

# SELF-INSURING EMPLOYERS EVALUATION BOARD

Karen L. Gillmor, Ph.D., *Chairman*  
Carol A. Wilson, *Member*  
Tommie Jo Brode, *Member*

Mike DeWine, *Governor*

## IN THE MATTER OF:

**CoreCivic of TN, LLC (Employer), Risk No. #20005576**

**And**

**Complaint No. 1001182457**  
**Complaint No. 1001201759**

CoreCivic of TN, LLC  
5501 Virginia Way, Suite 110  
Brentwood, TN 37027-7680

Rummell, Curry, Bins-Castronovo & Regginello  
P.O. Box 6565  
Youngstown, OH 44501

McMahon Degulis LLP  
812 Huron Road East, Suite 650  
Cleveland, OH 44115-1168

York Risk Services Group  
P.O. Box 183188  
Columbus, OH 43218-2364

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### **Complaint No. 1001182457:**

In a SI-28, Filing of an Allegation Against a Self-Insured Employer, dated 06/03/2019, Mr. [REDACTED] alleged:

Dr. [REDACTED] prescribed Norco (pain killer) to me last week. They called and confirmed that York Risk had received the preauthorization on 5-29-19 (Weds). They said to individual @ doctor [REDACTED] office would be processed in two hours. It is now Monday 6-3-19, I just left my Giant Eagle Pharmacy in Hermitage and they still have not received an "ok" from York Risk to fill my Norco prescription. I continued to be harassed and have my meds withheld by York Risk.

Provided in the complaint materials was a copy of an e-mail dated 06/03/2019 from Mr. [REDACTED]. The recipient of the e-mail is not visible, but the e-mail appears to have been sent with the complaint. In the e-mail, Mr. [REDACTED] asserted York Risk Services was once again withholding his medications from being processed timely and that it had done so repeatedly. He stated the prescription was to be cleared and processed on 05/29/2019 per Kay Christopolous.

The Employer's third-party administrator, York Risk Services Group (York), responded to the complaint in a letter dated 06/20/2019. The letter requested the complaint be found invalid and resolved. The letter stated:

On June 10, 2019 assigned York claims adjuster, Kay Christopolous, learned that Mr. [REDACTED] had a pending prescription of Norco that was prescribed by Dr. [REDACTED], DO during the May 23, 2019 office visit. Kay then called Optum pharmacy vendor approved the pending Norco prescription. The prescription was filled by the Giant Eagle Pharmacy for Mr. [REDACTED] on June 10, 2019.

In a letter dated 07/02/2019, Self-Insured Auditor [REDACTED] found Mr. [REDACTED] provided no documentation of phone calls, etc., to verify any of the allegations. Mr. [REDACTED] concluded the complaint was invalid.

### **Complaint No. 1001201759:**

In a SI-28, Filing of an Allegation Against a Self-Insured Employer, dated 06/18/2019, Mr. [REDACTED] alleged:

Dr. [REDACTED] office confirmed that "prior authorization" was received by York Risk on 5-29-19. Phone calls by Dr. [REDACTED] office, and multiple calls by Hermitage Giant Eagle Pharmacy to find out why "Norco" prescription was not released by York Risk to be filled failed to facilitate process. Order was not cleared by York Risk until 6-10-19. York Risk continued abusive methods toward injured employee by holding authorization for 10 days."

Attached to the complaint was a prescription label from Giant Eagle Pharmacy for 90 Hydroco/Apap. 06/10/2019 is noted twice on the label. However, the headings above the dates are not legible.

York responded to the complaint in a letter dated 07/02/2019. The letter requested the complaint be found invalid and resolved. The letter also noted the fact that two complaints were filed regarding the Norco prescription. The letter stated:

On June 10, 2019 assigned York claims adjuster, Kay Christopolous, learned that Mr. [REDACTED] had a pending prescription of Norco that was prescribed by Dr. [REDACTED], DO during the May 23, 2019 office visit. Kay then called Optum pharmacy vendor approved the pending Norco prescription. The prescription was filled by the Giant Eagle Pharmacy for Mr. [REDACTED] on June 10, 2019.

In a letter dated 07/15/2019, Self-Insured Auditor [REDACTED] noted the complaint was similar to Complaint No. 10001182457, the prescription was filled on 06/10/2019, and York was unaware of the pending prescription request. Ms. [REDACTED] found the Bureau of Workers' Compensation (BWC) was unable to verify the self-insuring employer violated any rule or law. Ms. [REDACTED] further found there was no evidence or documentation submitted to support the allegations. Ms. [REDACTED] concluded the complaint was invalid.

## **Complaint No. 1001182457 and Complaint No. 1001201759:**

In e-mails dated 07/12/2019 and 07/31/2019, Mr. [REDACTED] requested reconsideration of both complaints and provided documents, which he asserted demonstrate that York knew the prescriptions were submitted, the pharmacy was submitting the prescription, and the prescription was rejected multiple times by York until it was finally authorized ten days later. Mr. [REDACTED] asserted the rejection code "75" listed on the documents represented denial by York. He concluded by stating that York submitted false information to the BWC by asserting it was not aware of the prescription.

Five printouts were submitted with the request for reconsideration. Each printout listed Norco. The printouts dated 05/29/2019, 06/03/2019, 06/04/2019, and 06/06/2019 noted the status as "Cancelled" and paid as "Rejected." Each printout listed a rejection code of "75." Noted on the 05/29/2019 printout is "PRIOR AUTHORIZATION IN PROCESS, PLEASE CALL IF URGENT." The 06/03/2019, 06/04/2019, and 06/06/2019 printouts noted "PHARMACY, PLEASE CALL TMESYS." The 06/10/2019 printout listed the status as "Complete" and paid as "Part Paid." Noted on the 06/10/2019 printout was also "CLAIM ACCEPTED AND PAYABLE."

The Administrator's Designee, [REDACTED], addressed both complaints in a letter dated 01/17/2020. [REDACTED] noted Mr. [REDACTED] submitted documentation from the pharmacy showing the prescription for Norco on 05/23/2019, 05/29/2019, 06/03/2019, 06/05/2019, 06/06/2019, and 06/10/2019. She noted Mr. [REDACTED] stated, "#75 code represents denied by York" on the printouts. Ms. [REDACTED] stated that the BWC cannot decipher the internal code meanings of Giant Eagle's pharmacy software. Ms. [REDACTED] advised Mr. [REDACTED] that when a prescription request is denied, he has the right to appeal to the Industrial Commission and such action is the correct avenue to resolve concerns related to the filling of prescriptions. Ms. [REDACTED] found the complaints and additional documents submitted were insufficient evidence to support a valid finding. She explained there is no clear evidence or documentation provided that confirmed an actual delay in filling the prescription was a result of actions taken by York. Ms. [REDACTED] found any delay which may have occurred when filling the prescription did not rise to the level of a violation of any law, rule, or policy by York. Ms. [REDACTED] noted the prescription was filled on 6/10/2019 and, therefore, found the issue was resolved. Ms. [REDACTED] concluded the complaints were invalid and resolved.

In two letters dated 02/08/2020, Mr. [REDACTED] reiterated his complaints and stated his disagreement with the decision of the Administrator's Designee. The letters were construed as Mr. [REDACTED] request for referral to the Self-Insuring Employers Evaluation Board.

After review and discussion, the Board finds insufficient evidence to support a finding there was a delay in the filling of the prescription that was the result of actions taken by the Employer's third-party administrator, York Risk Services, or lack thereof. Therefore, the Board affirms the 01/17/2020 determination of the Administrator's Designee and finds Complaint No. 1001182457 and Complaint No. 1001201759 invalid and resolved.

This action is based upon the motion made by Ms. Wilson, seconded by Ms. Brode, and voted on as follows:

**SELF-INSURING EMPLOYERS EVALUATION BOARD**

E-SIGNED by Karen Gillmor  
on 2020-07-15 15:36:57 GMT

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| Karen L. Gillmor, Chairman | YES |
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E-SIGNED by Carol Wilson  
on 2020-07-15 11:39:19 GMT

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| Carol A. Wilson, Member | YES |
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E-SIGNED by Tommie Jo Brode  
on 2020-07-15 13:25:01 GMT

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| Tommie Jo Brode, Member | YES |
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**DATE MAILED:** 15th **DAY OF** July, 2020