

**IN RE: AETNA HEALTH, INC.**

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**CONSENT AGREEMENT**  
**Docket No. INS 04-240**

This document is a Consent Agreement, authorized by 10 M.R.S.A. § 8003(5)(B), entered into by and among Aetna Health, Inc. (hereafter also “Aetna”), the Superintendent of the Maine Bureau of Insurance (hereafter “the Superintendent”), and the Office of the Attorney General. Its purpose is to resolve, without resort to an adjudicatory proceeding, Aetna’s failure to respond to an inquiry from the Superintendent within 14 days pursuant to 24-A M.R.S.A. § 220(2).

**FACTS**

1. The Superintendent is the official charged with administering and enforcing Maine’s insurance laws and regulations.

2. Aetna is a Maine licensed HMO, license # HMD 45749, NAIC # 95517.

3. Title 24-A M.R.S.A. § 220(2) provides: *“Response to inquiries. All insurers and other persons required to be licensed pursuant to this Title shall respond to all lawful inquiries of the superintendent that relate to resolution of consumer complaints involving the licensee within 14 days of receipt of the inquiry and to all other lawful inquiries of the superintendent within 30 days of receipt. If a substantive response can not in good faith be provided within the time period, the person required to respond shall so advise the superintendent and provide the reason for the inability to respond.”*

4. An Aetna policyholder filed a written complaint with the Bureau on August 27, 2004 regarding a denial of benefits. The Bureau sent a letter to Aetna dated on August 30, 2004 requesting a written response to the policyholder’s complaint within 14 days.

5. Aetna’s September 15, 2004 response to the Bureau stated, in part:

“This case involves an Access to Care denial that it is subject to the Plan’s internal appeal process. Our records indicate that the member has [not filed] an appeal with Aetna. Therefore, we have forwarded the case to our Appeals Department to handle as a first level appeal. The member will receive a response to the appeal within a thirty day time frame specified under the Appeals provision found in [Policyholder’s] certificate of coverage. Upon completion of the appeal process, we will forward a copy of the resolution letter to your office. The resolution letter will advise the member of the Plan’s decision on the appeal, as well as any further review rights if the appeal is unfavorably resolved.”

6. The Bureau sent a letter to Aetna dated September 15, 2004, stating in part:

The appeal process is in place for the consumer and [the policyholder] has not yet requested an appeal. The complaint response to the Bureau is a different process. The Bureau of Insurance investigates complaints such as this to be sure that the rules and regulations of the State of Maine

are followed. Your response to the Bureau needs to address how Aetna (or Aetna's delegate in this case) determined that a test...ordered by [the policyholder's] physician was deemed unnecessary. Med Solutions somehow determined that a different part of the body should be further studied.

Please demonstrate to us how this decision to deny the [test] was reached. Also explain Med Solutions' responsibilities in cases under review. Do they routinely recommend an alternative diagnosis from the one that the ordering physician is attempting to rule out? Please send to the Bureau copies of any medical records utilized in deciding to deny this diagnostic test. Please also send a copy of Aetna's contract with Med Solutions. In addition, send to the Bureau [a] copy of Med Solution's denial document for this case. If it is not indicated on the form, please note who made the decision and what that person's credentials are. Also, send a copy of [policyholder's] policy, any correspondence related to this denial, and any and all records reviewed by Med Solutions in making their decision.

This is the second request for a substantive response to the complaint. Pursuant to 24-A M.R.S.A. § 220(2), your response is due within 14 days of your receipt of this letter.

7. As of October 22, 2004 the Bureau has not received a substantive response to the September 15, 2004 letter to Aetna.

## **CONCLUSIONS OF LAW**

8. Aetna failed to respond to the Superintendent's September 15, 2004 inquiry within 14 days as required by Title 24-A M.R.S.A. § 220(2).

## **COVENANTS**

9. A formal hearing in this matter is waived and no appeal will be made.

10. At the time of executing this Agreement, Aetna shall pay to the Maine Bureau of Insurance a penalty in the amount of two hundred dollars and No Cents (\$200.00) payable to the Treasurer of the State of Maine.

11. In consideration of Aetna's execution of and compliance with the terms of this Consent Agreement, the Superintendent agrees to forgo pursuing any disciplinary measures or other civil sanction for the specific violations described above other than those agreed to in this Consent Agreement.

## **MISCELLANEOUS**

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

13. It is understood by the parties to this Agreement that nothing herein shall affect any rights or interests of any person not a party to this Agreement.

14. Aetna acknowledges that this Agreement is a public record within the meaning of 1 M.R.S.A. § 402, that this Agreement will be available for public inspection and copying as provided for by 1 M.R.S.A. § 408, and that this Agreement will be reported to the NAIC and included in the RIRS database.

15. Aetna has been advised of its right to consult with counsel and has, in fact, consulted with counsel before executing this Agreement.

16. Nothing herein shall prohibit the Superintendent from seeking an order to enforce this Agreement, or from seeking additional sanctions in the event that Aetna does not comply with the above terms, or in the event that the Superintendent receives evidence that further legal action is necessary.

**Signature Page**

Dated: \_\_\_\_\_, 2004

**AETNA HEALTH, INC.**

By: \_\_\_\_\_

Its: \_\_\_\_\_

Printed Name and Title

Subscribed and sworn to before me  
this \_\_\_\_\_ day of \_\_\_\_\_, 2004.

\_\_\_\_\_  
Notary Public

\_\_\_\_\_  
Printed name

\_\_\_\_\_  
Date of commission expiration

Dated: \_\_\_\_\_, 2004

**MAINE OFFICE  
OF THE ATTORNEY GENERAL**

\_\_\_\_\_  
Thomas C. Sturtevant  
Assistant Attorney General

**MAINE BUREAU OF INSURANCE**

Dated: \_\_\_\_\_, 2004

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Alessandro A. Iuppa  
Superintendent of Insurance