

TDI update

Commissioner OKs TWIA Rate Hike

COMMISSIONER JOSE MONTEMAYOR has increased rates for Texas Windstorm Insurance Association commercial risks by 5 percent, across-the-board.

The new rates will take effect January 1, 2002.

TWIA wind and hail coverage is available for risks in the 14 coastal counties and parts of Harris County on Galveston Bay when insurers exclude such coverage from their property insurance policies.

Under the Texas procedure, enacted by the 1995 Legislature, the TWIA files its proposed manual rates annually with TDI. The Commissioner has authority to approve, disapprove or modify the rates as filed. Cumulatively, and including the newly adopted rates, TWIA's rates for commercial risks have risen 15.5 percent since the current system took effect.

In the latest case, TWIA filed for a uniform 13.6 percent increase on July 27, 2001, and Montemayor held an open meeting about the filing on September 5. The state's Office of Public Insurance Counsel (OPIC) submitted calculations indicating that TWIA rates should be reduced by 27.2 percent. ★



Enforcement Actions

Aetna Consents to \$1.15 Million Fine

COMMISSIONER JOSE MONTEMAYOR has signed a consent order requiring four Aetna insurance companies and HMOs to pay a \$1.5 million fine and to make restitution to physicians and health care providers who did not receive prompt payment of their clean claims.

The order brings to \$10.4 million the total of fines imposed this year for alleged violations of the prompt payment laws by insurers and HMOs.

Aetna agreed to the order without admitting any violation of Texas laws and rules.

The consent order notes that the Aetna companies failed to pay clean claims in accordance with the state's prompt payment laws and clean claims rules, failed to pay 85 percent of disputed claims while conducting audits and failed to maintain proper complaint records.

Montemayor's order names Aetna Life Insurance, Aetna U.S. Health Care Inc., Aetna U.S. Health Care of North Texas Inc. and Aetna Health Care Plan Inc. The companies and HMOs must pay restitution and penalties to physicians and providers for clean claims that were not paid within 45 days of receipt and clean claims that were not paid correctly.

The order calls for each company to provide restitution to physician and health care providers for claims dating from August 1, 2000, through October 1, 2001. Aetna will have 75 days from November 1, the date of the order, to report its restitution amounts to the Commissioner.

"I strongly urge Aetna to improve its claim handling and take the lead in becoming a model health insurer," Montemayor said.

Aetna U.S. Healthcare of North Texas faces an additional fine of \$600,000 if it fails to satisfy several voluntary payment arrangements for certain claims for the benefit of physicians and providers associated with Medical Select Management, a Fort Worth-based delegated network.

The consent order requires Aetna to use reasonable efforts to enforce contract obligations of certain delegated networks to pay physicians and providers the applicable contract penalty or full billed charges. If these delegated networks do not pay the required restitution, Aetna will have to pay the restitution amounts within 60 days from the date of the order.

Senior Associate Commissioner Audrey Selden, TDI's prompt payment ombudsman for physicians and providers, and TDI attorneys earlier concluded enforcement action that led to consent orders on September 28 requiring 17 insurers and HMOs in seven groups to pay \$9.25 million in fines, plus restitution to physicians and providers.

"We have fairly, but relentlessly, analyzed company complaints, sought explanations for delayed payments and taken action when it was in the best interests of all of the parties involved," Montemayor said. "Our efforts have improved claim handling by all concerned—physicians, providers, insurers and HMOs." ★

Agent Indicted in Annuity Fraud Scheme

DAVID FRANKLYN McMILLIN, an Austin life insurance agent, has been arrested on charges of defrauding an elderly woman in Dime Box of more than \$117,000.

A Lee County Grand Jury in Giddings indicted McMILLIN, in August on charges of second-degree felony theft.

Investigators from TDI's Insurance Fraud Unit alleged that McMILLIN carried out a scheme to systematically steal \$117,038 from annuities owned by the woman.

The alleged theft occurred over a period from February 1994 through May 1997. McMILLIN allegedly converted funds taken from the annuities to his own personal use, and none of the money benefited the victim. The victim died in 1999.

McMillin allegedly carried out his scheme by forging documents that made it appear he was advising the woman with estate planning through the establishment of a living trust. Family members who were helping the victim with her finances subsequently discovered the possible theft.

If convicted, McMILLIN could face a prison term of from two to 20 years and a fine of up to \$10,000.

The Fraud Unit routinely investigates criminal complaints concerning insurance agents, insurance companies, and others licensed by TDI. A fraud complaint form can be found on the agency's Web site at www.tdi.state.tx, and TDI has a toll-free hotline, **888-327-8818**, for reporting suspected insurance fraud. ★