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Department of Insurance
State of Idaho
AM

Attorneys for the Department of Insurance

**BEFORE THE DIRECTOR OF THE DEPARTMENT OF INSURANCE
STATE OF IDAHO**

In the Matter of:

ARCH INSURANCE COMPANY

Idaho Certificate of Authority No. 1774
NAIC ID No. 11150

Docket No. 18-3488-18

CONSENT ORDER

COME NOW the Idaho Department of Insurance (“Department”) and ARCH INSURANCE COMPANY (“ARCH”), and hereby stipulate and agree as follows:

1. The Director of the Department (“Director”) has jurisdiction in the state of Idaho over matters involving insurance regulation, pursuant to the Idaho Insurance Code, Idaho Code § 41-101 *et seq.*

2. ARCH is a Missouri-domiciled insurer authorized to transact insurance in the state of Idaho pursuant to Idaho Certificate of Authority No. 1774, which was originally issued on April 15, 1988.

3. On or about January 9, 2009, ARCH filed with the Department group disability insurance policy form No. 05 BA0003 13 03 08 and related certificate form No. 05 BA0004 13 03 08. Such forms were filed with the Department via the System for Electronic Rate and Form Filing (“SERFF”) as SERFF No. WESA-125950260 and are collectively referred to herein as the “2009 Policy Forms.”

4. As detailed below, the 2009 Policy Forms violated the Idaho law by failing to comply with certain requirements set forth in the Idaho Insurance Code, title 41, Idaho Code, and Department rules promulgated thereunder.

5. Subsequently, ARCH filed with the Department a new group disability insurance policy form No. 05 BA152P 13 03 18 and related certificate form No. 05 BA152C 13 03 18 (“Replacement Forms”), which were accepted by the Department as of November 8, 2018. The Replacement Forms were filed with the Department as SERFF No. AICO-131583908 to replace the noncompliant 2009 Policy Forms and to correct the following violations:

Violation of Idaho Code § 41-2210(3)

6. Beginning on July 1, 2009, the effective date of an amendment by the Idaho Legislature, Idaho Code § 41-2210(3) has provided:

Any new or renewing 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 parents’ 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.

7. When the Idaho Legislature amended Idaho Code § 41-2210(3) to change certain requirements for a child to remain on a parent’s insurance policy, ARCH failed to modify its 2009 Policy Forms to conform with the change in Idaho law.

8. ARCH's use of the noncompliant 2009 Policy Forms constitutes a violation of Idaho Code § 41-2210(3), extending over the period from July 1, 2009 until November 8, 2018, the date that the Replacement Forms filed by ARCH were accepted by the Department.

Violation of Idaho Code § 41-2210A

9. Idaho Code § 41-2210A, effective as of July 1, 1983, mandates exclusion of benefits for elective abortions, unless the exclusion is waived by endorsement and payment of an additional premium at the option of the insurer.

10. The 2009 Policy Forms failed to include an exclusion of benefits for elective abortion in accordance with Idaho law.

11. ARCH's use of the 2009 Policy Forms constitutes a violation of Idaho Code § 41-2210A, extending over the period from January 9, 2009 until November 8, 2018, the date that the Replacement Forms filed by ARCH were accepted by the Department.

Violation of Idaho Code § 41-1845

12. Idaho Code § 41-1845, effective as of July 1, 2003, prohibits exclusion of medical benefits or denial of health care coverage based on an individual's non-professional participation in recreational activities.

13. The 2009 Policy Forms included exclusion of benefits for non-professional participation in certain recreational activities, contrary to Idaho Code § 41-1845.

14. ARCH's use of the 2009 Policy Forms constitutes a violation of Idaho Code § 41-1845, extending over the period from January 9, 2009 until November 8, 2018, the date that the Replacement Forms filed by ARCH were accepted by the Department.

Violation of Department Rule 6

15. Department Rule 6 is entitled "Rule to Implement Uniform Coverage for Newborn

and Newly Adopted Children.” Such rule is found in the Idaho Administrative Code at IDAPA 18.01.06, and “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.” *See*, IDAPA 18.01.06.001.02.

16. Section 18.01.06.012.01 of Department Rule 6 is labeled “Notification and Payment,” and provides in relevant part:

01. Notification and Payment.
 - 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.

17. ARCH’s 2009 Policy Forms included requirements for notification to ARCH by the covered person; however, the 2009 Policy Forms failed to include notice of requirements regarding additional premium or the timeframe for payment of such additional premium, in accordance with Department Rule 6.

18. Such failure constitutes a violation of Department Rule 6, extending over the period from January 9, 2009 until November 8, 2018, the date that the Replacement Forms filed by ARCH were accepted by the Department.

19. ARCH admits to each of the above-described violations with regard to ARCH's 2009 Policy Forms.

20. The Department acknowledges that ARCH corrected such violations as of November 8, 2018, with its Replacement Forms.

21. On November 9, 2018, ARCH provided to the Department a notarized statement representing that a total of two (2) policies were issued using the 2009 Policy Forms, and that no claims were denied, no coverages were declined, and no enrollment was terminated or declined related to any of the above violations. The Department relies on such representation in entering into this Consent Order.

SANCTION

22. As a sanction for the violations referenced above, the Department and ARCH agree that ARCH 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 this Consent Order.

23. ARCH 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 of Idaho law relating to its policies filed with the Department.

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

25. This Consent Order constitutes full and final resolution of all matters addressed herein, and the Department agrees that, upon execution of this Consent Order by ARCH and ARCH's full compliance with all terms and conditions set forth herein, the Department shall seek no further sanctions for the violation addressed herein.

DATED this 11th day of January, 2019.


ARCH INSURANCE COMPANY

By: 

Title: SVP, Deputy General Counsel

DATED this 14 day of January, 2019.

STATE OF IDAHO
DEPARTMENT OF INSURANCE



WESTON TREXLER
Bureau Chief, Product Review

IT IS SO ORDERED.

DATED this 14 day of January, 2019.

STATE OF IDAHO
DEPARTMENT OF INSURANCE



DEAN L. CAMERON
Director

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 19th day of January, 2019, I caused a true and correct, fully-executed copy of the foregoing CONSENT ORDER to be served on the following by the designated means:

Arch Insurance Company
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- first class mail
- certified mail
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Pamela Murray