

**STATE OF NEW HAMPSHIRE
INSURANCE DEPARTMENT**

**In Re: Wellcare Prescription Ins., Inc.,
Docket No.: INS No. 22-041-EP**

**ORDER TO SHOW CAUSE
AND
NOTICE OF HEARING**

The New Hampshire Insurance Department ("NHID") orders WellCare Prescription Ins., Inc., ("Respondent") to show cause why the New Hampshire Insurance Commissioner should not levy an administrative fine against it. In support of the Order to Show Cause and pursuant to NH RSA 541-A:31, NH RSA 400-A:17 *et seq.* and INS Chapter 200, the NHID states as follows:

STATEMENT OF FACTS

1. The Respondent is an insurance company with a NAIC company code of 10155, a business address of 8735 Henderson Rd, Tampa, FL 33624, is licensed as a health insurer and authorized to do business in New Hampshire, and writes health insurance business in New Hampshire.
2. Pursuant to NH RSA 420-G:11, II, health carriers are required to provide electronically to the NHID encrypted claims data in accordance with the rules enumerated under NH INS 4000.
3. Respondent has not provided claims data to the NHID as proscribed in NH INS 4000.
4. On or about May 4, 2022, a contracted third-party for the NHID informed Respondent that they must submit monthly claims data pursuant to NH INS 4004.01. Respondent did not respond to that request.
5. On or about May 13, 2022, a contracted third-party for the NHID informed Respondent a second time that they must submit monthly claims data pursuant to NH INS 4004.01. Respondent did not respond to that request.
6. On or about May 17, 2022, the NHID requested that the Respondent provide the requested documents and communicate with the Department pursuant to NH RSA 400-A:16. The Respondent did not respond to that request.

7. On or about June 22, 2022 Respondent submitted incomplete claims data from January 2022 to April 2022. This incomplete data is not in compliance with NH INS 4000.
8. Respondent's submission of incomplete data does not comply with the requirement of complete and accurate claims data pursuant to NH INS 4005.01.
9. Respondent's submission of incomplete data does not comply with the scope of required records pursuant to NH INS 4009.03.

STATEMENT OF ISSUES

10. Whether Respondent violated NH RSA 420-G:11 for repeatedly failing to provide claims data in accordance with the rules enumerated under NH INS 4000.
11. The NHID reserves the right to amend this statement of issues upon reasonable notice to the Commissioner (or his designated Representative) and the Respondent.

INSURANCE LAWS VIOLATED BY RESPONDENT

12. The NHID maintains the Respondent violated the following New Hampshire insurance law statute: NH RSA 420-G:11.
13. The NHID reserves the right to amend this list of insurance laws violated by the Respondent upon reasonable notice to the Commissioner (or his designated Representative) and the Respondent.

PENALTY REQUESTED

14. In the event that the Hearing Officer determines after an evidentiary hearing that the NHID sustained its burden of proof with respect to the allegations of fact and violations of law outlined above, the NHID requests that the Hearing Officer impose the following sanctions on the Respondent:
 - a. Order the Respondent to pay a fine in an amount not to exceed \$2,500 per violation of New Hampshire law, per RSA 420-G:16, II.

NOTICE OF HEARING

15. An adjudicatory proceeding shall be commenced for the purpose of resolving the issues articulated above pursuant to NH RSA 541-A:31, NH RSA 400-A:17 *et seq.*, and NH INS 200. To the extent that the Department's rules do not address an issue of policy or procedures, the Department shall apply the N.H. Department of Justice Rules, Part 800.
16. The Respondent shall appear at Department on **August 16, 2021 at 1 PM** at the Department's office located at 21 South Fruit Street, Suite 14, in Concord New Hampshire to participate in this adjudicatory proceeding and, if deemed appropriate, be subject to sanctions pursuant to RSA 420-G:16. Respondent's failure to appear at the time and place specified above may result in the hearing being held *in absentia* pursuant to RSA 400-A:19, VII, and sanctions may be imposed without further notice or an opportunity to be heard.
17. Steven Notinger, Esq. is appointed to act as Hearing Officer in this matter with all the authority within the scope of RSA 400-A:19 and Ins 203.01.
18. Sandra Barlow shall serve as clerk to the Hearing Officer. The parties should direct all communications to Ms. Barlow, whose contact information is:

Sandra Barlow, Clerk
New Hampshire Insurance Department
21 South Fruit Street, Suite 14
Concord, NH 03301
Tel: (603) 271-2033
Fax: (603)271-1406
Email: sandra.l.barlow@ins.nh.gov
19. The Respondent has the right to be represented by a lawyer in this proceeding. However, the Respondent shall bear the cost of retaining said lawyer. Should the Respondent elect to retain a lawyer, its lawyer shall file a Notice of Appearance with Ms. Barlow, and said lawyer should do so at the earliest possible date. A copy of the NHID's Notice of Appearance form is enclosed with this Order.
20. Any party may request a transcript of the proceeding. The party requesting a transcript of the proceedings shall file a written request for a certified court reporter with the Hearing Officer at least 10 days prior to the scheduled hearing

date. The costs incurred for the services of a certified court reporter shall be borne by the requesting party.

21. Joshua Hilliard, Esq. shall serve as staff advocate representing the interests of the NHID.

22. All routine procedural inquiries may be made by contacting Sandra Barlow, Hearing Clerk, New Hampshire Insurance Department, 21 South Fruit Street, Suite 14, Concord NH 03301, (603) 271-2033, but that all other communications with the Hearing Officer and the Commissioner shall be in writing and filed as provided above. *Ex parte* communications are forbidden by statute and the Department's regulations.

23. A copy of this hearing notice shall be served upon Respondent by certified mail addressed to the mailing address on file with New Hampshire Insurance Department. *See*, RSA 400-A:14.

It is **SO ORDERED**.
NEW HAMPSHIRE INSURANCE DEPARTMENT

Date:

7/19/2022



Christopher Nicolopoulos
Insurance Commissioner

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and accurate copy of the foregoing Order to Show Cause and Notice of Hearing was sent this date by first-class mail, postage prepaid, and by certified mail, return receipt requested, to Wellcare Prescription Ins. Inc., 8735 Henderson Rd, Tampa, FL 33624, the address the Respondent maintains on file with the Department.

Date:

7/19/2022


Joshua S. Hilliard, Esq.
Compliance & Enforcement Counsel

NEW HAMPSHIRE INSURANCE DEPARTMENT

ATTORNEY APPEARANCE or WITHDRAWAL

Docket No. (if known): _____

Respondent Name or Case Name: _____

APPEARANCE

Please **ENTER** my appearance as
Counsel for _____

I confirm that neither I nor any member of my
law firm have been retained by the Department
of Insurance or the Commissioner of Insurance.

WITHDRAWAL

Please **WITHDRAW** my appearance as
Counsel for _____

Notice of Withdrawal sent to my client on:
_____ at the following address:

I hereby certify that I provided a copy of this original request to the Department and a copy to all other known parties to this matter in accordance with Ins 204.09.

Signed: _____

Name: _____ **NH Bar #:** _____

Firm Name: _____ **Email: (see also below)** _____

Physical Address: _____

Mailing Address (if different): _____

Phone: _____

Email Consent: By checking this box, I consent to delivery by email in accordance with Ins 204.09(c). Please send communications and documents to the above email address.

Date: _____ **Signature:** _____

If you do not consent to delivery by email, all communications will be sent to you by personal delivery at your physical address or by United States Postal Service first class mail to your mailing address.