

IN RE:

**CIGNA HEALTHCARE OF MAINE, INC.,
formerly HEALTHSOURCE MAINE, INC.**

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**CONSENT AGREEMENT
Docket No. INS 00-3033**

This document is a Consent Agreement, authorized by 5 Revised Maine Statutes Annotated (M.R.S.A.) §§ 12-A(1) and 9053(2), entered into by CIGNA HealthCare of Maine, Inc. (hereafter also "*CIGNA*") and the Superintendent of the Maine Bureau of Insurance (hereafter also the "*Superintendent*" and the "*Bureau*"). Its purpose is to resolve, without resort to an adjudicatory proceeding, violations of provisions of Bureau of Insurance Rule Chapter 850(9).

FACTS

1. The Superintendent of Insurance is the official charged with administering and enforcing Maine's insurance laws and regulations.
2. CIGNA (formerly known as Healthsource Maine, Inc.) has been a Maine licensed health maintenance organization (HMO), License # HMD4, since 1987.
3. Bureau Rule Chapter 850, Health Plan Accountability, went into effect October 25, 1997, and Rule 850(9), Grievance Procedures, became effective April 25, 1998.
4. On January 4, 1999, the Bureau received complaint #1999504623 from Consumer, a CIGNA enrollee. In her complaint, Consumer challenged CIGNA's denial of a requested medical procedure, autologous chondrocyte transplantation. Prior to filing her complaint with the Bureau, Consumer exhausted her appeal rights with CIGNA. The latter's denial of the requested procedure was based on its conclusion that the procedure was investigational and, therefore, excluded from coverage under Consumer's plan.
5. CIGNA initially denied the requested procedure on December 31, 1997.
6. On April 21, 1998, Consumer grieved the December 31, 1997 denial. CIGNA received Consumer's grievance on June 4, 1998.
7. Pursuant to Rule 850(9)(C)(1)(a), health carriers must issue a written decision within 20 working days after receiving a grievance.
8. On June 26, 1998, CIGNA wrote to Consumer informing her that the company was still researching her grievance and would require ten additional days beyond the 20-day deadline in the rule.
9. On July 21, 1998, CIGNA denied Consumer's appeal, again on the ground that CIGNA considered autologous chondrocyte transplantation as investigational, and thus excluded from coverage.

10. Pursuant to Rule 850(9)(C)(1)(b)(i)-(vi), an adverse first level grievance determination must be communicated to the covered person in writing. The notice must include:

The names, titles and qualifying credentials of the person or persons participating in the first level grievance review process (the reviewers).

A statement of the reviewers' understanding of the covered person's grievance and all pertinent facts.

The reviewers' decision in clear terms and the basis for the decision.

A reference to the evidence or documentation used as the basis for the decision.

Notice of the covered person's right to contact the Superintendent's office [along with the Bureau's toll free number and address].

A description of the process to obtain second level grievance review of a decision, the procedures and time frames governing a second level grievance review, and the [consumer's second level grievance rights].

11. CIGNA's July 21, 1998 adverse first level grievance determination failed to include four of the components set forth § 9(C)(1)(b)(i)-(vi):

it did not substantively state the basis for the decision; it made no reference to the evidence or documentation used as the basis for the decision; it did not inform Consumer of her right to contact the Superintendent; and it had not explanation of the second level grievance review process and no statement of Consumer's procedural rights.

12. On September 8, 1998, Consumer filed a request for second level grievance review of her request for authorization of autologous chondrocyte transplantation. CIGNA received Consumer's second level grievance review request on September 11, 1998.

13. Pursuant to Rule 850(9)(D)(3)(a) and (f), a second level grievance review meeting must be held within 45 working days of the date such review is requested, and a written decision must be communicated to the enrollee within five working days of the meeting.

14. Consumer's second level grievance review was held on October 19, 1998. CIGNA did not issue its decision until December 16, 1998.

15. Pursuant to Rule 850(9)(D)(3)(f), an adverse second level grievance review determination notice must contain all of the elements required of an adverse first level grievance review determination notice, except for the description of the second level process.

16. CIGNA'S Medical Director, Robert Hochmuth, M.D., wrote the December 16, 1998 adverse second level grievance determination notice letter. He informed Consumer that the grievance committee denied her grievance. The December 16th notice did not contain four of the

disclosures required by § 9(D)(3)(f): it failed to identify the person or persons who participated in the grievance review; failed to substantively state the basis for the decision; made no reference to the evidence or documentation used as the basis for the decision; and did not inform Consumer of her right to contact the Superintendent.

17. On November 19, 1999, Consumer wrote to CIGNA grieving the company's denial of the two procedures her treating physicians recommended, autologous chondrocyte transplantation and arthroscopic microfracturing of lesion with chondral osseous paste grafting.

CONCLUSIONS OF LAW

18. As described at paragraphs 4 through 9, CIGNA violated Bureau Rule 850(9)(C)(1)(a) by failing to render a timely first level grievance review determination.

19. As described at paragraphs 10 and 11, CIGNA violated Bureau Rule 850(9)(C)(1)(b) by failing to include all the elements required of an adverse first level grievance review determination notice in two notices sent to Consumer.

20. As described at paragraphs 12, 13 and 14, CIGNA violated Rule 850(9)(D)(3)(a) and (f) by failing to render a timely adverse second level grievance review determination.

21. As described at paragraphs 15 and 16, CIGNA violated Rule 850(9)(D)(3)(f) by failing to include all the elements required of an adverse second level grievance review determination.

COVENANTS

22. A formal hearing in this complaint proceeding is waived and no appeal will be made.

23. At the time of executing this Agreement, which is an enforceable agency action under the Maine Administrative Procedure Act, CIGNA shall pay to the Maine Bureau of Insurance a penalty in the amount \$17,500 drawn to the Treasurer of the State of Maine.

24. In consideration of CIGNA's execution of and compliance with the terms of this Consent Agreement, the Superintendent agrees to forgo pursuing any disciplinary measure or civil sanction for the violations described above, other than those agreed to herein.

MISCELLANEOUS

25. CIGNA understands and acknowledges that this Agreement will constitute a public record within the meaning of 1 M.R.S.A. § 402, and will be available for public inspection and copying as provided for by 1 M.R.S.A. § 408.

26. The parties understand that nothing herein shall affect any right or interest of any person who is not a party to this Agreement.

27. This Agreement may only be modified by the written consent of the parties.

28. Before executing this Agreement, CIGNA was informed of its right to consult with its counsel.

29. Nothing herein shall prohibit the Bureau from seeking an order to enforce this Agreement, or from seeking additional sanctions in the event CIGNA does not comply with the above terms or in the event the Bureau receives evidence that further legal action is necessary for the protection of Maine consumers.

30. The Superintendent reserves the right to pursue, in his discretion, additional action against CIGNA under 24-A M.R.S.A. §§ 2151-87 in connection with Consumer's complaint.

Dated: _____, 2000

FOR CIGNA HEALTHCARE OF MAINE, INC.

By: _____
Signature

For: _____
Typed Name and Title

Subscribed and sworn to before me
this _____ day of _____, 2000.

Notary Public

**FOR THE MAINE
BUREAU OF INSURANCE**

Dated: _____, 2001

**Alessandro A. Iuppa
Superintendent of Insurance**

STATE OF MAINE
KENNEBEC, ss

Subscribed and sworn to before me
this _____ day of _____, 2001

Notary Public/Attorney at Law

**FOR THE MAINE
ATTORNEY GENERAL**

Dated: _____, 2001

**Carolyn Silsby
Assistant Attorney General**

STATE OF MAINE
KENNEBEC, ss

Subscribed and sworn to before me
this _____ day of _____, 2001

Notary Public/Attorney at Law