

BEFORE THE COMMISSIONER OF INSURANCE
OF THE STATE OF KANSAS

In the Matter of)
UNIFIED LIFE INSURANCE) Docket No.: 5012-CO
COMPANY)
NAIC # 11121)

CONSENT AGREEMENT AND FINAL ORDER
(Pursuant to K.S.A. 40-222 and K.S.A. 77-537)

The Kansas Insurance Department (“KID”) and Unified Life Insurance Company (“Unified”) submit this Consent Agreement and Final Order. Unified hereby waives any and all rights to further administrative adjudication or review of this matter, including any and all rights conferred upon it under K.S.A. 77-501 *et seq.* Pursuant to the authority conferred upon the Commissioner of Insurance in K.S.A. 40-222, Ken Selzer, CPA, the duly elected, qualified and serving Commissioner of Insurance, hereby adopts the KID’s agreement made with Unified and finds and Orders as follows:

Stipulated Findings of Fact

The parties stipulate that if a hearing were conducted in this matter, the following evidence could be offered by the Commissioner, and although neither admitted nor denied by Respondent, would be recognized as admissible to show the following:

1. Unified is domiciled in Texas and has been authorized to do business in Kansas since 2001.
2. A review of recent premium and complaint data in Kansas showed an increase in complaint volume and severity, as well as a dramatic increase in premium written in Kansas.
3. As a result of the premium and complaint data, on June 15, 2016, KID commenced a market conduct examination of short term medical policies sold to Kansas residents.

4. Health Insurance Innovations (“HII”), a third party administrator and insurance agency licensed in Kansas and domiciled in Florida, was the primary marketer of Unified policies to Kansas residents.
5. A review of policy data revealed that fifty-nine (59) certificates were sold to Kansas residents by agents who were not appointed by Unified at the time of sale.
6. Unified issued certificates of coverage to Kansas residents by virtue of membership in an association.
7. On July 26, 2016 KID agreed to suspend the full examination upon request from Unified. This request was conditionally granted, contingent upon Unified ceasing to sell through HII and the association, performing a self-audit, and cooperating with a Consent Agreement.
8. Unified ceased issuing new short term medical products in Kansas effective September 8, 2016. Certificates with existing policyholders will be maintained.
9. Unified provided a self-audit on November 30, 2016 in response to questions specific to producer licensing, claims, and complaints. The audit showed that no interest had been paid on any claims for Kansas residents. As a result, KID requested further information on claim handling procedures.
10. Unified utilized claim handling services through Allied National, Inc. (“Allied”), a licensed third party administrator domiciled in Kansas.
11. A second review of Allied claim handling procedures was completed by Unified on March 16, 2017 and demonstrated a claim backlog at Allied.

12. An inspection of those claims showed that there were no procedures in place to pay interest when due, amounting in 690 clean claims that were not paid in accordance with Kansas law.
13. KID permitted Unified to limit interest payments to only those amounting to more than \$5.00 per claim. Unified has completed these payments.

Applicable Law

1. K.S.A. 40-222(a) provides:

(a) Whenever the commissioner of insurance deems it necessary but at least once every five years, the commissioner may make, or direct to be made, a financial examination of any insurance company in the process of organization, or applying for admission or doing business in this state. In addition, at the commissioner's discretion the commissioner may make, or direct to be made, a market regulation examination of any insurance company doing business in this state.

2. K.S.A. 40-2209(f)(5) provides, in part:

(f) Group accident and health insurance may be offered to a group under the following basis:

(5) A policy issued to an association which has been organized and is maintained for the purposes other than that of obtaining insurance, insuring at least 25 members, employees, or employees of members of the association for the benefit of persons other than the association or its officers. The term "employees" shall include retired employees. The premiums for the policies shall be paid by the policyholder, either wholly from association funds, or funds contributed by the members of such association or by employees of such members or any combination thereof.

3. K.S.A. 40-2215(a) provides:

(a) No individual policy of accident and sickness insurance as defined in K.S.A. 40-2201, and amendments thereto, shall be issued or delivered to any person in this state nor shall any application, rider or endorsement be used in connection therewith, until a copy of the form thereof and of the classification of risks and the premium rates pertaining thereto, have been filed with the commissioner of insurance.

4. K.S.A. 40-2209o provides: Violations of this act shall be treated as violations of the unfair trade practices act and subject to the penalties prescribed by K.S.A. 40-2407 and 40-2411 and amendments thereto.

5. K.S.A. 40-2442 provides:

(a) Within 30 days after receipt of any claim, and amendments thereto, any insurer issuing a policy of accident and sickness insurance shall pay a clean claim for reimbursement in accordance with this section or send a written or electronic notice acknowledging receipt of and the status of the claim...

(b) If any insurer issuing a policy of accident and sickness insurance fails to comply with subsection (a), such insurer shall pay interest at the rate of 1% per month on the amount of the claim that remains unpaid 30 days after the receipt of the claim. The interest paid pursuant to this subsection shall be included in any late reimbursement without requiring the person who filed the original claim to make any additional claim for such interest...

(g) Any violation of this act by an insurer issuing a policy of accident and sickness insurance with flagrant and conscious disregard of the provisions of this act or with such frequency as to constitute a general business practice shall be considered a violation of the unfair trade practices act in K.S.A. 40-2401 et seq., and amendments thereto.

6. K.S.A. 40-2404 provides: The following are hereby defined as unfair methods of competition and unfair or deceptive acts or practices in the business of insurance:

(9) *Unfair claim settlement practices.* It is an unfair claim settlement practice if any of the following or any rules and regulations pertaining thereto are: (A) Committed flagrantly and in conscious disregard of such provisions, or (B) committed with such frequency as to indicate a general business practice...

(c) failing to adopt and implement reasonable standards for the prompt investigation of claims arising under insurance policies...

(e) failing to affirm or deny coverage of claims within a reasonable time after proof of loss statements have been completed...

(f) not attempting in good faith to effectuate prompt, fair and equitable settlements of claims in which liability has become reasonably clear.

7. K.S.A. 40-2407 provides:

(a) If, after such hearing, the commissioner shall determine that the person charged has engaged in an unfair method of competition or an unfair or deceptive act or practice, the commissioner shall render an order requiring such person to cease and desist from engaging in such method of competition, act or practice and if the act or practice is a violation of K.S.A. 40-2404, and amendments thereto, the commissioner may in the exercise of discretion order any one or more of the following:

(1) Payment of a monetary penalty of not more than \$1,000 for each and every act or violation, but not to exceed an aggregate penalty of \$10,000, unless the person knew or reasonably should have known such person was in violation of this act, in which case the penalty shall be not more than \$5,000 for each and every act or violation, but not to exceed an aggregate of \$50,000 in any six-month period.

8. K.S.A. 40-4912(a) provides:

(a) Any company authorized to transact business in this state, may, upon determining that the insurance agent is of good business reputation and, if an individual has had experience in insurance or will immediately receive a course of instruction in insurance and on the policies and policy forms of such company, appoint such insurance agent as the insurance agent of the company under the license in effect for the insurance agent. The appointment shall be made on a form prescribed by the commissioner. Such form shall be sent to the commissioner within 30 days of the date the company appoints such insurance agent...The certification fee shall not be returned for any reason, and failure of the company to certify an insurance agent within 30 working days of such insurance agent's appointment shall subject the company to a penalty of not more than \$25 per calendar day from the date the appropriate return was required from the date of appointment to the date proper certification is recorded by the insurance department.

Conclusions of Law

Based on the Findings of Fact enumerated in Paragraphs #1 through #13 and the applicable law cited above, **THE COMMISSIONER OF INSURANCE MAKES THE FOLLOWING ORDERS:**

1. The Commissioner of Insurance has jurisdiction over this matter pursuant to K.S.A. 40-222.
2. The certificates issued to Kansas residents amount to individual insurance sales under K.S.A. 40-2215(a) as the association group was improper.
3. Sales by unappointed agents violate K.S.A. 40-4912(a), requiring Unified to appoint and pay fees for agents soliciting business on its behalf.

4. Unified committed unfair claims processing and lack of oversight in violation of K.S.A. 40-2404(9) and 40-2442.
5. Unified neither admits nor denies the violations noted above.

Orders

Based on the Findings of Fact, Applicable and conclusions cited above, **IT IS ORDERED BY THE COMMISSIONER OF INSURANCE:**

1. Unified shall pay \$ 30,000 total for the above stated violations of 40-2215(a), 40-4912(a), 40-2404(9), and 40-2442, including fines, penalties and unpaid agent appointment fees.
2. The Commissioner shall retain jurisdiction over this matter to issue any orders deemed necessary.

IT IS SO ORDERED THIS 14th DAY OF June, 2017, IN THE CITY OF TOPEKA, STATE OF KANSAS.



Ken Selzer
Ken Selzer

BY:
John Wine
John Wine
Assistant Commissioner

APPROVED BY:

Tim McConville
Tim McConville
Unified Life Insurance Company
7201 W 129th St., Suite 300
Overland Park, KS 66213

Certificate of Service

The undersigned hereby certifies that she served a true and correct copy of the above and foregoing Consent Order on this 14th day of June, 2017 by email to:

Tim McConville
Unified Life Insurance Company
7201 W 129th St., Suite 300
Overland Park, KS 66213

A handwritten signature in cursive script, appearing to read "Elizabeth J. Hickert Fike", written over a horizontal line.

Elizabeth J. Hickert Fike
Staff Attorney