

action and advising that Maine law requires a response within 14 days to inquiries by the Superintendent arising out of consumer complaints. The TPA failed to respond in a timely manner, in violation of 24-A M.R.S.A. § 220(2).

11. The TPA has subsequently made arrangements with the Employer to ensure the payment in full of the claims, which was completed in April of 2000.
12. The TPA has also made arrangements to ensure the payment of two unrelated claims, as referenced in letters to the Bureau of Insurance dated June 9 and July 6, 2000. No admissions or findings of liability are made with respect to those two claims.
13. Pursuant to 24-A M.R.S.A. §§ 1901(1) and 1902, unless a specific exemption applies, licensure by the Superintendent is required in order to act as or profess to be an administrator with respect to health coverage in the State of Maine. The services requiring licensure as a third-party administrator include the adjustment or settlement of health claims.
14. Pursuant to 24-A M.R.S.A. §§ 1901(1)(N), an administrator is exempt from licensure in Maine to the extent that it is acting as a trustee, named fiduciary or plan official of an employee benefit plan governed by the federal Employee Retirement Income Security Act.
15. The TPA was not a trustee, named fiduciary or plan official of the Employer's plan, nor were its activities within the scope of any other exemption from licensure. The TPA has never been licensed by the Superintendent as a third-party administrator.
16. In adjusting and settling health claims on behalf of the Employer's plan, and in using the business name "The TPA," the TPA has held itself out and acted as a third-party administrator, in violation of 24-A M.R.S.A. § 1902.

Covenants

17. A formal hearing in this matter is waived and no appeal will be taken. This Consent Agreement is an enforceable final agency action of the Superintendent of Insurance within the meaning of the Maine Administrative Procedure Act.
18. The TPA agrees to cease and desist from providing administrative services with respect to health coverage in the State of Maine on or after September 1, 2000, except for those services expressly exempt from licensure, unless the TPA holds a valid third-party administrator license. The Superintendent has the discretion to extend this deadline for good cause if a timely license application is pending.
19. When the TPA is administering benefit plans requiring preauthorization or other utilization review, the TPA agrees to explain clearly to covered persons who is responsible for conducting the review and what the scope of the review is. If an appointment for health care services is certified as medically necessary without any determination has been made that the proposed services will actually be covered by the plan, the TPA will ensure that the consumer receives a clear explanation either as to whether or not the service will be covered, or as to what further steps need to be taken to obtain such a determination.
20. The TPA agrees not to provide utilization review services with respect to health coverage in the State of Maine without a valid utilization review entity license issued pursuant to

24-A M.R.S.A. § 2771. This does not preclude the TPA, in its capacity as administrator, from arranging on either an ongoing or case-by-case basis for a properly licensed utilization review entity to provide utilization review services to a health plan administered by the TPA.

21. Pursuant to 24-A M.R.S.A. §§ 12-A(1), the TPA agrees to the imposition of a civil penalty of \$500 for each of the three violations recited in Paragraphs 8, 9, and 16, and a civil penalty of \$200 for the violation recited in Paragraph 10. The TPA shall submit a check for \$1700, payable to the Treasurer of the State of Maine, at the time of the execution of this Agreement.
22. The TPA warrants that it has paid or arranged for payment in full of the unpaid balance of the claims described in the Stipulations, and of the two other claims referenced in Paragraph 12.
23. In consideration of the TPA'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 actions described in the Stipulations, other than those agreed to in this Consent Agreement.
24. It is understood by the parties to this Agreement that nothing herein shall affect any rights or interests that any person not a party to this Agreement may possess.
25. The TPA 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 TPA has been advised of its right to consult with counsel, and has consulted with counsel before executing this Agreement.
27. This Consent Agreement may only be modified by the written consent of the parties.

FOR THE TPA

Dated:

(signature)

(printed name and title)

Personally appeared before me this day _____, and signed this Consent Agreement in my presence.

Notary Public

FOR THE MAINE ATTORNEY GENERAL

Dated:

Judith Shaw Chamberlain, AAG

BY THE SUPERINTENDENT OF INSURANCE

Dated:

Alessandro A. Iuppa, Superintendent