determine if the Company held reviews within 10 working days of receipt, requested additional time to review when required, and finalized their review within 10 working days if additional time was required.

The examiners found that the Company failed to properly respond to 49 of the 50 or 98% of the tested population. There was no identification of the Company holding reviews of the grievance within 10 working days, no requests for extension, and no resolution or response within 10 working days. The Company is in violation of Tenn. Code Ann. § 56-32-110(c)(5).

*It is recommended that the Company develop a means to comply with Tenn. Code Ann. § 56-32-110(c)(5).*

## **COMMENTS AND RECOMMENDATIONS**

### **COMMENTS:**

- As noted in the previous examination and within the Grievance section, the Company remains in violation of Tenn. Code Ann. § 56-32-110(c)(5) for failing to respond to grievances timely.
- As noted in the previous examination and within the Grievance section, the Company no longer remains in violation of Tenn. Code Ann § 56-32-110(c)(5) after incorporating a person of contact on grievance responses.

### **RECOMMENDATIONS:**

- *It is recommended that the Company establish a means to comply with Tenn. Code Ann. § 56-1-409(b) and make freely available all records upon request.*
- *It is recommended that the Company comply with Tenn. Code Ann. § 56-8-104(11).*
- *It is recommended that the Company comply with Tenn. Code Ann § 56-6-115(c). It is also recommended that the Company establish procedures to ensure they do not accept applications, issue policies, or pay commissions to any producer unless they are properly appointed in compliance with Tenn. Code Ann. § 56-6-115(h).*
- *It is recommended that the Company comply with Tenn. Code Ann. § 56-32-114 and only select business from producers who are properly appointed at the time of solicitation.*
- *It is recommended that the Company comply with Tenn. Code Ann. § 56-32-107(a)(2) by developing policies and procedures to track form approvals and ensure policies are not issued with unapproved forms.*
- *It is recommended that the Company comply with Tenn. Code Ann. § 56-32-107(b)(1).*
- *It is recommended that the Company develop a plan to properly ensure that all unclean claims are handled in accordance with Tenn. Code Ann. § 56-7-109.*
- *It is recommended that the Company develop a comprehensive plan to properly address and pay/deny all claims whether paper or electronic within statutory timeframes for Tenn. Code Ann. § 56-7-109 compliance.*

- *It is recommended that the Company develop a plan to properly ensure that all unclean claims are properly addressed in accordance with Tenn. Code Ann. § 56-7-109*
- *It is recommended that the Company comply with Tenn. Code Ann. § 56-7-109. Also, see the paid claim findings for additional recommendations.*
- *It is recommended that the Company readdress all claim handling manuals to place additional emphasis on conducting reasonable investigations to ensure Tenn. Code Ann. § 56-8-105 compliance.*
- *It is recommended that the Company develop a means to comply with Tenn. Code Ann § 56-32-110(c)(5).*

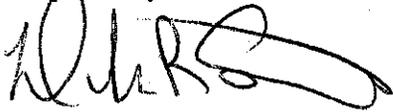
## CONCLUSION

Insurance examination practices and procedures, as promulgated by the NAIC and the Commissioner have been followed in connection with the verification and valuation of the policyholder treatment by Cariten Health Plan Inc. of Knoxville, Tennessee.

In such a manner, it was determined, as of June 30, 2008, the Company has numerous areas where policyholder treatment violates Tennessee law. Violations were found in numerous areas including how the Company handles complaints and grievances, compliance with producer licensing and appointment requirements, promptly pay requirements, policy form approval and rate compliance. Corrective action taken in accordance with recommendations contained in this examination report will allow the company to address those areas of non-compliance.

The courteous cooperation of the officers and employees of the Company extended during the examination is hereby acknowledged.

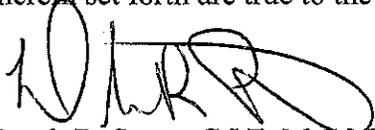
Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Derek R. Stepp', written over a horizontal line.

Derek R. Stepp, C.I.E, M.C.M  
Insurance Examiner  
State of Tennessee

**AFFIDAVIT**

The undersigned deposes and says that he has duly executed the attached examination report of Cariten Health Plan Inc., dated March 13, 2009, and made as of June 30, 2008, on behalf of The Department of Commerce and Insurance, State of Tennessee. Deponent further says he is familiar with such instrument and the contents thereof, and the facts therein set forth are true to the best of his knowledge, information and belief.

A handwritten signature in black ink, appearing to read 'Derek R. Stepp', with a large, stylized flourish at the end.

Derek R. Stepp, C.I.E., M.C.M.  
Examiner-in-Charge  
State of Tennessee



Cariten Health Plan • Cariten Insurance Company • Cariten TPA Services  
HMO • POS • PPO • EAP • Workers' Compensation

a HUMANA affiliate  
January 20, 2011

Department of Commerce and Insurance  
Horace E. Gaddis, Jr., CFE  
500 James Robertson Parkway  
Nashville, Tennessee

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JAN 31 2011

Dept. of Commerce & Insurance  
Company Examinations

Re: Response to Report on Market Conduct Examination of  
Cariten Health Plan, Inc.

Dear Mr. Geddis,

Please find Cariten Health Plan's responses to your recommendations for the Market Conduct Examination received on December 27<sup>th</sup>, 2010 below.

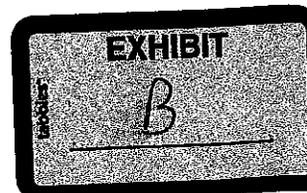
We have included information in our responses indicating we submitted information to the auditors that appears the auditors did not take into consideration.

There will be no membership on Cariten Health Plan, Inc as of March 1<sup>st</sup>, 2011. All members will roll to Humana entities. At that time, all processes will be conducted according to Humana's Policies & Procedures.

If you have any question, please contact me at 770-350-2157 or e-mail at [jthorsen@humana.com](mailto:jthorsen@humana.com).

Sincerely,

Joan Thorsen  
Regulatory Compliance Director



a HUMANA affiliate

### **Company Operations and Management**

#### **Recommendation-Pg 5**

*It is recommended that the Company establish a means to comply with Tenn. Code Ann. 56-1-409(b) and make freely available all records upon request.*

#### **Response**

Cariten utilizes the UMAD database to document complaints from the Tennessee Department of Commerce and Insurance (TDCI). UMAD is used to log and track all complaints from the TDCI. Reports from the UMAD database indicate the due date of the TDCI complaint, number of complaints, their classification by line of insurance, the nature of each complaint, the disposition of each complaint, and the time it took to process each complaint. These and any other records will be made available upon request by the Commissioner.

### **Complaint Handling**

#### **Recommendation-Pg 6**

*It is recommended that the company comply with Tenn. Code Ann. 56-8-104(11).*

#### **Response**

To comply with Tenn. Code Ann. 56-8-104(11), Cariten utilizes the MACCESS system for maintaining a complete record of all complaints received. Reports from the MACCESS system indicates the number of complaints, their classification by line of insurance, the nature of each complaint, the disposition of each complaint, and the time it took to process each complaint.

Please see attachment #1-Spreadsheet of TDCI complaints