

Health Care Financing Administration
Kansas City Regional Office

Market Conduct Examination Report

HealthLink HMO, Inc.

Background

Generally, the individual and group market requirements of the Health Insurance Portability and Accountability Act of 1996 (HIPAA) became effective on July 1, 1997.

As of the commencement of the market conduct examination of HealthLink HMO, Inc., the state of Missouri had not incorporated into Missouri state law provisions and/or requirements that would bring Missouri state law into compliance with the Health Insurance Portability and Accountability Act of 1996 (HIPAA). As a result, pursuant to Federal Regulations found at 45 CFR 146.184 (b)(2)(l) and 45 CFR 148.200 (b)(1) (since replaced by Federal Regulations found at 45 CFR 150.203(a)), the enforcement of the requirements of HIPAA in Missouri are the responsibility of the Health Care Financing Administration (HCFA), primarily the HCFA Kansas City Regional Office (KCRO).

Utilizing enforcement tools similar to those used by State insurance departments, the HCFA KCRO undertook the responsibility of the enforcement of HIPAA through form review, complaint investigation, and market conduct examinations.

HuffThomas, a regulatory consulting firm, was contracted by HCFA to perform the on-site portion of market conduct examinations of issuers identified by HCFA.

On April 26, 1999, a letter was sent to Blue Cross and Blue Shield of Missouri (BCBSMo) President John O' Rourke announcing the examination of BCBSMo and all affiliated companies. HealthLink HMO, Inc. is one of those affiliated companies.

On June 10, 1999 an entrance conference was held at BCBSMo headquarters in St. Louis, Missouri and the examination begun.

History

HealthLink HMO, Inc. was incorporated in Missouri on July 29, 1992. It received its Certificate of Authority to operate as a Health Maintenance Organization (HMO) on January 14, 1993. The Company was granted a Certificate of Authority in Illinois on December 21, 1994 and Arkansas in 1998. HealthLink HMO operates as an Individual Practice Association form of health plan and is licensed to do business in Arkansas, Missouri and Illinois.

Prior to May 31, 1996, the Company was owned equally by TriLink Healthcare, Inc. (formerly known as Integrated HealthSystems, Inc., a wholly owned subsidiary of BCBSKC) and HealthLink, Inc. (a wholly owned subsidiary of RightCHOICE Managed Care, Inc. a subsidiary of BCBSMo). On May 31, 1996, HealthLink, Inc. purchased the remaining fifty percent of the Company from TriLink Healthcare, Inc., making the Company a wholly owned subsidiary of HealthLink, Inc.

Affiliated Companies

BCBSMo, a Health Services Corporation, is the ultimate parent of a holding company system that consists of five insurance companies (including two health maintenance organizations (HMOs)) and nine non-insurance companies. BCBSMo owns 80.33% of RIT, a publicly traded company on the New York Stock Exchange. RIT does business as Alliance Blue Cross Blue Shield (ABCBS) and either directly, or indirectly, owns the other insurance companies, excluding BCBSMo, in the insurance holding company system.

All subsidiaries are 100% owned except for:

- BCBSMo owns 80.33% of RIT.
- The EPOCH Group L.C. is owned 50% by RIT and 50% by Blue Cross and Blue Shield of Kansas City.
- HealthCare Interchange, Inc., Diversified Life Insurance Agency is owned 45% by RIT.

Management Structure

As of December 31, 1998, the officers and directors of HealthLink HMO, Inc. were the following:

President:	David T. Ott
Secretary:	Judith A. Dawson
Chief Financial Officer:	Courtney B. Walter
Other Officers:	John A. O'Rourke Robin D. Theiss

Directors:	John A. O'Rourke David T. Ott Robin D. Theiss Sandra A. Van Trease
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Insurance Products

The Company provides health care services principally to enrolled subscriber groups and individuals of selected insurance companies for a predetermined, periodic fee. The Company's service area includes the St. Louis Metropolitan and Jefferson City/Columbia areas in Missouri and Southern and Central Illinois.

The Company in the examination indicated it marketed (or currently) markets the HMO product through the following entities:

- Missouri Valley Life and Health (MVLH)
- Continental (CNA)
- American Medical Security
- Benchmark
- Builders' Association
- Trustmark
- Unicare (Wellmark)
- St. Louis Boards of Education

Preliminary Examination Findings in Brief

Note that for administrative reasons, the on-site portion of the HealthLink HMO examination was discontinued prior to completing the desired full examination of all of HealthLink HMO's operations. A full examination would have provided a more complete indication of the company's operations relating to its compliance with the requirements of HIPAA.

As a result of the abbreviated examination, the findings of this market conduct examination report are limited to one issue with respect to the marketing of individual products to eligible individuals as defined in Federal Regulations found at 45 CFR 148.103.

If and when HCFA believes additional investigation of HealthLink HMO's compliance with HIPAA is warranted, HCFA will pursue those issues pursuant to the procedures outlined at 45 CFR 150.303.

Exception # 1- - Violations of 45 CFR 148.120 & 45 CFR 148.126

General Subject Area(s) - - Individual Market Guaranteed Availability and Identification of Eligible Individuals

Background

Federal Regulations found at 45 CFR 148.120 require issuers who furnish health insurance coverage in the individual market to offer coverage to individuals who meet the definition of an “eligible individual” as defined at 45 CFR 148.103. This coverage may not impose any preexisting condition limitations.

In addition, issuers are required, pursuant to Federal Regulations found at 45 CFR 148.126, to determine the “eligible individual” status of each applicant. Upon determination of these “eligible individuals,” the issuer is to provide them with information about all available coverage options, promptly enrolling the individual in any option selected.

However, those issuers who only offer an individual conversion policy are not considered to be furnishing coverage in the individual market.

Specific Violation

- **HealthLink HMO does not identify the “eligible individual” status of applicants for individual coverage and does not offer individual coverage without any preexisting condition limitations**

During the onsite portion of the HealthLink HMO market conduct examination, examiners were provided with two (2) individual policy forms.

1. Form HL-CONV-95-M entitled “HealthLink HMO – Conversion Health Benefits Program”, and
2. Form HL-INDIV-92-M entitled “HealthLink HMO DIRECT ENROLLMENT Health Benefits Program.”

HealthLink HMO has also submitted forms to HCFA Kansas City Regional Office for review for compliance with the various requirements of HIPAA.

A letter dated May 17, 2000 from a law firm representing HealthLink HMO in this matter states, “As stated in our prior letters, and during the audit process, HealthLink HMO, Inc. only offers one product and HealthLink HMO does not offer individual health insurance coverage, except a conversion policy under a group plan” (emphasis added).

A document dated 9/23/99 entitled “HealthLink HMO, Inc. – Missouri Coverage Documents, Riders and Amendments Requested by HCFA/HIPAA Audit” lists form HL-INDIV-92-M (the

non-conversion individual product). No notation therein indicates that the policy is no longer being issued. The description of the product indicates that it is “Issued to fully-insured individual policyholders upon enrollment/discloses plan exclusions, COB, eligibility requirements, etc.”

In the Annual Statement for the Year 1998 of the HealthLink HMO, Inc. provided to the on-site examiners, the page entitled “Premiums, Enrollment and Utilization Table – Business in the State of Missouri,” the following information was reported regarding HealthLink HMOs individual enrollment activity:

Total Members at the end of:	Individual
Prior Year	1,187
First Quarter	736
Second Quarter	845
Third Quarter	651
Current Year	339
Current Year Member Months	8,717

It is possible the individual enrollment activity reflected for 1998 was due to the issuance and termination of individual conversion policies. However, in a state with both guaranteed availability of individual coverage to “eligible individuals” as provided by HIPAA and a state risk pool, such a volume of individual conversion policy activity would generally be viewed as unusual, particularly over a brief period of time for an issuer insuring approximately 23,000 group members.

As a result of the aforementioned data, HCFA was unable to confirm HealthLink HMO’s compliance with the requirements of 45 CFR 148.120 and 45 CFR 148.126.

Adverse Impact to Missouri Consumers

- If HealthLink HMO only offers a conversion policy to individuals, no adverse impact exists. If policy form HL-INDIV-92-M is in fact available to individual insureds, then Missouri consumers meeting the definition of an “eligible individual” are denied access to coverage.

Recommendations

- HealthLink HMO should either:
 1. Provide documentation substantiating its position that it is not in the individual market;
or
 2. Institute procedures to identify and issue the required policy to “eligible individuals.”



DEPARTMENT OF HEALTH & HUMAN SERVICES

Health Care Financing Administration
Deputy Regional Administrator

Region VII

January 17, 2001

David Ott, President
HealthLink HMO, Inc.
1831 Chestnut Street
St. Louis, Missouri 63103

RE: Response to August 1, 2000 Market Conduct Examination Report

Dear Mr. Ott:

Pursuant to the Health Insurance Portability and Accountability Act of 1996 (HIPAA) market conduct examination requirements found at 45 CFR 150.313(e)(3), this letter will convey the results of the Health Care Financing Administration's (HCFA) review of HealthLink HMO, Inc.'s August 30, 2000 response to the market conduct examination report of HealthLink HMO, Inc. dated August 1, 2000.

Specifically, the requirements of 45 CFR 150.313(e)(3) provide HCFA with the following four (4) response options to each issue identified in a market conduct examination report:

- 1) Concurrence with the issuer's position.
- 2) Approval of the issuer's proposed plan of correction.
- 3) Conditional approval of the issuer's proposed plan of correction, which will include any modifications HCFA requires.
- 4) Notice to the issuer that there exists a potential violation of HIPAA requirements.

As stated in the examination report, for administrative reasons the on-site portion of the HealthLink HMO, Inc. examination was discontinued prior to completing the desired full examination of all of HealthLink HMO, Inc.'s operations.

With respect to HCFA's concurrence with the following response, should the information provided by HealthLink HMO, Inc. prove incorrect and/or incomplete, HCFA may pursue a Civil Monetary Penalty (CMP) with respect to the issue. In addition, HCFA will consider such a failure by HealthLink HMO, Inc. to be an aggravating factor as provided for at 45 CFR 150.312 and calculate any CMPs to the maximum amount allowed under the law.

Exception #1 - 45 CFR 148.120 & 45 CFR 148.126 – Individual Market
Guaranteed Availability & Identification of Eligible Individuals

Background – The on-site examiners revealed evidence which was inconclusive and sometimes appeared to be conflicting with respect to the issue of whether or not HealthLink HMO, Inc. participated in the individual health insurance market in Missouri. As a result, HCFA completed the examination report in the following manner. HealthLink HMO, Inc. must either provide documentation substantiating its position that it is not in the individual market in Missouri or institute procedures to identify and issue the required policies to eligible individuals. HealthLink HMO, Inc. provided information indicating it is not, and has not, directly marketed an individual policy in Missouri since before June 30, 1997 (the effective date of HIPAA in Missouri). In addition, it indicated the same was true of any of the companies HealthLink HMO, Inc. has contracted with to provide an HMO product.

HCFA Response – Accept and concur with HealthLink HMO, Inc.'s response.

If you have any questions please contact Jorge Lozano of my Insurance Reform staff directly at (816) 426-5472 ext. 3120.

Sincerely,

//s//

Richard P. Brummel
Deputy Regional Administrator

CC: David Henley, Counsel, BC/BS of MO
John Allen O'Rourke, BC/BS of MO
Gale Arden, HCFA Private Health Insurance Group
Ruth Bradford, HCFA Private Health Insurance Group