

# THOMSON, RHODES & COWIE, P.C.

## MANAGED CARE LAW UPDATE

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Page 1 of 1

### PENNSYLVANIA AGENCY ACTIONS

**DOI imposes \$490,000 fine against HMO.** On February 9, 2000, the Pennsylvania Insurance Department announced the imposition of a \$490,000 fine against HealthCentral, Inc., a Harrisburg-based HMO. The Department determined that the HMO had failed to pay an undisclosed number of claims within the prompt payment provisions of Act 68 and had overcharged certain accounts. HealthCentral also signed a consent order which requires, among other things, premium adjustments and refunds for those accounts that were overcharged. HealthCentral is the third health maintenance organization which has been subject to a market-conduct examination that included Act 68 compliance as part of the review. The other two HMOs were Penn State Geisinger Health Plan and Keystone Health Plan Central, which paid fines totaling \$150,000 and \$65,000, respectively. More information is available at the Department of Insurance website, <http://www.insurance.state.pa.us/>.

### FEDERAL COURT ACTIONS

**RICO action filed against UnitedHealthCare.** On February 7, 2000, a group of HMO and PPO enrollees filed a class action lawsuit in federal court against UnitedHealthCare and UnitedHealth Group (a/k/a United HealthCare Corp.) under the Racketeer Influenced and Corrupt Organizations Act (RICO) and the Employee Retirement Income Security Act (ERISA). Plaintiffs allege that the health plan fraudulently induced millions of people to enroll through “misrepresentations and omissions of material facts in its advertising, marketing and member materials. . .” In particular, the complaint focuses on physician incentive programs that the plaintiffs allege cause conflicts of interest for the physicians. As in the recently dismissed case of Maio v. Aetna Inc., from the federal court in the Eastern District of Pennsylvania, the complaint against UnitedHealthCare alleges that the health plan was primarily motivated by its own fiscal and administrative concerns rather than quality health care. The complaint seeks damages, an injunction and the creation of an equitable constructive trust for the public benefit. According to one report, the plaintiffs are represented by the “R.E.P.A.I.R. TEAM”, a group of attorneys from Mississippi, South Carolina, Texas, California and Maryland. “R.E.P.A.I.R.” stands for RICO and ERISA Prosecutors Advocating for Insurance Industry Reform. McRaney, et al. V. UnitedHealthCare, et al., (S.D.Miss., complaint filed 2/7/00).

### OTHER JURISDICTIONS

**Florida jury awards \$80 million against Humana.** In January, Humana Health Insurance Co. of Florida suffered an almost \$80 million jury verdict for allegedly improperly terminating a nine year old girl from a special treatment program for catastrophically ill patients. According to a recent report, Humana set up a bonus incentive plan which paid health care providers cash bonuses based on arbitrary targets to reduce the number of children in the special treatment program. The plaintiff’s attorney attributed the large verdict, in part, to an internal company report which estimated that Humana could save \$78 million a year by discontinuing the case management program for ill children and replacing it with neonatal care and coverage for patients with cardiac and kidney disease. The jury awarded more than \$1 million in compensatory damages and \$78.5 million in punitive damages. A Humana spokesperson announced Humana’s intent to appeal the decision. Chipps v. Humana Health Insurance Co., Fla. Cir. Ct., No.

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