

IN THE MATTER OF THE FAILURE)
OF AMERIHEALTH HMO, INC., TO)
TIMELY SUBMIT A COMPLETE)
HMO ANNUAL SUPPLEMENT)

ADMINISTRATIVE
ORDER

THIS MATTER having been opened by the Department of Health and Senior Services (“Department”) in accordance with the authority set forth at N.J.S.A.26:1A-15, and N.J.S.A. 26:2J-1 et seq.;

WHEREAS, in accordance with N.J.S.A. 26:2J-18, the Department is authorized to conduct at any time, but no less frequently than once every three years, an examination of health maintenance organizations (HMOs) regarding the quality of health care services and other affairs of the HMO and providers with whom the HMO contracts;

WHEREAS, in accordance with N.J.S.A. 26:2J-12, HMOs are required to maintain a complaint system to provide reasonable procedures for the resolution of written complaints initiated by enrollees concerning health care services, and to submit to the Department an annual report regarding the complaint mechanism in a form prescribed by the Department;

WHEREAS, in accordance with N.J.S.A. 26:2J-9, HMOs are required to submit an annual report to the Department no later than March 1 annually with respect to activities occurring in the preceding calendar year, on a form prescribed by the Department, information regarding the HMO’s financial statements, enrollment, network and health care services access capability and quality assurance programs, and such other information as the Department may determine appropriate;

WHEREAS, to minimize the number of times that HMOs must routinely submit information to the Department while accommodating the Department's need to examine the HMO's activities, the Department developed a document commonly referred to as the HMO Annual Supplement;

WHEREAS, the HMO Annual Supplement is routinely required to be submitted by HMOs to the Department on March 1 annually, in accordance with N.J.S.A. 26:2J-9 and N.J.A.C. 8:38-3.8, accompanied by the \$1,000 fee set forth at N.J.S.A. 26:2J-18 for examination, unless the Department postpones the due date;

WHEREAS, AmeriHealth HMO, Inc. (AmeriHealth) is an HMO;

WHEREAS, AmeriHealth submitted its HMO Annual Supplement for 2004 on March 2, 2005.

WHEREAS, upon review, the following information was missing from the submission:

1. Section M: Provider Complaints
2. The required \$1,000 fee

WHEREAS, the Department issued a letter, sent via electronic and regular mail, and placed a phone call to AmeriHealth on April 20, 2005 stating that the foregoing items were not included in the March 2, 2005 submission as routinely required for the HMO Annual Supplement, with the expectation being that AmeriHealth would submit the missing items forthwith;

WHEREAS, AmeriHealth did not submit the above-referenced information or examination fee in a timely manner;¹

¹ The Department received AmeriHealth's check for the examination fee on or about May 4, 2005. The Department has not as yet received the information regarding provider complaints.

NOW, THEREFORE, IT IS ORDERED on this 10th day of May that:

1. AmeriHealth shall submit the information required by Section M for inclusion in the HMO Annual Supplement for 2004 within ten business days following the date of this Order.

2. AmeriHealth shall pay a fine of Two Thousand Seven Hundred and Fifty (\$2,750) in one lump sum, made payable by check or money order to "Treasurer, State of New Jersey," no later than the date which this paragraph becomes effective, as specified in Paragraph 9 of this Order, to the Director of the Office of Managed Care, P.O. Box 360, Trenton, NJ 08625-0360, for the following:

a. \$2,500 for failure to submit a complete HMO Annual Supplement in a timely manner; and

b. \$250 for failure to submit the required \$1,000 examination fee with the HMO Annual Supplement or otherwise on a timely basis.

3. If AmeriHealth fails to submit the information specified in this Order within ten business days following the date of this Order, then AmeriHealth shall pay an additional fine of \$250 per day for each subsequent business day that AmeriHealth fails to submit the required information and examination fee, inclusive of the date that the information and examination fee are submitted.

4. AmeriHealth may combine payment of the fine set forth in Paragraph 3 with payment of the fine set forth in Paragraph 2, as appropriate, but in no instance shall payment of the fine in Paragraph 3 delay payment of the fine in Paragraph 2. Payment of

the fine in Paragraph 3 shall be due upon submission of the required information or upon the effective date of this paragraph, whichever date is later.

5. All fines shall be payable by check or money order made payable to “Treasurer, State of New Jersey,” no later than the date on which this paragraph becomes effective, as specified in Paragraph 9 of this Order. AmeriHealth shall submit the check or money order to the Director of the Office of Managed Care, P.O. Box 360, Trenton, NJ 08625-0360.

6. AmeriHealth shall submit a Plan of Correction within 30 business days following the date of this Order specifying how AmeriHealth shall assure that it will timely submit information required for future reports, and how AmeriHealth shall assure that it will be responsive to future requests for information made by the Department.

7. Nothing set forth in this Order shall be construed to preclude the Department from taking enforcement against AmeriHealth for related matters not set forth herein.

8. Obligations under this Order are imposed pursuant to the police powers of the State of New Jersey for the enforcement of law and the protection of public health, safety and welfare and are not intended to constitute a debt or debts subject to limitation or discharge in a bankruptcy proceeding.

9. All numbered paragraphs of this Order, other than paragraphs 2, 3, and 4, shall be effective as of the date of the Order, and no paragraphs of this Order shall be stayed pending the conclusion of an administrative hearing and the rendering of a final decision by the Commissioner of the Department, except as Paragraph 10 applies.

10. Paragraphs 2, 3 and 4 shall not become effective until 30 days following the date of this Order, in accordance with N.J.A.C. 8:38-2.14 (c), unless AmeriHealth, prior

to the end of the 30-day period, files with the Department a written request for a hearing and a written request to Stay the Order with respect to Paragraphs 2, 3, and 4 until the conclusion of an administrative hearing and the rendering of a final decision by the Commissioner of the Department. A request for a hearing shall be accompanied by a written response to the violations set forth in this Order.

11. If AmeriHealth wishes to request an administrative hearing, then AmeriHealth shall submit such a request in writing no later than 30 days following the date of this Order to: Director, Office of Legal and Regulatory Affairs, P.O. Box 360, Trenton, New Jersey 08625-0360, or by fax at 609-292-5333.

Questions should be submitted to Marilyn Dahl, Deputy Commissioner, at 609-984-3939 or to Sylvia Allen-Ware, Director of the Office of Managed Care, at 609-633-0660.

MARILYN DAHL
Deputy Commissioner

/s/ Marilyn Dahl

