

No. 01-0838

OFFICIAL ORDER  
of the  
COMMISSIONER OF INSURANCE  
of the  
STATE OF TEXAS  
AUSTIN, TEXAS

Date: SEP 06 2001

**Subject Considered:**

UNICARE LIFE & HEALTH INSURANCE COMPANY  
4553 La Tienda Drive  
Thousand Oaks, California 91362

DOCKET NO. C-01-0747

**General remarks and official action taken:**

On this date came on for consideration by the Commissioner of Insurance, the matter of whether disciplinary action should be taken against UNICARE LIFE & HEALTH INSURANCE COMPANY, Thousand Oaks, California. The Texas Department of Insurance ("TDI") alleges that UNICARE LIFE & HEALTH INSURANCE COMPANY has violated TEX. INS. CODE ANN. art. 3.70-3C §3A and 28 TEX. ADMIN CODE §§21.2501 – 21.2507, and 21.2801 *et seq.* It is further alleged that such conduct constitutes grounds for imposition of sanctions as authorized by TEX. INS. CODE ANN. art. 3.70-3C §3A(h), §§82.001 – 82.055, 84.021 and 84.022.

The parties, TDI and UNICARE LIFE & HEALTH INSURANCE COMPANY, by their respective signatures hereto, announce that they have compromised and settled all claims and agree, pursuant to TEX. INS. CODE ANN. §82.055 and TEX. GOV'T CODE ANN. §2001.056, to the entry of this Consent Order. The parties request the Commissioner of Insurance to informally dispose of this case pursuant to the provisions of TEX. GOV'T CODE ANN. §2001.056, TEX. INS. CODE ANN. §§36.104 and 82.055 and 28 TEX. ADMIN. CODE §1.47.

WAIVER

UNICARE LIFE & HEALTH INSURANCE COMPANY acknowledges the existence of its rights to the issuance and service of a notice of intention to institute disciplinary action, a notice of hearing, a public hearing, a proposal for decision, rehearing by the Commissioner of Insurance, and judicial review of the Order as provided for in TEX. GOV'T CODE ANN. §§2001.051 - 2001.178, and hereby expressly waives each and

every one of said rights and acknowledges the jurisdiction of the Commissioner of Insurance over UNICARE LIFE & HEALTH INSURANCE COMPANY.

### JURISDICTION

The Commissioner has jurisdiction over this matter pursuant to TEX. INS. CODE ANN. §§82.051 - 82.055, art. 3.70-3C §3A, and TEX. GOV'T CODE ANN. §§2001.051 - 2001.178 and 28 TEX. ADMIN. CODE §§21.2801 - 21.2816. Therefore, the parties request that the Commissioner of Insurance enter this Order in accordance with applicable law.

### FINDINGS OF FACT

The Commissioner makes the following findings of fact:

1. UNICARE LIFE & HEALTH INSURANCE COMPANY is a life, accident and health insurance company holding a Certificate of Authority to transact the business of insurance in the State of Texas pursuant to TEX. INS. CODE ANN. art. 1.14.
2. UNICARE LIFE & HEALTH INSURANCE COMPANY has represented to the Commissioner of Insurance that it desires to waive all procedural requirements for the entry of an Order, including, but not limited to, issuance and service of a notice of intention to institute disciplinary action, a notice of hearing, a public hearing, a proposal for decision, rehearing by the Commissioner of Insurance, and judicial review.
3. In response to a TEX. INS. CODE ANN. §38.001 letter, UNICARE LIFE & HEALTH INSURANCE COMPANY provided certain claims payment information and data to TDI for the period of January 1, 2001 to March 31, 2001.
4. Pursuant to TEX. INS. CODE ANN. §82.055(b), UNICARE LIFE & HEALTH INSURANCE COMPANY agrees to sanctions with the express reservation that they not admit to a violation of any provision of the Insurance Code or of a rule or regulation of the Department and maintains that the existence of a violation is in dispute.
5. Complaints made by providers and physicians to TDI, and the claims payment information and data provided to TDI in response to the §38.001 letter revealed that UNICARE LIFE & HEALTH INSURANCE COMPANY failed to pay claims in a timely manner as required by TEX. INS. CODE ANN. art. 3.70-3C §3A(c) and 28 TEX. ADMIN. CODE §§21.2801 - 21.2816.

6. The claims payment information and data provided to TDI further revealed that UNICARE LIFE & HEALTH INSURANCE COMPANY failed to maintain a complaint record as required by 28 TEX. ADMIN. CODE §§21.2501-21.2507.
7. This Order applies to clean claims with dates of service during the period August 1, 2000 through September 1, 2001.

#### CONCLUSIONS OF LAW

Based upon the agreement of the parties and the foregoing findings of fact, the Commissioner of Insurance makes the following conclusions of law:

1. The Commissioner of Insurance has jurisdiction over this matter pursuant to TEX. INS. CODE ANN. §§82.051 – 82.055, art. 3.70-3C §3A, and TEX. GOV'T CODE ANN. §§2001.051 - 2001.178 and 28 TEX. ADMIN. CODE §§21.2801 – 21.2816.
2. The Commissioner of Insurance has authority to informally dispose of this matter as set forth herein under TEX. GOV'T CODE ANN. §2001.056, TEX. INS. CODE ANN. §82.055, and 28 TEX. ADMIN. CODE §1.47.
3. UNICARE LIFE & HEALTH INSURANCE COMPANY has knowingly and voluntarily waived all procedural rights to which it may have been entitled regarding the entry of this Order, including, but not limited to, issuance and service of a notice of intention to institute disciplinary action, a notice of hearing, a public hearing, a proposal for decision, rehearing by the Commissioner of Insurance, and judicial review.
4. Based upon Finding of Fact No. 5, UNICARE LIFE & HEALTH INSURANCE COMPANY violated TEX. INS. CODE ANN. art. 3.70-3C §3A(c) and 28 TEX. ADMIN. CODE §§21.2801 - 21.2816.
5. Based upon Finding of Fact No. 6, UNICARE LIFE & HEALTH INSURANCE COMPANY violated 28 TEX. ADMIN. CODE §§21.2501-21.2507.

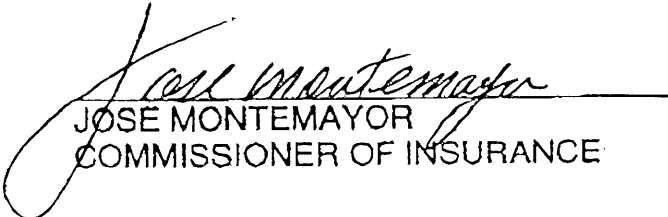
IT IS, THEREFORE, ORDERED by the Commissioner of Insurance that UNICARE LIFE & HEALTH INSURANCE COMPANY shall immediately comply in all respects with TEX. INS. CODE ANN. art. 3.70-3C §3A and 28 TEX. ADMIN. CODE §§21.2501-21.2507 and §§21.2801 - 21.2816.

IT IS FURTHER ORDERED by the Commissioner of Insurance that for all clean claims not paid within the statutory time period provided for in TEX. INS. CODE ANN. art. 3.70-3C §3A(c), UNICARE LIFE & HEALTH INSURANCE COMPANY shall pay, as restitution to each and every physician and/or provider, within sixty (60) days from the

date of this Order, the full amount of billed charges or contracted penalty rate pursuant to 28 TEX. ADMIN. CODE §21.2815 on each and every claim that was not paid pursuant to TEX. INS. CODE ANN. art. 3.70-3C §3A(c). UNICARE LIFE & HEALTH INSURANCE COMPANY shall, within seventy-five (75) days of the date of this Order, provide a report to Audrey Selden, Senior Associate Commissioner, 333 Guadalupe, Austin, Texas, 78714-9104, which lists, per company, the total number of physicians who were paid restitution and the total amount of restitution paid, and the total number of providers who were paid restitution and the total amount of restitution paid.

IT IS FURTHER ORDERED by the Commissioner of Insurance that UNICARE LIFE & HEALTH INSURANCE COMPANY shall pay, and is hereby directed to pay, on or before thirty (30) days from the date of this Order, an administrative penalty in the total sum of ONE MILLION DOLLARS AND NO CENTS (\$1,000,000.00) for its failure to pay claims in a timely manner pursuant to TEX. INS. CODE ANN. art. 3.70-3C §3A(c) and 28 TEX. ADMIN. CODE §§21.2801 – 21.2816. Said administrative penalty shall be paid by cashier's check or money order made payable to "State of Texas" and transmitted to the Texas Department of Insurance, Accounting Department, 333 Guadalupe, MC 999-9, P.O. Box 149104, Austin, Texas 78714-9104.

IT IS FURTHER ORDERED by the Commissioner of Insurance that UNICARE LIFE & HEALTH INSURANCE COMPANY shall pay, and is hereby directed to pay, on or before thirty (30) days from the date of this Order, an administrative penalty in the total sum of TWO HUNDRED AND FIFTY THOUSAND DOLLARS AND NO CENTS (\$250,000.00) for its failure to maintain a complaint record pursuant to 28 TEX. ADMIN. CODE §§21.2501-21.2507. Said administrative penalty shall be paid by cashier's check or money order made payable to "State of Texas" and transmitted to the Texas Department of Insurance, Accounting Department, 333 Guadalupe, MC 999-9, P.O. Box 149104, Austin, Texas 78714-9104.

  
JOSE MONTEMAYOR  
COMMISSIONER OF INSURANCE

01-0820

Commissioner's Order

UNICARE LIFE & HEALTH INSURANCE COMPANY

Page 5 of 6

AGREED, ACCEPTED, AND EXECUTED by UNICARE LIFE & HEALTH INSURANCE COMPANY this 4th day of Sept. 2001:

Thomas C. Seiser

UNICARE LIFE & HEALTH INSURANCE COMPANY

Respondent

Karen A.L. Barratt

Karen A.L. Barratt  
Chief, Enforcement  
Legal and Compliance  
Texas Department of Insurance

01-0838

STATE OF California §  
COUNTY OF Ventura §

BEFORE ME \_\_\_\_\_, a notary public in and for the State of California, on this day personally appeared Thomas COEUSER, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed, who being by me duly sworn, deposed as follows:

1. "My name is Thomas COEUSER. I am of sound mind, capable of making this statement, and personally acquainted with the facts herein stated.
2. I hold the office of General Counsel & Secretary. I am the authorized representative of Unicare Life & Health Insurance Company which is currently licensed to transact the business of insurance in the State of Texas, and I am duly authorized by said Company to execute this statement.
3. Unicare Life & Health Insurance Company has knowingly and voluntarily entered into this Consent Order and agrees with and consents to the issuance and service of the foregoing Consent Order by the Commissioner of Insurance of the State of Texas."

Given under my hand and seal of office this 4<sup>th</sup> day of September, 2001.  
Thomas Coeuser

Leslie E. Lopez  
Signature of Notary Public

Leslie E. Lopez  
Printed Name of Notary Public

NOTARY PUBLIC IN AND FOR THE STATE OF California

My Commission Expires: NOV. 17, 2002

