

**[IN ACCORDANCE WITH CALIFORNIA INSURANCE CODE (CIC) SECTION 12938,
THIS REPORT WILL BE MADE PUBLIC AND PUBLISHED ON THE
CALIFORNIA DEPARTMENT OF INSURANCE (CDI) WEBSITE]**

**WEBSITE PUBLISHED REPORT OF THE
MARKET CONDUCT EXAMINATION OF THE
CLAIMS HANDLING, RATING, AND UNDERWRITING PRACTICES OF**

**BERKLEY LIFE AND HEALTH INSURANCE COMPANY
NAIC # 64890 CDI # 1733-5**

AS OF DECEMBER 31, 2012

ADOPTED MARCH 3, 2014

STATE OF CALIFORNIA



**CALIFORNIA DEPARTMENT OF INSURANCE
MARKET CONDUCT DIVISION**

NOTICE

The provisions of Section 735.5(a) (b) and (c) of the California Insurance Code (CIC) describe the Commissioner's authority and exercise of discretion in the use and/or publication of any final or preliminary examination report or other associated documents. The following examination report is a report that is made public pursuant to California Insurance Code Section 12938(b)(1) which requires the publication of every adopted report on an examination of unfair or deceptive practices in the business of insurance as defined in Section 790.03 that is adopted as filed, or as modified or corrected, by the Commissioner pursuant to Section 734.1.

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FOREWORD

This limited desk examination covered the claims handling, rating, and underwriting practices of the aforementioned Company's Disability Health Blanket Accident line of business during the period January 1, 2012 through December 31, 2012. The limited examination was made to discover, in general, if these and other operating procedures of the Company conform to the contractual obligations in the policy forms, the California Insurance Code (CIC), the California Code of Regulations (CCR) and case law.

This report pertains to Section 790.03 and Title 10, California Code of Regulations, Section 2695 et al. A separate report pertains to laws other than Section 790.03 and Title 10, California Code of Regulations, Section 2695 et al.

The report does not present a comprehensive overview of the subject insurer's practices. The report contains a summary of pertinent information about the lines of business examined, details of the non-compliant or problematic activities that were discovered during the course of the examination and the insurer's proposals for correcting the deficiencies. When identified violations result in payments by the Company to policyholders or claimants, those amounts paid are identified as recoveries in this report. All unacceptable or non-compliant activities may not have been discovered. Failure to identify, comment upon or criticize non-compliant practices in this state or other jurisdictions does not constitute acceptance of such practices.

Alleged violations identified in this report, any criticisms of practices and the Company's responses, if any, have not undergone a formal administrative or judicial process.

SCOPE OF THE EXAMINATION

To accomplish the foregoing, the examination included:

1. A review of specified guidelines, procedures, and forms adopted by the Company for use in California.

2. A review of the California Department of Insurance's (CDI) market analysis results; a review of consumer complaints and inquiries about this Company closed by the CDI during the period January 1, 2012 through December 31, 2012; and a review of reports on the previous CDI market conduct examination of this Company.

This limited examination was conducted at the offices of the California Department of Insurance in Sacramento, California.

EXECUTIVE SUMMARY

This desk examination was limited in scope to market analysis information, including California consumer complaint information, to national enforcement activity and to information provided by the Company in response to the Department's data request. There was no review of underwriting or claims files during this examination.

The primary finding resulting in an alleged violation of Section 790.03 and Title 10, California Code of Regulations, Section 2695 et al., which was identified in the course of the examination, is the failure to include a statement in a claim denial that a claimant can contact the California Department of Insurance for a review. Details of the findings are provided in the Summary of Examination Results section of this report.

Berkley Life and Health Insurance Company reported \$12,208,028 in written premiums on Accident and Health insurance coverage in California during 2012. The Company closed 2,276 Accident and Health claims during 2012.

RESULTS OF REVIEWS OF MARKET ANALYSIS, CONSUMER COMPLAINTS AND INQUIRIES AND PREVIOUS EXAMINATIONS

Market analysis did not identify any specific issues of concern within the scope of this report.

Within the scope of this report, the Company was the subject of no California consumer complaints or inquiries between January 1, 2012 and December 31, 2012, in regard to the line of business reviewed in this examination.

The previous examination was completed by the Field Claims Bureau and reviewed the period from July 1, 2002 through June 30, 2003. There were no specific areas of concern identified during the previous examination.

DETAILS OF THE CURRENT EXAMINATION

The following tables summarize the Company’s responses, within the scope of this report, to the Department’s data request and the alleged violations under Section 790.03 and title 10, California Code of Regulations, Section 2695 et al., that resulted from the review of that data. All “NO” answers in the Areas of Review table are addressed in the Summary of Examination Results section of this report. A summary of each of the laws cited due to a “NO” answer is provided in the Cited Statutes and Regulations table.

AREAS OF REVIEW		
SPECIFIC ISSUE REVIEWED	INDICATION OF COMPLIANCE (YES/NO)	SUMMARY OF RESULTS ITEM NUMBER
Certification by a company principal of claims training – CCR §2695.6(b) [CIC §790.03(h)(3)]	YES	
Copy of written standards for claims – CCR §2695.6(a) [CIC §790.03(h)(3)]	YES	
Compliance with Special Investigative Unit Regulations – CIC §1875.20 and CCR §§2698.30 through 2698.43 [CIC §790.03(h)(3)]	YES	
Compliance of letters and forms – CIC §1879.2(a) [CIC §790.03(h)(3)]	YES	
Acknowledgement of receipt of claim from provider within 15 days and in same form as received -- CIC §10133.66(c) [CIC §790.03(h)(2)]	YES	
Compliance with requirements of HIPAA regulations on medical authorizations forms – CIC §791.06 [CIC §790.03(h)(3)]	YES	
Compliance with requirements to pay interest on uncontested claims paid after 30 working days – CIC §10123.13(b) [CIC §790.03(h)(5)]	N/A	
Compliance with requirements to provide a clear EOB – CCR §2695.11(b) [CIC §790.03(h)(3)]	YES	
Compliance with requirement to include a statement that, if the claimant believes all or part of the claim has been wrongfully denied or rejected, he or she may have the matter reviewed by the California Department of Insurance. CCR §2695.7(b)(3) [CIC §790.03(h)(3)]	NO	1

AREAS OF REVIEW		
SPECIFIC ISSUE REVIEWED	INDICATION OF COMPLIANCE (YES/NO)	SUMMARY OF RESULTS ITEM NUMBER
Compliance with all requirements of – CIC §10123.13(a) [CIC §790.03(h)(3), and/or (4), and/or (13)]	N/A	
Provider contracts contain required dispute resolution provisions – CIC §10123.137(a) [CIC §790.03(h)(3)]	N/A	
Non-contracting provider accessible dispute mechanism – CIC §10123.137(b) [CIC §790.03(h)(3)]	YES	
Compliance with dispute mechanism report submission – CIC §10123.137(d) [CIC §790.03(h)(3)]	YES	
Compliance with requirements for providing information on Independent Medical Reviews – CIC §10169.(i) [CIC §790.03(h)(3)]	YES	
Compliance with requirements for time limits for response to requests for pre-authorization of non-emergency services – CCR §2695.11(e) [CIC §790.03(h)(3)]	N/A	
Compliance with requirements for no pre-authorization of emergency services – CCR §2695.11(f) [CIC §790.03(h)(3)]	YES	
Compliance with EOB requirements when emergency services are contested or denied -- CIC §10123.147(a) [CIC §790.03(h)(3)]	YES	
Compliance with requirement to pay interest on emergency services not paid within 30 working days -- CIC §10123.147(b) [CIC §790.03(h)(5)]	YES	

*N/A – Not applicable; the Company indicates that this law is not relevant to its particular claims handling, rating or underwriting practice.

CITED STATUTES AND REGULATIONS	
Citation	Description
CCR §2695.7(b)(3) [CIC §790.03(h)(3)]	Compliance with requirement to include a statement in its claim denial that, if the claimant believes the claim has been wrongfully denied or rejected, he or she may have the matter reviewed by the California Department of Insurance.

***DESCRIPTONS OF APPLICABLE
UNFAIR CLAIMS SETTLEMENT PRACTICES**

CIC §790.03(h)(3)	The Company failed to adopt and implement reasonable standards for the prompt investigation and processing of claims arising under its insurance policies.
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SUMMARY OF EXAMINATION RESULTS

The following is a brief summary of the practices, within the scope of this report, that were alleged to be non-compliant during the course of this limited examination. This report contains only alleged violations of Section 790.03 and Title 10, California Code of Regulations, Section 2695 et al.

In response to each of the Department's allegations of non-compliance, the Company was required to identify remedial or corrective action that has been or will be taken to correct the deficiency. The Company is obligated to ensure that compliance is achieved and maintained.

Any noncompliant practices identified in this report may extend to other jurisdictions. The Company was asked if it intends to take appropriate corrective action in all jurisdictions where applicable. The Company indicates that it will implement the corrective actions in all jurisdictions.

Within the scope of this report, there were no claims recoveries or return premium as a result of the issues described in this report.

DISABILITY HEALTH – BLANKET ACCIDENT

1. Berkley Life and Health Insurance Company reported that one of the two third party administrators (TPA) involved in processing claims did not include language in its explanation of benefits (EOB) to notify a claimant that if the claimant believes the claim has been wrongfully denied or rejected, he or she may have the matter reviewed by the California Department of Insurance. The Department alleges this act is in violation of CCR §2695.7(b)(3) and is an unfair practice under CIC §790.03(h)(3).

Summary of Company Response: The Company employs two TPAs. One of the TPAs provided EOBs that are in compliance with this regulation. The second TPA has updated its EOBs in order to be in compliance with this regulation.