



**BEFORE THE COMMISSIONER OF COMMERCE AND INSURANCE
FOR THE STATE OF TENNESSEE**

TENNESSEE INSURANCE DIVISION,)
)
Petitioner,)
)
vs.) **TID No.: 20-149**
)
AMERITAS LIFE INSURANCE CORP.,)
)
Respondent.)
)

CONSENT ORDER

COME NOW, Petitioner, the Insurance Division of the Tennessee Department of Commerce and Insurance (“Division”), by and through counsel, and Ameritas Life Insurance Corp. (“Respondent”) hereby stipulate and agree to the entry and execution of this Consent Order, subject to the approval of the Commissioner of the Tennessee Department of Commerce and Insurance (“Commissioner”), as follows:

GENERAL STIPULATIONS

1. It is expressly understood that this Consent Order is subject to the Commissioner’s acceptance and has no force and effect until such acceptance is evidenced by the entry and execution of this Consent Order by the Commissioner. Entry and execution of the Consent Order by the Commissioner shall occur when the Commissioner signs and dates this Consent Order.

2. This Consent Order is executed by the Respondent for the purpose of avoiding further administrative action with respect to this cause. Furthermore, should this Consent Order not be accepted by the Commissioner, it is agreed that presentation to and consideration of this

Consent Order by the Commissioner shall not unfairly or illegally prejudice the Commissioner from further participation or resolution of these proceedings.

3. The Respondent fully understands that this Consent Order will in no way preclude additional proceedings by the Commissioner against the Respondent for acts or omissions not specifically addressed in this Consent Order or for facts and/or omissions that do not arise from the facts or transactions herein addressed.

4. The Respondent fully understands that this Consent Order will in no way preclude proceedings by state government representatives, other than the Commissioner, for violations of the statutes, rules, or regulations addressed specifically in the Findings of Fact and Conclusions of Law in this Consent Order, or which may arise as a result of the execution of this Consent Order by the Respondent.

5. The Respondent expressly waives all further procedural steps, and expressly waives all rights to seek judicial review of or to otherwise challenge or contest the validity of this Consent Order and the consideration and entry and execution of said Consent Order by the Commissioner.

AUTHORITY AND JURISDICTION

6. The Commissioner has jurisdiction over this matter pursuant to Tennessee insurance law, Title 56 of Tennessee Code Annotated (“Tenn. Code Ann.”), specifically Tenn. Code Ann. §§ 56-1-101 *et seq.*, 56-1-202, 56-2-305, and 56-26-101 *et seq.* (the “Law”). The Law places on the Commissioner the responsibility of the administration of its provisions.

PARTIES

7. The Division is the lawful agent through which the Commissioner administers the Law and is authorized to bring this action for the protection of the public.

8. The Respondent is an accident and sickness insurance company domiciled in the State of Nebraska and currently has a Certificate of Authority to sell insurance in the State of Tennessee.

FINDINGS OF FACT

9. The Respondent is an insurance company that provides accident and sickness insurance.

10. In early 2019, the Respondent determined it wanted to modify the benefit period in certain individual dental plans (“Dental Plans”) from Calendar Year to Plan Year (defined below). In preparation for the policy filings, the Respondent reviewed its master individual form for Dental Plans. The Respondent’s master individual form does not contain a definition of benefit period within the definitions section (the “Definitions”).

11. The Respondent did identify that the definition of the benefit period within the Table of Dental Procedure Options & Variables section (the “Table of Procedures”) would need to be expanded to allow for a Plan Year benefit period.

12. On March 21, 2019, the Respondent made a policy form filing for the Dental Plans with the Department that defined the benefit period within the Table of Procedures as:

The dates within the Benefit Period definition will be based on a Calendar Year or the Policyholder’s plan year. The Benefit Period definition contains the variables [January 1] and [December 31]. These variables can be any month and day, i.e., January 1 – December 31st, dependent upon the Calendar Year or the Policyholder’s plan year.

13. The actuarial memorandum filed in support of the rate filing for the same Dental Plans also submitted on March 21, 2019, stated that the “biggest change to the rate manual is to add factors to allow for plan year benefit period.”

14. Undiscovered by the Respondent at the time, because a definition for benefit period

is only included under the Definitions page in a few of the Respondent's state-specific policies and not within the master individual form, the policy filing for the Dental Plans in Tennessee also included the following definition of benefit within the Definitions: "The period from January 1 of any year through December 31 of the same year. But during the first year a person is insured, a benefit period means the period from his or her effective date through December 31 of that year", i.e., [the "Calendar Year"]."

15. The Respondent's March 21, 2019, policy form filing and rate filing for the Dental Plans were approved by the Department on May 9, 2019.

16. In September of 2019, the Respondent began offering the filed and approved Dental Plans. The marketing and promotional materials for these Dental Plans referenced only a Plan Year benefit period, and the Respondent began administering these plans pursuant to a Plan Year benefit period.

17. In March of 2020, the Respondent became aware that the Definitions contained a definition of benefit period, and this definition only referenced a Calendar Year benefit period, which was inconsistent with the expanded Plan Year benefit period definition within the Table of Procedures and the Respondent's intended benefit period for these Dental Plans.

18. The Respondents investigated the issue, and due to miscommunications between the Respondent's compliance and administrative areas, the Respondent mistakenly believed that it could modify the wording of the benefit period within the Definitions to match the expanded definition within the Table of Procedures and reissue policies to policyholders explaining the need to clarify the definition and that such clarification would not require an amended filing since the language in the Table of Procedures had been previously filed and approved.

19. In July of 2020, the Respondent sent policyholders a letter explaining the need for

a policy clarification regarding the Plan Year benefit period and matching the definition of benefit period within the Definitions to the expanded definition contained within the Table of Procedures.

20. On July 21, 2020, the Department sent an inquiry to the Respondent stating it had been made aware that changes were recently made to the Dental Plans, but such changes were not reflected in an amended form filing.

21. Unfortunately, the miscommunications and mistakes described above had not yet been discovered by the Respondent, and the Respondent incorrectly identified the issue described in the Department's inquiry as an administrative error instead of a filing error and responded to the Department as such on July 23, 2020.

22. On July 23, 2020, the Department sent an email to the Respondent stating that the Definitions within the policy filed with the Department did not contain a variable definition of the benefit period and this change should have been filed with the Department.

23. On July 24, 2020, the Respondent amended its SERFF filing and submitted filing AMFA-132471107. The updated filing matched the definition of benefit period in the Definitions to the expanded definition of benefit period used in the Table of Procedures. This filing was subsequently approved on August 10, 2020.

24. In total, seven hundred forty-five (745) policyholders were affected in Tennessee by this "benefit period" change that was not filed with or approved by the Department.

25. Respondent declares no policy holders were harmed as a result of these violations.

26. After further investigation, the Respondent discovered the underlying errors and miscommunications between its compliance and administrative areas. Pursuant to a corrective action plan, the Respondent has made several procedural and operational changes to ensure that mistakes of this nature will not occur again.

CONCLUSIONS OF LAW

27. Tenn. Code. Ann. § 56-26-102(a)(1) provides:

No policy of accident and sickness insurance for individual or small employer coverage shall be delivered or issued for delivery in this state, nor shall any endorsement, rider, certificate or application nor any initial or new premium rates on any previously approved policy, endorsement, rider, certificate or application that becomes a part of any such policy be used in connection with the policy until a copy of the form, of the premium rates, and of the classifications of risk pertaining to the policy has been filed with and approved by the commissioner. Approval of such forms, rates, and classifications may be granted in whole or in part at the discretion of the commissioner.

ORDER

NOW, THEREFORE, on the basis of the foregoing and the Respondent's waiver of the right to a hearing and appeal under Tennessee insurance law and Tennessee's Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-101 *et seq.*, and the Respondent's admission of jurisdiction of the Commissioner, the Commissioner finds that the Respondent, for the purpose of settling this matter, admits the Findings of Fact and Conclusions of Law, agrees to the entry and execution of this Consent Order, and agrees that this Consent Order is in the public interest, necessary for the protection of insureds and consistent with the purposes fairly intended by the policy and provisions of the Law.

IT IS ORDERED, pursuant to Tenn. Code Ann. § 56-26-123, that:

1. The Respondent pay a civil penalty of thirty thousand dollars (\$30,000) for the actions outlined above, as warranted by the facts and conclusions of law.

2. This Consent Order is in the public interest and in the best interests of the parties.

This Consent Order represents a compromise and settlement of the controversy between the parties and is for settlement purposes only. By the signatures affixed below, in two (2) or more

counterparts, the Respondent affirmatively states it has freely agreed to the entry and execution of this Consent Order; it has been advised that it may consult legal counsel in this matter and has had the opportunity to consult with legal counsel; it waives its right to a hearing on the matters underlying this Consent Order, to a review of the Findings of Fact and Conclusions of Law contained herein, and to objections to enforcement of this Consent Order; and no threats or promises of any kind have been made by the Commissioner, the Division, or any agent or representative thereof. The parties, by signing this Consent Order, affirmatively state their agreement to be bound by the terms of this Consent Order and aver that no promises or offers relating to the circumstances described herein, other than the terms of settlement set forth in this Consent Order, are binding upon them.

3. Nothing in this Consent Order should be construed to limit the authority of the Division or the Commissioner to take further action against the Respondent should such action, in the opinion of the Division or the Commissioner, be necessary.


4. This Consent Order may be executed in two (2) or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same document. The facsimile, email, or other electronically delivered signatures of the parties shall be deemed to constitute original signatures, and facsimile or electronic copies shall be deemed to constitute duplicate originals.

IT IS SO ORDERED.


ENTERED AND EXECUTED on November 30, 2020.


[Carter Lawrence \(Nov 30, 2020 08:26 CST\)](#)
Carter Lawrence, Commissioner
Department of Commerce and Insurance


APPROVED FOR ENTRY AND EXECUTION:



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