

LAWRENCE G. WASDEN
Attorney General

JOHN C. KEENAN
Deputy Attorney General
Idaho Department of Insurance
700 W. State St.
PO Box 83720
Boise, Idaho 83720-0043
Telephone No. (208) 334-4283
Facsimile No. (208) 334-4298
I.S.B. No. 3873

FILED *AM*
MAY 20 2015
Department of Insurance
State of Idaho

Attorneys for Idaho Department of Insurance

BEFORE THE DIRECTOR OF THE DEPARTMENT OF INSURANCE

STATE OF IDAHO

In the Matter of:

ZURICH AMERICAN INSURANCE COMPANY,

Idaho Certificate of Authority No. 3092
NAIC ID No. 16535

Docket No. 18-3033-15

CONSENT ORDER

The Idaho Department of Insurance (hereinafter "Department"), by and through its attorney of record, John C. Keenan, Deputy Attorney General, and Zurich American Insurance Company (hereinafter "ZURICH") hereby stipulate and agree as follows:

1. The Director of the Idaho Department of Insurance has jurisdiction in the state of Idaho over matters involving insurance regulation and licensing in accordance with title 41, Idaho Code.

2. ZURICH is a licensed insurance company in Idaho, holding Idaho Certificate of Authority No. 3092 since December 31, 1998. Such certificate of authority authorizes ZURICH to engage in Idaho in the business of the disability, excluding managed care, line of insurance.

ONE: DEPARTMENT RULE 6, SUBSECTION 012.01

3. Rule 18.01.06 of the rules promulgated by the Department pursuant to the Idaho Insurance Code, title 41, Idaho Code, is entitled "Rule to Implement Uniform Coverage for Newborn and Newly Adopted Children." Such rule is found in the Administrative Code at IDAPA 18.01.06. Subsection 001.02 of the rule provides that such rule "sets forth uniform requirements to be followed by health plans providing coverage to newborn and newly adopted children in accordance with Sections 41-2140, 41-2210, 41-3437, 41-3923, 41-4023 and 41-4123, Idaho Code."

4. IDAPA 18.01.06.012.01 is labeled "Notification and Payment." Paragraphs a and b of that subsection provide as follows:

a. If notice and payment of additional premium are required for dependent coverage under the health plan contract, the contract may require notice of birth, placement or adoption and payment of required premium as a condition of coverage for newborn and newly adopted children. The notification period shall be not less than sixty (60) days from the date of birth for a newborn child or, for newly adopted children, sixty (60) days from the earlier of the date of adoption or placement for adoption. The due date for payment of any additional premium, if required, shall be not less than thirty-one (31) days following receipt by the health plan member of a billing for the required premium.

b. All requirements for notice and payment of premium applied by the health plan for the enrollment of newborn or newly adopted children shall be clearly set forth in the health plan contract and provided to the health plan members in a manner reasonably calculated to provide notice to the members of the requirements.

5. ZURICH's policy form U-TA-100-B ID (03/13) filed with the Department includes the requirements for payment of any additional premium due, in accordance with the Rule cited above.

6. However, for the period from April 2, 2008, to March 25, 2013, ZURICH's policy form U-TA-100-A ID (05/07) filed with the Department failed to include notice of the thirty-one (31) day minimum period for payment of additional required premium as a condition of coverage

for newborn and newly adopted children, after the insured health plan members had received a billing from ZURICH for the additional premium due. Such failure constituted violations of IDAPA 18.01.06.012.01.a and b.

7. ZURICH neither admits nor denies violations of IDAPA 18.01.06.012.01.a and b extending over the time period of April 2, 2008, to March 25, 2013.

8. The Department acknowledges that ZURICH corrected such possible violations and was brought into compliance on March 25, 2013, with policy form U-TA-100-B ID (03/13).

9. On February 25, 2015, ZURICH provided to the Department a notarized statement representing that ZURICH had issued one policy under form U-TA-100-A ID (05/07) and that no claims were denied and no coverage was declined or rejected due to possible violations of applicable Idaho law or rule. The Department relies on such representation in entering into this Consent Order.

TWO: DEPARTMENT RULE 6, SUBSECTIONS 010.01, 011.02, and 011.05

10. Paragraph 3 above is incorporated herein by reference as if set forth in full.

11. IDAPA 18.01.06.010.02 defines the term "congenital anomaly" as:

a condition existing at or from birth that is a significant deviation from the common form or function of the body, whether caused by a hereditary or developmental defect or disease. For purposes of [Rule 18.01.06], the term significant deviation is defined to be a deviation which impairs the function of the body and includes but is not limited to the condition of cleft lip, cleft palate, webbed fingers or toes, sixth toes or fingers, or defects of metabolism and other conditions that are medically diagnosed to be congenital anomalies.

12. IDAPA 18.01.06.011, "Coverage Requirements," provides in pertinent part:

02. Coverage Requirements. Coverage of newborn and newly adopted children shall be at least equivalent to the coverage afforded other health plan members under the health plan and shall also include, but not be limited to, coverage for the medically necessary care and treatment of congenital anomalies.

....

05. Limitations on Coverage for Congenital Anomalies. A health plan may apply exclusions, requirements or benefit limitations, including cost sharing requirements, to coverage for congenital anomalies that are consistent with the requirements of this rule and no more restrictive than exclusions, requirements or benefit limitations applied to coverage for similar treatments, conditions and services provided under the health plan.

13. ZURICH's policy form U-TA-100-B ID (03/13) filed with the Department conforms with the coverage requirements cited in IDAPA Rule 18.01.06 with regard to the term "congenital anomaly."

14. However, for the period from April 2, 2008, to March 25, 2013, ZURICH's policy form U-TA-100-A ID (05/07) filed with the Department failed to define and provide coverage for congenital anomalies as provided in IDAPA Rule 18.01.06.

15. ZURICH neither admits nor denies violations of IDAPA Rule 18.01.06 relating to "congenital anomalies" extending over the time period of April 2, 2008, to March 25, 2013.

16. The Department acknowledges that ZURICH corrected such possible violations and was brought into compliance on March 25, 2013, with policy form U-TA-100-B ID (03/13).

17. On February 25, 2015, ZURICH provided to the Department a notarized statement representing that ZURICH had issued one policy under form U-TA-100-A ID (05/07) and that no claims were denied and no coverage was declined or rejected due to possible violations of applicable Idaho law or rule. The Department relies on such representation in entering into this Consent Order.

THREE: IDAHO CODE SECTION 41-2210(3)

18. Section 41-2210(3), Idaho Code, with regard to coverage of dependent children under the age of twenty-five (25), provides:

[Any] group disability insurance contract or blanket disability insurance contract delivered or issued for delivery in this state shall provide that an unmarried child

under the age of twenty-five (25) years and who receives more than one-half (1/2) of his financial support from the parent shall be permitted to remain on the parent's or parent's contract. Further, any unmarried child of any age who is medically certified as disabled and financially dependent upon the parent is permitted to remain on the parent's or parents' contract.

19. ZURICH's policy form U-TA-100-B ID (03/13) filed with the Department complies with and conforms to the requirements for coverage of dependent children under the age of twenty-five (25) years as provided under section 41-2210(3), Idaho Code.

20. However, for the period from July 1, 2009, to March 25, 2013, ZURICH's policy form U-TA-100-A ID (05/07) filed with the Department failed to provide for "coverage of dependent children under the age of twenty-five (25)" as provided under section 41-2210(3), Idaho Code.

21. ZURICH neither admits nor denies violations under section 41-2210(3), Idaho Code, relating to "coverage of dependent children under the age of twenty-five (25)" extending over the time period of July 1, 2009, to March 25, 2013.

22. The Department acknowledges that ZURICH corrected such possible violation and was brought into compliance on March 25, 2013, with policy form U-TA-100-B ID (03/13).

23. On February 25, 2015, ZURICH provided to the Department a notarized statement representing that ZURICH had issued one policy under form U-TA-100-A ID (05/07) and that no claims were denied and no coverage was declined or rejected due to possible violations of applicable Idaho law or rule. The Department relies on such representation in entering into this Consent Order.

FOUR: IDAHO CODE SECTION 41-2203(4)

24. Section 41-2203(4), Idaho Code, provides that a group disability insurance policy under which coverage of a dependent terminates at a specific age, shall include a provision,

with respect to an unmarried child who is incapable of self-sustaining employment by reason of intellectual disability or physical disability and who became so incapable prior to attainment of the limiting age and who is chiefly dependent upon such member for support and maintenance, [that coverage shall] not so terminate while the policy remains in force and the dependent remains in such condition, if the member has within thirty-one (31) days of such dependent's attainment of the limiting age submitted proof of such dependent's incapacity as described herein.

25. ZURICH's policy form U-TA-100-B ID (03/13) filed with the Department complies with and conforms to the requirements for coverage of an unmarried child who is incapable of self-sustaining employment by reason of intellectual disability or physical disability, as provided under section 41-2203(4), Idaho Code.

26. However, for the period from July 1, 2010, to March 25, 2013, ZURICH's policy form U-TA-100-A ID (05/07) filed with the Department failed to provide coverage for an unmarried child who is incapable of self-sustaining employment by reason of intellectual disability or physical disability, as provided under section 41-2203(4), Idaho Code.

27. ZURICH neither admits nor denies violations under section 41-2203(4), Idaho Code, relating to coverage for an unmarried child who is incapable of self-sustaining employment by reason of intellectual disability or physical disability, extending over the time period of July 1, 2010 to March 25, 2013.

28. The Department acknowledges that ZURICH corrected such possible violation and was brought into compliance on March 25, 2013, with policy form U-TA-100-B ID (03/13).

SANCTION

29. As a sanction for all violations referenced above, the Department and ZURICH agree that ZURICH shall pay to the Department an administrative penalty in the amount of five thousand dollars (\$5,000) by no later than thirty (30) days after the entry of the Consent Order.

30. ZURICH agrees that in the future it will comply with all requirements of the Idaho Insurance Code and rules promulgated thereunder, and specifically with all requirements relating to its policies filed with the Department.

31. ZURICH acknowledges that this is an administrative action that may be required to be reported on Department licensing applications and license renewal forms.

32. This Consent Order constitutes full and final resolution of all matters addressed herein, and the Department agrees that, upon ZURICH's execution of this Consent Order and its full compliance with all terms and conditions set forth herein and payment in full of the administrative penalty, the Department shall seek no further sanctions for the violations addressed herein.

IT IS SO AGREED.

Dated this 15th day of MAY, 2015.

ZURICH AMERICAN INSURANCE COMPANY

By: 
Printed Name: RON GRANT
Title: EUP- HEAD OF A&H

Dated this 19 day of May, 2015.

STATE OF IDAHO
DEPARTMENT OF INSURANCE

By: Weston Trexler
Weston Trexler
Bureau Chief, Product Review

IT IS SO ORDERED.

Dated this 20th day of May, 2015.

STATE OF IDAHO
DEPARTMENT OF INSURANCE

Thomas A. Donovan
THOMAS A. DONOVAN
Acting Director

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 20th day of May, 2015, I caused a true and correct copy of the foregoing CONSENT ORDER to be served upon the following by the designated means:

Zurich American Insurance Company
Attn: Patricia Chudik, Product Analyst
1400 American Lane
Schaumburg, IL 60196-1056

- first class mail
- certified mail
- hand delivery
- via facsimile

John C. Keenan
Deputy Attorney General
Idaho Department of Insurance
700 W. State Street, 3rd Floor
P.O. Box 83720
Boise, ID 83720-0043

- first class mail
- certified mail
- hand delivery
- via facsimile
- via email

Patricia Chudik