



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

TENNESSEE INSURANCE DIVISION,	)	
	)	
Petitioner,	)	
	)	
vs.	)	TID No.: 25-
	)	
CAREMARK PHC, LLC,	)	
	)	
Respondent.	)	

CONSENT ORDER

WHEREAS, Petitioner, the Insurance Division of the Tennessee Department of Commerce and Insurance (“Division”) and Caremark PHC, LLC (“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. 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 addressed.

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 specifically 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 of the administration of 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 # 28) has the authority 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 Respondent by email of the Division’s intent to initiate an audit of Respondent 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 (1) numerous aspects of Respondent’s business operations, (2) its compliance with Tennessee law, and (3) its dealings with pharmacies physically located in Tennessee, 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:

- Maximum allowable cost (“MAC”) lists used by Respondent, along with certain information for each MAC list;
- A list of Respondent’s networks that contain Tennessee Pharmacies, along with certain information for each network;
- Tennessee Pharmacies removed from Respondent’s networks, along with certain information for each Tennessee Pharmacy and network;
- A list of denied network applications, along with certain information for each Tennessee Pharmacy and network;

- A list of Tennessee Pharmacies that were under contract with Respondent during the audit period;
- A list of each external appeal processed, along with certain information for each external appeal;
- A list of each initial appeal processed, along with certain information for each initial appeal;
- A list of all pharmacy claims processed during the audit period, along with certain information for each claim; and
- A list of all pharmacy audits completed during the audit period, along with certain information for each audit.

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

12. On March 6, 2025, Respondent requested a thirty (30)-day extension “to develop new reporting functionality and conduct quality assurance testing to provide the examination team with what they require.” Respondent’s new proposed deadline for the submission of all requested information was May 1, 2025.

13. On March 6, 2025, the Division requested Respondent provide a list of items that would be produced on April 1, 2025, and items that would be delayed beyond the April 1, 2025, deadline.

14. On March 11, 2025, Respondent requested an extension until May 1, 2025, for all items listed in paragraph 10 above.

15. On March 11, 2025, the Division denied the extension request by reminding the Respondent that, except for one category, the data for which Respondent was seeking an extension

was to be included in the annual report that all Tennessee-licensed PBMs were required to submit to the Division on April 1, 2025, pursuant to Tenn. Comp. R. & Regs. 0780-01-95-.15.

16. On March 13, 2025, the Division contacted Respondent to determine whether Respondent could produce two weeks of claims data by the April 1, 2025, deadline for the audit team to review.

17. On March 13, 2025, Respondent stated it could produce the data contained in the PBM annual report by April 1, 2025, but advised that claims data could not be submitted until May 1, 2025.

18. On March 14, 2025, the Division reaffirmed the need for Respondent to submit two weeks of sample claims data by April 10, 2025.

19. On March 17, 2025, Respondent stated that they would do their “utmost” to get the full claims report to the Division by April 1, 2025, but reiterated its position that it would need until May 1, 2025, to build ad hoc reporting and to conduct quality assurance testing.

20. On April 1, 2025, Respondent contacted the Division and stated it had “submitted most of our deliverables by the [April 1] due date.” In the same email, Respondent requested an additional extension of unspecified duration for the following items:

- Audit Planning Questionnaire I.B.1;
- A list of all pharmacy claims processed during the audit period;
- Preliminary List Request 04; and
- Preliminary List Request 05.

21. Additionally, in the same April 1, 2025, email, Respondent requested an extension on the following items to ensure consistency with items submitted for the PBM annual report, for which Respondent had already been granted an extension until April 4, 2025:

- A list of MAC lists used by Respondent;
- A list of Tennessee Pharmacies that were under contract with Respondent during the audit period;
- A list of each external appeal processed, along with certain information for each external appeal; and
- A list of each initial appeal processed, along with certain information for each initial appeal.

22. On April 2, 2025, the Division granted an extension until April 4, 2025, for Respondent to submit the list of items contained in Paragraphs 20 and 21, excluding pharmacy claims data. The Division granted an extension for pharmacy claims data until April 10, 2025.

23. On April 4, 2025, Respondent contacted the Division and requested an additional extension on the following audit information:

- Audit Planning Questionnaire I.B.1.;
- A list of all pharmacy claims processed during the audit period;
- A list of each external appeal processed, along with certain information for each external appeal;
- A list of each initial appeal processed, along with certain information for each initial appeal;
- Preliminary List Request 04; and
- Preliminary List Request 05.

24. On April 8, 2025, the Division informed Respondent that the requested audit information was late and requested a timeframe as to when Respondent would be able to provide the requested information.

25. On April 8, 2025, Respondent informed the Division that it was “still assessing” when it would be able to provide a response on the requested audit information.

26. The Division has inquired with Respondent throughout the months of April, May, June, and July 2025 as to the status of the outstanding audit information. Each time, Respondent has acknowledged receipt of the request and stated it will provide the remaining outstanding items as soon as they become available.

27. As of the date of execution of this Order, Respondent has submitted a substantial amount of the requested audit information by the relevant due dates.

28. As of the date of execution of this Order, Respondent has provided a limited number of claims related to self-funded employee benefit plans to the Division. However, as of the date of execution of this Order, Respondent has not submitted all pharmacy claims related to self-funded employee benefit plans that were processed during the audit period.

CONCLUSIONS OF LAW

29. At all times relevant hereto, Tenn. Code Ann. § 56-7-3102(5) has provided:

(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;

30. At all times relevant hereto, Tenn. Code Ann. § 56-7-3101(b)(1)(A) has provided:

(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;

...

31. At all times relevant hereto, Tenn. Comp. R. & Regs. 0780-01-95-.11(1) has provided:

(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.

32. 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.

33. At all times relevant hereto, Tenn. Code Ann. § 56-7-3110 has provided:

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.

34. At all times relevant hereto, Tenn. Comp. R. & Regs. 0780-01-95-.16(2) has provided:

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

35. At all times relevant hereto, 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[.]”

36. Respondent’s failure to timely provide the Division with all requested information constitutes continuing violations of Tenn. Comp. R. & Regs. 0780-01-95-.11(2).

ORDER

IT IS THEREFORE ORDERED, pursuant to Tenn. Code Ann. § 56-2-305, that Respondent pay a **CIVIL PENALTY** in the amount of two hundred fifty thousand dollars (\$250,000) for Respondent’s failure to timely provide the requested information as required by Tennessee law.

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 missing 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.

IT IS FURTHER ORDERED that, notwithstanding the prior paragraph, this Order shall not release the Respondent from liability stemming from Respondent’s failure to provide, or delay in providing, pharmacy claims related to self-funded employee benefit plans processed during the

audit period. The Department may pursue further administrative action with respect to Respondent's failure to submit or delay in submitting claims related to self-funded employee benefit plans processed during the audit period.

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 has freely agreed to the entry and execution of this Order, that 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 that no threats or promises of any kind have been made to it 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 September 23, 2025.


Carter Lawrence (Sep 23, 2025 11:56:58 CDT)

Carter Lawrence, Commissioner
Department of Commerce and Insurance

APPROVED FOR ENTRY AND EXECUTION:


Bill Huddleston (Sep 24, 2025 10:21:01 CDT)

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



Caremark PHC, LLC

Name: _____

Title: **Thomas S. Moffatt**
Vice President and Corporate Secretary

RESPECTFULLY SUBMITTED:


Elliott G. Webb JR. (Sep 24, 2025 10:21:01 CDT)

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