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

TENNESSEE INSURANCE DIVISION,	)	
	)	
Petitioner,	)	
	)	
vs.	)	**TID No.: 25-61**
	)	
CAREMARKPCS HEALTH, L.L.C.,	)	
	)	
Respondent.	)	

CONSENT ORDER

WHEREAS, Petitioner, the Insurance Division of the Tennessee Department of Commerce and Insurance ("Division") and CaremarkPCS Health, L.L.C., ("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 Order by the Commissioner.

2. This Order is executed by the Respondent for the purpose of avoiding further administrative action with respect to this cause of action. 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 this matter.

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 addressed.

4. The Respondent fully understands that this Order in no way precludes proceedings by state government representatives, other than the Commissioner, for the Findings of Fact and violations of the law addressed in this Order against the Respondent.

5. The Respondent expressly waives any judicial review, challenge, or contest of the validity of this Order, including the authority, jurisdiction, stipulations, imposition of discipline, consideration, entry, or execution of the 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 the responsibility to administer its provisions on the Commissioner.

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 licensed (License #2) as a pharmacy benefits manager ("PBM") 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 initiation of an audit beginning on April 1, 2025. The email stated that "[t]he audit will assess 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 email dated February 11, 2025, also included detailed requests for information relating to the Respondent's: (1) business operations; (2) compliance with Tennessee law; and (3) dealings with Tennessee pharmacies, mail order pharmacies that serve Tennessee residents, 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 dated February 11, 2025, instructed the Respondent to provide all requested information by April 1, 2025, the date of the scheduled audit.

12. While conducting the audit, the Division discovered a significant discrepancy between the pharmacy claims data submitted in Initial Data Request 6 versus what the Respondent reported in its annual report of April 1, 2025 ("Annual Report"). The Respondent responded in the audit that it paid two million seven hundred eighty-eight thousand nine hundred fifty-five (2,788,955) pharmacy claims; however, the Annual Report stated it paid seventeen million four hundred thirty-five thousand four hundred twenty-six pharmacy claims (17,435,426), a discrepancy of fourteen million six hundred forty-six thousand four hundred seventy-one (14,646,471) claims.

13. On May 29, 2025, the Division sent the Respondent Information Request ("IR") 017 seeking clarification about the discrepancy outlined in Paragraph 12.

14. On June 12, 2025, the Respondent responded to the Division's inquiry with the following:

> "The claim report submitted for the market conduct examination only included fully insured data. The Company is acting as a TPA for self-insured clients and sought the permission of the ERISA clients to turn over their unredacted data. Once an opt in list has been compiled, the Company will run a subsequent claim report inclusive of self-insured clients that did not opt out of the exam. This is on track to be submitted by 06/23/2025."

15. On June 23, 2025, the Respondent provided information regarding an additional three million eight hundred sixty-one thousand three hundred seventy-five (3,861,375) paid pharmacy claims increasing the total amount of paid claims received to six million six hundred fifty-thousand three hundred thirty (6,650,330).

16. On June 26, 2025, the Division submitted IR 017.1 to the Respondent seeking an explanation of the total claims that the Respondent would not provide to the Division, including details about the involved plans, and the number of claims that were associated with these plans.

17. On July 2, 2025, the Respondent submitted a data file titled "TN Opt Out List" that only included the client's name and stated the following:

> "The inclusionary criteria for the claims data included in the annual report summary and the market conduct examination were different. The annual report encompasses all self-funded ERISA clients while the exam excludes self-funded ERISA clients that have opted out of sharing their data; a list of clients who opted out has been attached for the examiner's review. As a reminder, the Company is acting as a TPA for self-insured clients and sought the permission of the ERISA clients to turn over their unredacted data. In lieu of completing the reconciliation, the Company determined that there are a total of 898 clients that have opted out of sharing their data. This accounts for the discrepancy between the two reports."

18. On July 3, 2025, the Division sent IR 017.2 to the Respondent seeking additional details regarding the clients who opted out of sharing the requested data and for information on the three million eight hundred sixty-one thousand three hundred seventy-five (3,861,375) paid pharmacy claims for the self-funded plans the Respondent submitted on June 23, 2025.

19. On July 15, 2025, in response to IR 017.2, the Respondent stated: "Upon review, the Company identified that the claims data provided was inaccurate" and that the Company would "supply the examiners with an updated paid claims data report" for the data that was originally requested in IR 017.1.

20. On July 31, 2025, the Respondent provided additional plan and claims data. However, the Respondent failed to provide data regarding approximately two million seven hundred sixty-one thousand two hundred eighteen (2,761, 218) paid pharmacy claims for the audit.

21. Despite Respondent providing all initial appeals data by July 3, 2025, the Division was unable to conduct and complete a full audit of the Respondent's claims processing practices because the Respondent did not provide all of the data related to pharmacy claims for self-funded ERISA plans.

CONCLUSIONS OF LAW

22. 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[.]

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

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

24. 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;
>
> [...]

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

> (1) Pursuant to Tenn. Code Ann. § 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.

26. Tenn. Comp. R. & Regs. 0780-01-95-.11(2) provides:

> (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.

27. At all times relevant hereto, 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.

28. Tenn. Comp. R. & Regs. 0780-01-95-.16(2) provides:

(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.

[...]

29. Tenn. Code Ann. § 56-2-305 provides:

(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[.]"

30. As detailed in the Findings of Fact, the Respondent failed to provide the Division with all requested information for the audit, hindering 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).

ORDER

IT IS THEREFORE ORDERED, pursuant to Tenn. Code Ann. § 56-2-305, that the Respondent pay a **CIVIL PENALTY** 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 Respondent shall provide the Division with the aforementioned audit data that has been withheld within sixty (60) days of execution of this Order.

IT IS FURTHER ORDERED that this Order represents a full settlement of all violations by Respondent of Tenn. Comp. R. & Regs. 0780-01-95-.11(2) to date regarding withheld self-funded ERISA audit information. The Department shall not seek additional sanctions for violations of the aforementioned laws and rules stemming from missing audit information requested by the Division on February 11, 2025, but only to the extent such violations 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: it freely agrees to the entry and execution of this Order; it waives the right to a hearing on the matters underlying this Order and to a review of the Findings of Fact and Conclusions of Law contained herein; and it did not encounter threats or promises of any kind from 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 January 12, 2026.

Carter Lawrence (Jan 12, 2026 08:06:36 CST)

Carter Lawrence, Commissioner
Department of Commerce and Insurance

APPROVED FOR ENTRY AND EXECUTION:

Bill Huddleston (Jan 12, 2026 08:26 CST)

Bill Huddleston
Deputy Commissioner for Insurance
Tennessee Dept. of Commerce and Insurance

CaremarkPCS Health, L.L.C.

Name: Thomas S. Moffatt

Title: Vice President and Corporate Secretary

RESPECTFULLY SUBMITTED:

Elliott Webb

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