

**PROCEEDING BEFORE THE HONORABLE MICHAEL D. RILEY
INSURANCE COMMISSIONER OF THE
STATE OF WEST VIRGINIA**

**IN RE:
HIGHMARK WEST VIRGINIA, INC.**

**ADMINISTRATIVE PROCEEDING
16-MAP-02001**

**AGREED ORDER ADOPTING REPORT OF
MARKET CONDUCT EXAMINATION AND DIRECTING
CORRECTIVE ACTION**

NOW COMES, The Honorable Michael D. Riley, Insurance Commissioner of the State of West Virginia, and issues this Order which adopts the Report of Market Conduct Examination for the statutory examination of Highmark West Virginia, Inc. hereinafter referred to as "Company" for the examination period ending May 31, 2015 based upon the following findings, to wit:

PARTIES

1. The Honorable Michael D. Riley, is the Insurance Commissioner of the State of West Virginia (hereinafter the "Insurance Commissioner") and is charged with the duty of administering and enforcing, among other duties, the provisions of Chapter 33 of the West Virginia Code of 1931, as amended.

2. Company operates under the provisions of Chapter 33, of the West Virginia Code as Highmark West Virginia, Inc.

3. Company is licensed and domiciled in West Virginia and operates throughout the State of West Virginia.

4. The Statutory Market Conduct Examination was instituted pursuant to the statutory obligation of the Insurance Commissioner's Office to examine

each West Virginia domestic insurance company every five (5) years.

The purpose of this Statutory Examination was to determine the Company's compliance with all parts of the ACA; Federally Facilitated Marketplace (FFM) requirements, as well as compliance with West Virginia Insurance laws relating to treatment of policyholders and claimants and the examination information contained in the Market Conduct Report should serve only these purposes. The conclusions and findings of the Market Conduct Examination are public record.

FINDINGS OF FACT

1. The examination was conducted in accordance with West Virginia Code Section 33-2-9(c) by examiners duly appointed by the West Virginia Offices of the Insurance Commissioner. The examination fieldwork began on September 28, 2015 and concluded on December 11, 2015. Additional work continued off-site through February 4, 2016.

2. The Statutory Market Conduct Examination included a review of the following mandates:

Federally Facilitated Marketplace (FFM)

Guaranteed Availability

Guaranteed Renewability

Patient Protections and Essential Health Benefits coverage

Clinical Trials nondiscrimination

Mental Health Parity and Addiction Equity Act of 2008 (MHPAEA)

Genetic Information Nondiscrimination Act of 2008 (GINA)

Women's Health and Cancer Rights Act of 1998

Newborns' and Mothers' Health Protection Act of 1996

3. A total of eighty-two (82) standards were tested during this examination; the Company was found to be compliant with seventy-seven (77), predominantly compliant with three (3) and non-compliant with two (2) standards.

4. The Company failed to be in compliance with 45CFR §156.340 because producers failed to complete the producer registration prior to selling QHP plans in the federally facilitated marketplace.

5. The Company failed to be in compliance with federal regulation 45CFR §156.1010(d) for timely resolution as it failed to adequately resolve HICS cases within 15 calendar days. The majority of the delays were during open enrollment periods.

6. The Company was compliant or predominantly compliant with eighty (80) standards tested, which is fully set forth in the adopted Report attached here to.

7. On February 11, 2016, the examiner filed with the Insurance Commissioner, pursuant to West Virginia Code Section 33-2-9(j)(2), a Report of Market Conduct Examination.

8. Company waives notice of administrative hearing, any and all rights to an administrative hearing, and to judicial review of this matter.

9. Any Finding of Fact that is more properly a Conclusion of Law is hereby adopted as such and incorporated in the next section.

CONCLUSIONS OF LAW

1. The Insurance Commissioner has jurisdiction over the subject matter and the parties to this proceeding.

2. This proceeding is pursuant to and in accordance with W. Va. Code §33-2-9.

3. The Insurance Commissioner is charged with the responsibility of verifying continued compliance with West Virginia Code and the West Virginia Code of State Rules by Company as well as all other provisions of regulation that Company is subjected to by virtue of their Certificate of Authority to operate in the State of West Virginia.

4. The Company failed two standards, one pertained to producers failing to complete the registration process prior to selling QHP Plans in the federally facilitated marketplace and the other pertained to failing to timely resolve HICS cases. The company was compliant or predominately compliant with the other standards tested.

5. There does not appear to be any intentional misconduct exhibited by Company in this examination findings and scope.

6. Any Conclusion of Law that is more properly a Finding of Fact is hereby incorporated as such.

ORDER

Pursuant to West Virginia Code Section 33-2-9(j)(3)(A), following the review of the Report of Market Conduct Examination, the examination work papers, and Company response thereto, the Insurance Commissioner and Company have agreed to enter into this Agreed Order adopting the Report of

Market Conduct Examination.

It is accordingly **ORDERED** as follows:

(A) The Report of Market Conduct Examination of Company for the period ending May 31, 2015 is hereby **ADOPTED** and **APPROVED** by the Insurance Commissioner;

(B) It is further **ORDERED** that Company shall continue to monitor its Compliance with state and federal laws applicable to the operation of its business in the State of West Virginia.

(C) It is further **ORDERED** that within thirty (30) days of the next regularly scheduled meeting of its Board of Directors, Company shall file with the West Virginia Insurance Commissioner, in accordance with West Virginia Code Section 33-2-9(j)(4), affidavits executed by each of its directors stating under oath that they have received a copy of the adopted Report of Market Conduct Examination and a copy of this ORDER ADOPTING REPORT OF MARKET CONDUCT EXAMINATION AND DIRECTING CORRECTIVE ACTION;

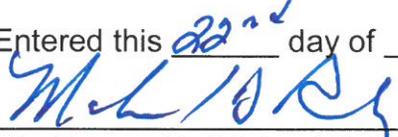
(D) It is further **ORDERED** that Company shall ensure compliance with the West Virginia Code and the Code of State Rules and the Patient Protection and Affordable Care Act (ACA). Company shall specifically cure those violations and deficiencies identified in the Report of Market Conduct Examination; and

(E) It is further **ORDERED** that **COMPANY SHALL FILE** a Corrective Action Plan which will be subject to the approval of the Insurance Commissioner. The Corrective Action Plan shall detail Company changes to its procedures and/or internal policies to ensure compliance with the West Virginia Code and the ACA and incorporate all recommendations of the Insurance Commissioner's examiners and

address all violations specifically cited in the Report of Market Conduct Examination. The Corrective Action Plan outlined in this Order must be submitted to the Insurance Commissioner for approval within thirty (30) days of the entry date of this Agreed Order. Company shall implement reasonable changes to the Corrective Action Plan if requested by the Insurance Commissioner within thirty (30) days of the Insurance Commissioner's receipt of the Corrective Action Plan. The Insurance Commissioner shall provide notice to Company if the Corrective Action Plan is disapproved and the reasons for such disapproval within thirty (30) days of the Insurance Commissioner's receipt of the Corrective Action Plan.

(F) It is finally **ORDERED** that all such statutory notices, administrative hearings and appellate rights are herein waived concerning this Report of Market Conduct Examination and Agreed Order. All such rights are preserved by the Parties regarding implementation or further action taken on such Order by the Commissioner against Highmark West Virginia, Inc.

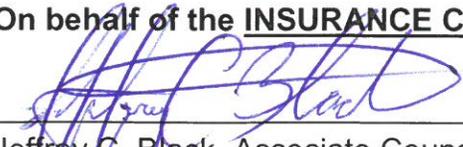
Entered this 22nd day of March, 2016



The Honorable Michael D. Riley
Insurance Commissioner

REVIEWED AND AGREED TO BY:

On behalf of the INSURANCE COMMISSIONER:



Jeffrey C. Black, Associate Counsel
Attorney Supervisor

Dated: 3/22/16

On Behalf of HIGHMARK WEST VIRGINIA, INC.

By: J. FRED EARLEY, II
Print Name

Its: PRESIDENT

Signature: 

Date: March 17, 2016