

**LOUISIANA DEPARTMENT OF INSURANCE**

**REGULATORY CONSENT ORDER**

**BE IT KNOWN**, on the date(s) herein below specified, came, and appeared:

**LOUISIANA DEPARTMENT OF INSURANCE (hereinafter "LDI")**  
through the Commissioner of Insurance, James J. Donelon;

AND

**MEDIMPACT HEALTHCARE SYSTEMS, INC**

**SUMMARY**

This is a consent order with MedImpact Healthcare Systems, Inc. (MedImpact). The Market Conduct Division of LDI conducted a market conduct investigation of the pharmacy benefit managers that have contracted with the Louisiana Office of Group Benefits (OGB) after determining that OGB failed to ensure that electronically adjudicated claims were being paid within fifteen (15) days as required by Louisiana Revised Statute (La. R.S.) 22:1854.

During the investigation, MedImpact indicated that 664,770 claims were paid beyond 15 days during the period from January 1, 2020 through December 31, 2021, including during the time from March 11, 2020 through and after December 31, 2021, when a continuous state of emergency was declared in Louisiana, where OGB is located, and following the March 4, 2020 state of emergency was declared in California, where MedImpact is located.

The LDI determined that MedImpact should have made all payments to the providers within the 15 day period, even during the states of emergency declared in both Louisiana and California.

MedImpact believes that the states of emergency declared in Louisiana and California, with the latter recognized pursuant to the Full Faith and Credit Clause of the United States Constitution, prevented any possible violation of the 15 day period for 99.87% of the claims in question.

In order to resolve this matter, MedImpact has agreed to pay claims consistent with La. R.S. 22:1854 and to comply with the other terms contained in this Order.

## **LDI's FINDINGS OF FACT**

1.

MedImpact is a pharmacy benefits manager headquartered in California and licensed in Louisiana as a Third-Party Administrator since January 24, 2003. The license is currently active.

2.

From January 1, 2017 to December 31, 2021, MedImpact was contracted with OGB as the pharmacy benefits manager to handle pharmacy benefit claims.

3.

On February 16, 2023, LDI opened a Market Conduct investigation of MedImpact regarding its handling of OGB claims.

4.

LDI determined that for 2020 and 2021 there were a total of 664,770 claims paid by MedImpact beyond 15 days.

5.

MedImpact has issued the one (1%) percent interest payment to all of the affected pharmacies which amounted to approximately \$602,000.00 for the 664,770 claims through December 31, 2021 that were paid beyond 15 days.

## **MEDIMPACT'S RESPONSE TO LDI'S FINDINGS OF FACT**

6.

On March 11, 2020, pursuant to the Louisiana Homeland Security and Emergency Assistance and Disaster Act, La. R.S. 29-721 et seq., the Governor declared a Public Health Emergency in Proclamation No. 25 JBE 2020. The state of emergency applied to the entire state of Louisiana. OGB is located in Louisiana. The Proclamation created a continuous state of emergency in Louisiana from March 11, 2020, through and after December 31, 2021.

7.

On March 4, 2020, the Governor of California, where MedImpact is headquartered, declared a state of emergency for the state of California, based upon the outbreak of Covid beginning in

December 2019. On March 19, 2020, the Governor of California issued a stay-at-home order where all non-essential business were ordered to close and people were encouraged to stay at home and avoid going out.

**8.**

Between January 1, 2020 and the declaration of the state of emergency on March 11, 2020, there were only 858 claims (0.13% of the total 664,770 claims) paid by MedImpact beyond 15 days.

**9.**

MedImpact adjudicated a total of 8,596,051 claims from January 1, 2020 through December 31, 2021, of which 7,931,351 claims or 92.3% were paid within the 15 day period – during a time period when more than 21 of those 24 months were under the declared Public Health Emergency due to the pandemic.

**APPLICABLE LOUISIANA LAW**

**10.**

The Louisiana Insurance Code, Title 22, R.S. §22:1 *et seq.* states as follows:

**§2. Insurance regulated in the public interest**

- A. (1) Insurance is an industry affected with the public interest and it is the purpose of this Code to regulate that industry in all its phases....It shall be the duty of the commissioner of insurance to administer the provisions of this Code.

**11.**

La. R.S. 22:1854 maintains in pertinent part:

**§ 1854. Electronic claim submission standards**

- A. Any claim for payment for covered prescription drugs, other products and supplies, and pharmacist services submitted by a pharmacist or pharmacy to a health insurance issuer as an electronic claim that is electronically adjudicated shall be paid not later than the fifteenth day after the date on which the claim was electronically adjudicated. If the governor declares a state of emergency pursuant to R.S. 29:724, the time period prescribed in this Subsection shall be interrupted during the continuance of the state of emergency for any claims

office which is located in the territorial limits of the declared state of emergency.

**12.**

La. R.S. 22:1860 maintains in pertinent part:

**§1860. Violations; cease and desist orders; penalties**

A. Whenever the commissioner has reason to believe that any health insurance issuer is not in full compliance with the requirements of this Subpart, he shall notify such issuer in accordance with R.S. 49:977.3 and, after notice, the commissioner shall issue and cause to be served an order requiring the health insurance issuer to cease and desist from any violation and order any one or more of the following:

(1) Payment of a monetary penalty of not more than one thousand dollars for each and every act or violation, not to exceed an aggregate penalty of one hundred thousand dollars. However, if the health insurance issuer knew or reasonably should have known that it was in violation of this Subpart, the penalty shall be not more than twenty-five thousand dollars for each and every act or violation, but not to exceed an aggregate penalty of two hundred fifty thousand dollars in any six-month period.

(2) Suspension or revocation of the certificate of authority of the health insurance issuer to operate in this state if it knew or reasonably should have known it was in violation of this Subpart.

**LDI'S CONCLUSIONS OF LAW**

**13.**

LDI determined that MedImpact violated La. R.S. 22:1854 when MedImpact failed to pay 664,770 electronically adjudicated OGB claims within 15 days during the period from January 1, 2020 to December 31, 2021.

**MEDIMPACT'S RESPONSE TO LDI'S CONCLUSIONS OF LAW**

**14.**

MedImpact contends that, at most, it paid 858 of the claims (0.13% of the total claims) beyond the 15 day period before the Louisiana Public Health Emergency was declared on March 11, 2021 and that it did not violate the spirit of the law.

## ORDER

**NOW THEREFORE**, to fully compromise and resolve this matter:

The LDI, appearing herein through Nathan Strebeck, Deputy Commissioner, Office of Insurance Fraud, and MedImpact, appearing through its authorized representative, Gregory E. Bodin, Esq., hereby stipulate and agree to the following:

1. This Regulatory Consent Order shall take effect on the last date it is signed by all parties, and all signatories below warrant that they have the authority and capacity to enter into this Regulatory Consent Order.
2. This Regulatory Consent Order may be executed in multiple copies, each of which shall be considered an original.
3. MedImpact, without admitting to any possible alleged violation of La. R.S. 22:1854 regarding its failure to pay 664,770 electronically adjudicated OGB claims within 15 days, will now pay all electronically claims consistent with La. R.S. 22:1854 as applicable.
4. MedImpact, without admitting to any possible alleged violation of La. R.S. 22:1854, has paid to all effected pharmacies the one percent interest payment as provided consistent with La. R.S. 22:1854(C) in an amount equal to \$602,000.00.
5. MedImpact, without admitting to any possible alleged violation of La. R.S. 22:1854, and the Louisiana Commissioner of Insurance and the Louisiana Department of Insurance have agreed to fully compromise and resolve this matter accepting the amount of \$250,000.00, to be paid by MedImpact, considering its history of providing critical pharmacy benefit services to the citizens of Louisiana.
6. Such payment should be made within 30 days of the execution of this Regulatory Consent Order and must be made payable to:

Louisiana Department of Insurance  
Attention: Accounts Receivable  
P.O. Box 94214  
Baton Rouge, LA 70804-9214

7. MedImpact acknowledges that this Regulatory Consent Order constitutes an administrative action and that it will be reported to the National Insurance Producer Registry by the LDI.

8. MedImpact waives its appearance and any other rights it may have to an adjudicatory hearing regarding the administrative fine action established in and assessed by this Regulatory Consent Order.
9. The LDI reserves all rights and may take any and all legal actions and seek any and all legal remedies under Louisiana Revised Statute Title 22 if MedImpact fails to comply with this Order.

BY:  DATE: 10/26/23

MEDIMPACT HEALTHCARE SYSTEMS, INC.  
by its authorized representative,  
Gregory E. Bodin, Esq.  
Baker, Donelson, Bearman, Caldwell & Berkowitz, P.C.  
450 Laurel Street, 21<sup>st</sup> Floor  
Baton Rouge, LA 70801

BY:  DATE: 10/26/2023

Nathan Strebeck, Deputy Commissioner  
Office of Insurance Fraud  
Louisiana Department of Insurance  
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Baton Rouge, LA 70802