

**STATE OF MAINE  
DEPARTMENT OF PROFESSIONAL AND FINANCIAL REGULATION  
BUREAU OF INSURANCE**

IN RE:

Harvard Pilgrim Health Care, Inc.  
NAIC Co. Code: 96911  
ME License No. HMF39507

HPHC Insurance Company, Inc.  
NAIC Co. Code: 18975  
ME License No. LHF115693

Docket No. INS-25-514

**CONSENT AGREEMENT  
AND ORDER**

Harvard Pilgrim Health Care, Inc. and HPHC Insurance Company, Inc. (collectively “Harvard Pilgrim” or “the Company”), the Superintendent of the Maine Bureau of Insurance (“the Superintendent”), and the Office of the Maine Attorney General (“the Attorney General”) hereby enter into this Consent Agreement pursuant to 10 M.R.S. § 8003(5)(B) to resolve, without resort to an adjudicatory proceeding, violations of the Maine Insurance Code. As set forth in more detail below, a market conduct examination identified violations of provisions of the Maine Insurance Code and Bureau of Insurance Rule Chapter 850 (“Bureau Rule Ch. 850” or “Rule 850”) relating to requests for prior authorization of medical services and prescriptions.

**APPLICABLE LAW**

1. Under 24-A M.R.S. § 12-A, the Superintendent may assess civil penalties, issue a cease and desist order, or take any combination of these and other actions listed within this section against any person who violates any law enforced by the Superintendent; any rule lawfully adopted by the Superintendent; or any lawful order of the Superintendent.
2. Pursuant to 10 M.R.S. § 8003(5)(B), the Superintendent may resolve an investigation without further proceedings by entering into a consent agreement with a licensee and with the consent of the Attorney General.
3. 24-A M.R.S. § 4304(2) sets forth the requirements for health plans regarding prior authorization of nonemergency services.
4. Bureau Rule Ch. 850, generally, sets forth standards for health plan accountability.
5. Section 8 of Bureau Rule Ch. 850 applies to all adverse health care treatment decisions rendered by or on behalf of carriers, as that term is defined in Rule 850 § 5(E).

6. Bureau Rule Ch. 850 § 8(C) sets forth the requirements to have a written utilization review program that is compliant with the Rule.
7. Bureau Rule Ch. 850 § 8(D) sets forth the operational requirements for a carrier's utilization review program.
8. Bureau Rule Ch. 850 § 8(E) sets forth the procedures health plans must follow utilization review, including the handling of standard prior authorization requests and prior authorization requests in exigent circumstances.
9. Bureau Rule Ch. 850 § 8(E)(6) sets forth written notice requirements for adverse determinations involving health care treatment decisions.
10. 24-A M.R.S. § 4303(15)(A) states "A carrier offering a health plan in this State shall...[p]rovide to applicants, enrollees and policyholders or certificate holders a summary of benefits and an explanation of coverage that accurately describe the benefits and coverage under the applicable plan or coverage.
11. 24-A M.R.S. § 1906(2) states in relevant part, "[a]n administrator shall provide services as an administrator only pursuant to a written agreement between the administrator and the plan sponsor, health care service plan, health maintenance organization or insurer."
12. The acts of an administrator, when acting as such, are deemed to be the acts of the insurer under 24-A M.R.S. § 1906(10).

#### **STATEMENT OF FACTS**

13. The Superintendent has jurisdiction over this matter pursuant to the powers set forth in the Insurance Code generally, as well as the specific provisions of 24-A M.R.S. §§ 12-A and 211 and 10 M.R.S. § 8003.
14. Harvard Pilgrim Health Care, Inc. has been licensed in Maine as a foreign health maintenance organization since 1994, holding Maine Certificate of Authority number HMF39507. Its NAIC Code is 96911, and it is domiciled in Massachusetts.
15. HPHC Insurance Company, Inc. has been licensed in Maine as a foreign life and health insurance company since 2005, holding Maine Certificate of Authority number LHF115693. Its NAIC Code is 18975, and it is domiciled in Massachusetts.
16. 24-A M.R.S. § 221(5) requires the Superintendent to examine, no less frequently than once every five years, each domestic health carrier and each foreign health carrier with at least 1,000 covered lives in Maine that offer health plans. A targeted market conduct exam of Harvard Pilgrim, the results of which serve as the basis for this Consent Agreement, was accordingly called and conducted pursuant to 24-A M.R.S. §§ 211 and 221.

17. The examiners reviewed prior authorization requests and notices of adverse benefit determinations during a review period of October 1, 2023, through December 31, 2023.
18. The examiners tested the Company's compliance with timing and notice requirements and reviewed their utilization review procedures and the utilization review sections of the plan documents associated with sample files.
19. The examiners found several instances of noncompliance with Rule 850 and related provisions of 24-A M.R.S. § 4304(2), which are set forth in more detail below and in the examiners' Market Conduct Examination Report ("Examination Report"), which is herein incorporated by reference.
20. Where Rule 850, in part, is testing the presence of certain items in a form letter, a failure to include one item within a form letter may lead to a failure for other files being tested as all files use the same form.
21. Harvard Pilgrim cooperated with the examiners throughout this exam and proactively addressed some areas of noncompliance in advance of receiving the Examination Report.
22. Harvard Pilgrim agreed in significant part with the examiners' findings of noncompliance set forth in the Examination Report.

*Bureau Rule Ch. 850 § 8(E) and 24-A M.R.S. § 4304(2) Compliance*

23. In seventy-six (76) sample files, Harvard Pilgrim's notices failed to identify the specific plan provision on which the determination was based in violation of Rule 850 § 8(E)(6)(b) and/or the template failed to identify situations where enrollees were undergoing a current course of treatment with a nonformulary drug as a situation for which expedited review is available in violation of Rule 850 § 8(E)(6)(i).
24. In thirty-four (34) out of one hundred thirteen (113) exigent sample files and seven (7) out of one hundred sixteen (116) non-exigent sample files, Harvard Pilgrim failed to complete the prior authorization process within the timeframes required by Rule 850 § 8(E)(2)(a) and 8(E)(3).
25. Within the seven (7) non-exigent sample files identified in paragraph 24, there were two (2) sample files where the request for prior authorization was denied even though Harvard Pilgrim had failed to meet the timing requirements. These requests should have been granted as required by 24-A M.R.S. § 4304(2) and Bureau Rule Ch. 850 § 8(E)(2).

*Rule 850 § 8(C) and 24-A M.R.S. § 4303(15)(A) Compliance*

26. In a review of Harvard Pilgrim's utilization review guidelines, the examiners noted that the guidelines did not reflect a practice that Harvard Pilgrim had implemented regarding concurrent review of some covered services.

27. This constitutes a violation of Rule 850 § 8(C)'s requirement to "comprehensively describe all utilization review activities and procedures, both delegated and non-delegated, applicable to any of its health plans."
28. The examiners also reviewed the description of the utilization review process in Harvard Pilgrim's plan documents. The plan documents matched the written utilization program, so they failed to reflect the changes to concurrent review of some covered services.
29. This constitutes a violation of 24-A M.R.S. § 4303(15)(A)'s requirement to "[p]rovide to applicants, enrollees and policyholders or certificate holders a summary of benefits and an explanation of coverage that accurately describe the benefits and coverage under the applicable plan or coverage.
30. The concurrent review process described in the written utilization review program and the plan documents was otherwise compliant with Maine law.

*Oversight of Administrator*

31. One of the plans within this population is an ACA-compliant student health plan administered by UnitedHealthcare Services, Inc. d/b/a UnitedHealthcare Student Resources ("Student Resources").
32. Examiners determined there was no written delegation agreement or monitoring program in place for delegated utilization review services during the review period.
33. This constitutes a violation of Rule 850 § 8(A) and (B).
34. Examiners also determined there was no written administrative services agreement in place setting forth the administrative duties Student Resources was providing to Harvard Pilgrim.
35. This constitutes a violation of 24-A M.R.S. § 1906(2) for which Harvard Pilgrim is responsible pursuant to 24-A M.R.S. § 1906(10).

**VIOLATIONS OF LAW**

36. As set forth in paragraphs 23 through 25, Harvard Pilgrim failed to comply with all requirements set forth in Bureau Rule Ch. 850 §§ 8(E) and related provisions of 24-A M.R.S. § 4304(2).
37. As set forth in paragraphs 26 through 30, Harvard Pilgrim violated Rule 850 § 8(C) and 24-A M.R.S. § 4303(15)(A) when it implemented a practice relating to concurrent review of some services that was not reflected in its written utilization program or plan documents.

38. As set forth in paragraphs 31 through 35, Harvard Pilgrim's failure to have a delegation agreement and monitoring program in place with its administrator during the review period violated Rule 850 § 8(C) and (D). Its failure to have a written administrative services agreement in place with that same administrator is a violation of 24-A M.R.S. § 1906(2) for which Harvard Pilgrim is responsible pursuant to 24-A M.R.S. § 1906(10).

### COVENANTS

39. Harvard Pilgrim agrees to the Statement of Facts and Violations of Law and agrees that it is subject to disciplinary action.
40. Harvard Pilgrim accepts as disciplinary action the imposition of a civil penalty in the amount of forty thousand dollars (\$40,000) No later than thirty (30) days after executing this Consent Agreement, Harvard Pilgrim will remit to the Maine Bureau of Insurance a company check in the amount of forty thousand dollars (\$40,000) payable to the Treasurer of the State of Maine.
41. No later than thirty (30) days after the date of its signature, Harvard Pilgrim shall submit its responses to a Corrective Action Plan (CAP) provided by the examiners. The CAP shall specify steps Harvard Pilgrim intends to implement to correct the procedural deficiencies found during the Examination and set forth in Examination Report. The CAP should also include, as attachments, all form letters and notices that have been revised by Harvard Pilgrim based on the examiners' findings.
42. This Consent Agreement is not subject to appeal. Harvard Pilgrim waives any right it might have to appeal any matter that is a subject of this Consent Agreement.
43. This Consent Agreement constitutes an Order of the Superintendent. A violation of its terms is enforceable by the Superintendent pursuant to 24-A M.R.S. §§ 12-A and 211.
44. This Consent Agreement is also enforceable by an action in Maine Superior Court pursuant to 24-A M.R.S. § 214, 10 M.R.S. § 8003(5)(B), and 14 M.R.S. § 3138.
45. The effective date of this Consent Agreement is the date of the Superintendent's signature hereto.
46. This Consent Agreement may be modified only by a written agreement executed by all the parties hereto. Any decision to modify, continue or terminate any provision of this Consent Agreement rests in the discretion of the Superintendent and the Attorney General.
47. This Consent Agreement is a public record as that term is defined by 1 M.R.S. § 402(3). It is subject to the provisions of the Maine Freedom of Access Act, 1 M.R.S. §§ 401 through 410, and it will be available for public inspection and copying as provided for by 1 M.R.S. § 408-A.

48. This Consent Agreement is also an adverse action and will be reported to the Regulatory Information Retrieval System (“RIRS”) database at the National Association of Insurance Commissioners (“NAIC”).
49. Nothing in this Consent Agreement shall be construed to affect any right or interest of any person not a party hereto.
50. Terms of this Consent Agreement constitute the entire agreement between and among the parties.
51. If any provision of this Consent Agreement is for any reason determined to be invalid, the effectiveness and enforceability of all other provisions of the Consent Agreement shall not be affected by such determination.
52. By the duly-authorized signature of its representative on this Consent Agreement, Harvard Pilgrim warrants that it has consulted with counsel before signing the Consent Agreement or has knowingly and voluntarily decided to proceed in this matter without consulting counsel, that it understands this Consent Agreement, and that it enters into the Consent Agreement voluntarily and without coercion of any kind from any person.
53. As consideration for Harvard Pilgrim’s execution of and compliance with the terms of this Consent Agreement, the Superintendent and the Attorney General agree to forego pursuing further disciplinary measures or other civil or administrative sanctions for the specific conduct described above in this Consent Agreement. However, should Harvard Pilgrim fail to comply with any term or condition of this Consent Agreement, it may be subject to any available remedy under the law for such a failure or violation.

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**HARVARD PILGRIM HEALTH CARE, INC.  
HPHC INSURANCE COMPANY, INC.**

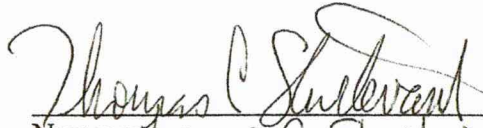
Dated: March 2, 2026



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Name:  
Title: SVP, Health Care Services

**FOR THE OFFICE OF THE ATTORNEY GENERAL**

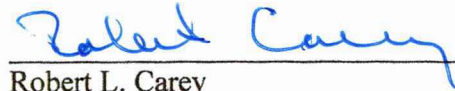
Dated: March 3, 2026



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Name: Thomas C. Sturtevant, Jr.  
Assistant Attorney General

**THE SUPERINTENDENT OF THE MAINE BUREAU OF INSURANCE**

Dated: March 3, 2026



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Robert L. Carey  
Superintendent