BEFORE THE COMMISSIONER OF
THE DEPARTMENT OF COMMERCE AND INSURANCE
FOR THE STATE OF TENNESSEE

TENNESSEE INSURANCE DIVISION,	)	
	)	
Petitioner,	)	
	)	
vs.	)	**TID No.: 25-66**
	)	
OPTUMRX, INC.,	)	
	)	
Respondent.	)	

CONSENT ORDER

WHEREAS, the Petitioner, the Insurance Division of the Tennessee Department of Commerce and Insurance ("Division"), and OptumRx Inc. ("Respondent") hereby stipulate and agree, subject to the approval of the Commissioner of the Tennessee Department of Commerce and Insurance ("Commissioner"), as follows:

GENERAL STIPULATIONS

1. It is expressly understood that this Consent Order ("Order") is subject to the Commissioner's acceptance and has no force and effect until such acceptance is evidenced by the entry and execution of the Commissioner.

2. This Order is executed by the Respondent for the purpose of avoiding further administrative action with respect to this cause, despite the Respondent's disagreement with the noted violations. Furthermore, should this Order not be accepted by the Commissioner, it is agreed

that presentation to, and consideration of this Order by the Commissioner shall not unfairly or illegally prejudice the Commissioner from further participation or resolution of these proceedings.

3. The Respondent fully understands that this Order will in no way preclude additional proceedings by the Commissioner against the Respondent for acts or omissions not specifically addressed in this Order or for facts or omissions that do not arise from the facts or transactions herein. The Respondent reserves all rights and arguments as to any such additional proceedings referenced in this Paragraph 3.

4. The Respondent fully understands that this Order will in no way preclude proceedings by state government representatives, other than the Commissioner, for violations of the law addressed in this Order against the Respondent for violations of law under statutes, rules, or regulations of the State of Tennessee, which may arise out of the facts, acts, or omissions contained in the Findings of Fact and Conclusions of Law stated herein, or which may arise as a result of the execution of this Order by the Respondent.

5. The Respondent expressly waives all further procedural steps and expressly waives all rights to seek judicial review of or to otherwise challenge or contest the validity of this Order, the stipulations and imposition of discipline contained herein, and the consideration and entry and execution of said Order by the Commissioner.

AUTHORITY AND JURISDICTION

6. The Commissioner has jurisdiction over this matter pursuant to Title 56 of the Tennessee Code Annotated ("Tenn. Code Ann."), specifically Tenn. Code Ann. §§ 56-2-305 and 56-7-3101, and Tenn. Comp. R. & Regs. 0780-01-95 (the "Law"). The Law places on the Commissioner the responsibility to administer its provisions.

PARTIES

7. The Division is the lawful agent through which the Commissioner administers the Law and is authorized to bring this action for the protection of the public.

8. The Respondent is a pharmacy benefits manager ("PBM") doing business in the State of Tennessee. The Respondent (License #3) is authorized to administer the medication or device portion of pharmacy benefits coverage provided by a covered entity or otherwise act as a pharmacy benefits manager in the State of Tennessee pursuant to Tenn. Code Ann. § 56-7-3113.

FINDINGS OF FACT

9. On February 11, 2025, the Division notified the Respondent by email of the Division's intent to initiate an audit beginning on April 1, 2025. The email stated that "[t]he audit will assess [Respondent's] compliance with Tenn. Code Ann. Title 56, Chapter 7, Parts 31 and 32, Tenn. Comp. R. & Regs. 0780-01-95, and Tenn. Code Ann. Title 56, Chapter 8, Part 1."

10. The February 11, 2025, email included a detailed request for certain information related to the Respondent's: (1) business operations; (2) compliance with Tennessee law; and (3) dealings with pharmacies physically located in Tennessee, and mail order and specialty pharmacies that serve Tennessee residents (collectively "Tennessee Pharmacies"). The requested information included, but was not limited to, the following:

- A list of each initial appeal processed, along with certain information for each initial appeal; and
- A list of all pharmacy claims processed during the audit period, along with certain information for each claim.

11. The email instructed the Respondent to provide the requested information by April 1, 2025, the date the audit was scheduled to begin.

12. On June 12, 2025, during a phone conference with the Respondent, the Division informed the Respondent of a discrepancy found in its submitted data, which was sent to the Division on April 11, 2025. The Respondent had excluded from the submitted data certain pharmacy claims information that Tennessee pharmacies had previously reported to the Division via complaints.

13. On June 13, 2025, the Division issued IR 010 to the Respondent regarding the missing pharmacy claims information from the Respondent's submission and requested a reason for the absence of the pharmacy claims.

14. On June 17, 2025, the Respondent sent the following response to IR 010:

> "Please note that complaints in the above which have paid claims were out of scope to the instant examination. These claims were excluded from the paid claims data. Furthermore, the remaining claims were all rejected claims which explains why they would not be included in paid claims data. Research also indicates that many of these rejected claims are out of scope of the instant examination as well."

15. On June 30, 2025, the Division issued IR 010.1 seeking additional clarity on the missing pharmacy claims data from the Respondent's data submission to the Division.

16. On July 7, 2025, the Respondent responded to IR 010.1, stating, "All claims below are associated with ASO-ERISA plans."

17. The Division also questioned the Respondent whether it included paid pharmacy claims for all individuals who are employed or reside in the state of Tennessee. The Respondent replied and stated, "OptumRx included paid claims for individuals who reside in the state of Tennessee."

18. The Division also questioned the Respondent on the criteria it used to determine what pharmacy claims data to exclude. The Respondent stated the following:

> "With respect to Commercial claims - ASO ERISA, FI ERISA where neither the plan nor the member was situsedin TN, and ASO Non-ERISA where neither the plan nor the member was situsedin TN were excluded. Additionally, Medicare Part D, and Workers' Compensation were also excluded from the data set."

19. Additionally, the Division questioned the Respondent as to the volume of pharmacy claims it excluded from the data submitted for the audit. The Division's position is that the Respondent did not provide a complete answer. Instead, the Respondent provided the following response to assist in approximating the exact answer:

> "For the purpose of providing reference points or numbers related to claims which were excluded from the claims data, please see below.
>
> Excluded MEDICARE clients:
> · Carrier MPDOVA = 3,248,769 2024 Paid Claims
> · Carrier PDPIND = 1,975,025 2024 Paid Claims"

20. On July 10, 2025, the Division held a teleconference with the Respondent discussing whether ERISA pharmacy claims were in scope for the ongoing audit. The Division questioned the Respondent again about the volume of ASO ERISA claims it failed to submit for the audit. A representative for the Respondent replied that the amount of outstanding claims on the provided list was "substantial."

21. On July 11, 2025, the Division issued IR 011 to the Respondent requesting the Respondent's stance on the lines of business for the pharmacy claims it excluded and the Respondent's definition of those lines of business.

22. On July 15, 2025, the Respondent replied to IR 011 by stating it agreed to provide claims and initial appeals data that the Respondent agreed was in the Division's jurisdiction. The Respondent did not provide the ERISA-related information, requested additional information from the Department to enable it to navigate federal law governing ERISA plans that may impact certain fields in the data, and stated that it looked "forward to additional discussion with the Department."

23. Additionally, on July 11, 2025, the Division issued IR 012 to the Respondent seeking the number of ASOERISA appeals and ASO ERISA claims that were excluded for all covered individuals who are employed or reside in the state of Tennessee.

24. On July 18, 2025, the Respondent replied to IR 012's request for ASO ERISA appeals volume by stating "the revised universe the Company provided in TN IR02.4 removed approximately 9,390 appeals related to ASO ERISA plans." The Respondent replied to IR012's request for ASO-ERISA claims volume by reiterating its position from the July 10, 2025, teleconference, that to isolate the volume of ERISA-related claims would be "extensive" and an "undue burden on the Company's database infrastructure while the overarching issue of ASO ERISA applicability remains pending TDCI's response to IR011."

CONCLUSIONS OF LAW

25. At all times relevant hereto, Tenn. Code Ann. § 56-7-3102(5) provides:

> (5) "Pharmacy benefits manager" means a person, business or other entity and any wholly or partially owned subsidiary of the entity, that administers the medication and/or device portion of pharmacy benefits coverage provided by a covered entity. "Pharmacy benefits manager" includes, but is not limited to, a health insurance issuer, managed health insurance issuer as defined in § 56-32-128(a), nonprofit hospital, medication service organization, insurer, health coverage plan, health maintenance organization licensed to practice pursuant to this title, a health program administered by the state or its political subdivisions, including the TennCare programs administered pursuant to the waivers approved by the United States department of health and human services, nonprofit insurance companies, prepaid plans, self-insured entities, plans governed by the Employee Retirement Income Security Act of 1974 (ERISA) (29 U.S.C. § 1001 et seq.), and all other corporations, entities or persons acting for a pharmacy benefits manager in a contractual or employment relationship in the performance of pharmacy benefits management for a covered entity and includes, but is not limited to, a mail order pharmacy;

26. Tenn. Code Ann. § 56-7-3101(a) provides:

(a) Pharmacy benefits managers shall, and contracts for pharmacy benefits management must comply with the requirements of this part.

27. Tenn. Code Ann. § 56-7-3101(b)(1)(A) provides:

(b)(1) The commissioner of commerce and insurance shall promulgate rules to effectuate the purposes of this part and part 32 of this chapter, including, but not limited to, rules to:

(A) Implement pharmacy benefits manager audits that are necessary to ensure compliance with this part and part 32 of this chapter; provided, such audits must not occur more than once every three (3) years unless the commissioner determines there is a need to investigate the financial condition of or legality of conduct by a pharmacy benefits manager;

[...]

28. Tenn. Comp. R. & Regs. 0780-01-95-.11(1) provides:

(1) Pursuant to T.C.A. § 56-7-3101(b)(1), the Commissioner may, at any time the Commissioner believes it is reasonably necessary, audit any PBM licensed by the Department to determine whether the PBM is compliant with Tennessee laws pertaining to PBMs, including but not limited to T.C.A. Title 56, Chapter 7, Parts 31 and 32 and T.C.A. Title 56, Chapter 8, Part 1.

29. At all times relevant hereto, Tenn. Comp. R. & Regs. 0780-01-95-.11(2) has provided:

(2) The Commissioner shall have, and a PBM shall provide the Commissioner, convenient and free access to all books, records, securities, documents, and any and all files relating to the PBM's property, assets, business, and affairs any time the Commissioner determines it is necessary. The officers, directors, employees, and agents of the PBM shall facilitate and aid in the audit so far as it is in their power to do so.

30. Tenn. Code Ann. § 56-7-3110 provides:

A violation of this part may subject the pharmacy benefits manager or covered entity to any of the sanctions described in [Tenn. Code Ann.] § 56-2-305.

31. Tenn. Comp. R. & Regs. 0780-01-95-.16(2) has provided:

(1) The following acts are violations of this chapter:

(a) A PBM fails to timely submit all information, including updates to information, required pursuant to this chapter:

[...]

(c) A PBM fails to comply with a requirement of, or engages in any action prohibited by, this chapter; or

[...]

(2) A violation of this chapter may subject a PBM to the sanctions described in [Tenn. Code Ann.] § 56-2-305.

32. Tenn. Code Ann. § 56-2-305 has provided:

(a) If, after providing notice consistent with the process established by [Tenn. Code Ann.] § 4-5-320(c) and providing the opportunity for a contested case hearing held in accordance with the Uniform Administrative Procedures Act, compiled in [Tenn. Code Ann.] title 4, chapter 5, part 3, the commissioner finds that any insurer, person, or entity required to be licensed, permitted, or authorized by the division of insurance has violated any statute, rule or order, the commissioner may, at the commissioner's discretion, order:

(1) The insurer, person, or entity to cease and desist from engaging in the act or practice giving rise to the violation;

(2) Payment of a monetary penalty of not more than one thousand dollars ($1,000) for each violation, but not to exceed an aggregate penalty of one hundred thousand dollars ($100,000), unless the insurer, person, or entity knowingly violates a statute, rule or order, in which case the penalty shall not be more than twenty-five thousand dollars ($25,000) for each violation, not to exceed an aggregate penalty of two hundred fifty thousand dollars ($250,000). [...] For purposes of [Tenn. Code Ann. § 56-2-305(a)(2)], each day of continued violation shall constitute a separate violation[.]"

33. As detailed in the Findings of Fact, the Respondent failed to provide the Division with all requested information for the audit. The Division finds that the Respondent's failure to provide the Division with all requested information obstructed the Division's convenient and free access, obstructing the Division's convenient and free access to the Respondent's books, records, securities, documents, and any and all files relating to property, assets, business, and affairs. This refusal and failure to provide requested information impeded the Division's ability to effectively conduct and fully complete the audit. The Respondent's actions constitute continuing violations of Tenn. Code Ann. § 56-7-3101(a) and Tenn. Comp. R. & Regs. 0780-01-95-.11(2); the Respondent disputes that contention.

ORDER

IT IS THEREFORE ORDERED, pursuant to Tenn. Code Ann. § 56-2-305, that the Respondent pay a CIVIL PENALTY in the amount of two hundred fifty thousand dollars

($250,000) for the Respondent's failure to provide the requested information as required by Tennessee law.

IT IS FURTHER ORDERED that the Respondent shall provide the Division with the aforementioned withheld audit data within sixty (60) days of execution of this Order, unless the provision of such data has been enjoined or otherwise deemed unlawful by a court order. The data shall be provided consistently with the terms of the 2025 data request sent to the Respondent on February 11, 2025.

IT IS FURTHER ORDERED that this Order represents a full settlement of all violations by the Respondent of Tenn. Code Ann. § 56-7-3101(a) and Tenn. Comp. R. & Regs. 0780-01-95-.11(2) to date regarding withheld ASO ERISA audit information. The Department shall not seek additional sanctions for violations of the aforementioned laws for not providing all the requested audit information requested by the Division on February 11, 2025, but only to the extent such omissions occurred on or before the date this Order is executed.

The first page of this Order must accompany payment of the civil penalty for reference. Payment of the civil penalty shall be made within thirty (30) days of the date this Order is executed by the Commissioner, and payment must be mailed to the following address.

State of Tennessee
Department of Commerce and Insurance
Legal Division
Attn: Elliott Webb
Davy Crockett Tower, 12th Floor
500 James Robertson Parkway
Nashville, TN 37243

This Order may be executed in two (2) or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same document. The facsimile, email, or other electronically delivered signatures of the parties shall be deemed to constitute

original signatures and facsimile or electronic copies shall be deemed to constitute duplicate originals.

This Order is in the public interest and in the best interests of the parties, represents a compromise and settlement of the controversy between the parties, and is for settlement purposes only. By the signatures affixed below, the Respondent affirmatively states that it freely agrees to the entry and execution of this Order, it waives the right to a hearing on the matters and a review of the Findings of Fact and Conclusions of Law contained herein. Additionally, the Respondent agrees that no threats or promises of any kind have been made by the Commissioner, the Division, or any agent or representative thereof. The parties, by signing the Order, affirmatively state their agreement to be bound by the terms of this Order and aver that no promises or offers relating to the circumstances described herein, other than the terms of settlement as set forth in this Order, are binding upon them.

ENTERED AND EXECUTED on _____, 2026.

_____
Carter Lawrence, Commissioner
Department of Commerce and Insurance

APPROVED FOR ENTRY AND EXECUTION:

_____
Scott McAnally
Assistant Commissioner for Insurance
Tennessee Dept. of Commerce and Insurance

_____
OptumRx, Inc.

Name:_____

Title:_____

ADDITIONAL SIGNATURE ON THE LAST AND FINAL PAGE

RESPECTFULLY SUBMITTED:

Elliott G. Webb JR. (BPR #038472)
Associate General Counsel
500 James Robertson Parkway
Davy Crockett Tower, 12th Floor
Nashville, TN 37243
(615) 532-3846
Elliott.Webb@tn.gov

The original document, signed and dated July 30, 2026, is available upon request