

**IN THE MISSOURI DEPARTMENT OF INSURANCE,  
FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION**

<b>In Re: SUN LIFE ASSURANCE</b>	)	
<b>COMPANY OF CANADA</b>	)	<b>Case No. 140312303C</b>
<b>SERFF TRACKING NUMBER</b>	)	
<b>SNLF-129427854</b>	)	

**ORDER DISAPPROVING FORM FILING**

Upon review and consideration of the filing of Sun Life Assurance Company of Canada, SERFF Tracking Number SNLF-129427854, specifically Form 13-ADD-C-01, the Director DISAPPROVES said forms for the reasons stated below.

**FINDINGS OF FACT**

1. John M. Huff is the Director of the Department of Insurance, Financial Institutions and Professional Registration, State of Missouri (“Director” of the “Department”).
2. Sun Life Assurance Company of Canada (“Sun Life”), NAIC Number 80802, is a foreign life and health insurance company organized pursuant to the laws of the state of Michigan and transacting insurance business in this state pursuant to a Certificate of Authority issued by the Director.
3. Pursuant to §376.405,<sup>1</sup> insurance companies licensed to transact business in this state may not deliver or issue for delivery in this state a policy of group accident or group health insurance unless the form has been approved.
4. The Division of Market Regulation (the “Division”) is designated pursuant to §374.075 with the review of forms that are filed by insurance companies.
5. Sun Life filed policy forms with the Director via the System for Electronic Rate and Form Filing (“SERFF”) on February 24, 2014. The SERFF Tracking Number is SNLF-129427854 (“Filing”).
6. The Filing contains, in pertinent part, form 13-ADD-C-01, identified as the Group Accident Insurance Certificate (“Certificate”).
7. On March 7, 2014, Sun Life amended the Filing and replaced the Certificate with an amended form. When referring to the Certificate, it is the replacement form that is the subject of this Order.

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<sup>1</sup> All statutory citations are to RSMo (Supp. 2013).

8. Brackets ( [ ... ] ) within a policy form reviewed by the Division indicate that the language within the brackets may be included or excluded from the policy, or may indicate a numeric range.
9. Sun Life filed this Certificate within SERFF as a Group Health-Accidental Death and Dismemberment Policy.
10. On page 47 of the Certificate under the section titled Misstatement of Facts, the form states:

If relevant facts about [the Employer] or [Employee] relating to this insurance are not accurate:

- a fair adjustment of premium based on the true facts will be made, subject to the "Limit of Premium Refunds" section; and
- the true facts will decide whether, and in what amount, and for what duration insurance is valid under the Policy.

11. On page 8 of the Certificate under the section titled Definitions, the form states:

Dependent Child includes:

\* \* \*

If [an] [unmarried] child is age [26] or older and is:

- incapable of self-sustaining employment because of a developmental disability or physical handicap; and
- chiefly dependent on you for his/her support[.]

#### CONCLUSIONS OF LAW

12. The Director shall approve only those policy forms that are in compliance with Missouri insurance laws, and "which contain such words, phraseology, conditions, and provisions which are specific, certain and unambiguous and reasonably adequate to meet needed requirements for the protection of those insured," pursuant to §376.405.
13. The Director may disapprove a form filed with the Department, and in doing so must state the reasons for the disapproval in writing, pursuant to §376.405.

#### Sun Life's Filing Does Not Substantively Provide All Provisions Required In a Group Policy Under Section 376.426

14. Section 376.426 states in relevant part:

*No policy of group health insurance shall be delivered in this state unless it contains in substance the following provisions, or provisions which ... are more favorable...:*

\* \* \*

*(6) If the premiums or benefits vary by age, there shall be a provision specifying an equitable adjustment of premiums or of benefits, or both, to be made in the event the age of the covered person has been misstated, such provision to contain a clear statement of the method of adjustment to be used;*

\* \* \*

*(16) A provision stating that if a policy provides that coverage of a dependent child terminates upon attainment of the limiting age for dependent children specified in the policy, such policy, so long as it remains in force, shall be deemed to provide that attainment of such limiting age does not operate to terminate the hospital and medical coverage of such child while the child is and continues to be both incapable of self-sustaining employment by reason of mental or physical handicap and chiefly dependent upon the certificate holder for support and maintenance[.]*

(Emphasis added.)

15. Sun Life's Certificate is not compliant with Missouri insurance laws. Under the section titled Misstatement of Facts, Sun Life fails to substantively provide several of the required provisions from §376.426(6) and is, therefore, noncompliant for the following reasons:
  - a. The Certificate provides that if there is a misstatement of fact (which could include misstatement of age), "a fair adjustment of premium based on the true facts will be made... and the true facts will decide whether, and in what amount, and for what duration insurance is valid under the Policy." Section 376.426(6) states that, in the event of a misstatement of age, "an equitable adjustment of premiums or of benefits, or both," will be made. The Certificate does not comply with §376.426(6) in that the language is neither substantially similar to the statutory language nor is it more favorable to the insured.
  - b. The Certificate provides that if there is a misstatement of fact (which could include misstatement of age) "a fair adjustment of premium will be made;" however, the Certificate does not contain a clear statement of the method of adjustment to be used. Section 376.426(6) requires such a clear statement.

As such, the Certificate does not comply with the laws of this state as required by §376.405.

16. Sun Life's Certificate is not compliant with Missouri insurance laws. Under the section titled "Definitions," the Certificate properly provides coverage for

children who are "incapable of self-sustaining employment because of a developmental disability or physical handicap; and chiefly dependent on [the policy holder] for his/her support." However, the provision also includes the bracketed requirement that such a dependent be "unmarried." As stated above, brackets indicate that the language could be included or excluded from the provision. While the provision without the term unmarried is compliant with the requirements of §376.426(16), the addition of the term unmarried is not permissible because it would not be substantially similar to or more favorable than the statutory language. As such, the Certificate does not comply with the laws of this state as required by §376.405.

17. After review and consideration of the policy form included in the Sun Life Filing, the company has failed to demonstrate its compliance with Missouri law as enumerated herein.
18. While there may be additional reasons as to why this form does not comply with Missouri's insurance laws, the reasons stated herein are sufficient to disapprove the form.
19. Each reason stated herein for disapproval of a policy form is a separate and sufficient cause to disapprove such form.
20. Sun Life's Certificate does not comply with Missouri law. As such, said form is not in the public interest.
21. This Order is in the public interest.

**IT IS THEREFORE ORDERED** that Form 13-ADD-C-01 is hereby **DISAPPROVED**. Sun Life Assurance Company of Canada is hereby prohibited from delivering or issuing for delivery any policies of group health insurance utilizing said form.

**SO ORDERED, SIGNED AND OFFICIAL SEAL AFFIXED THIS** 22<sup>ND</sup>  
day of April, 2014.



  
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**JOHN M. HUFF**  
**DIRECTOR**

NOTICE

**TO: Sun Life Assurance Company of Canada and any unnamed persons aggrieved by this Order:**

You may request a hearing on the disapproval of this form. You may do so by filing a pleading with the Director of the Department of Insurance, Financial Institutions and Professional Registration, P.O. Box 690, Jefferson City, MO 65102, within 30 days after the mailing of this notice pursuant to 20 CSR 800-1.030.

CERTIFICATE OF SERVICE

I hereby certify that on this 22<sup>nd</sup> day of April, 2014, a copy of the foregoing Order and Notice was

Served via registered mail addressed to:

Dean A. Connor  
President  
Sun Life Assurance Company of Canada  
150 King Street West, 6th  
Toronto, Ontario, XXM5H 1J9

Served via certified mail addressed to:

Chris McAuliffe  
Compliance Consultant  
Sun Life Assurance Company of Canada  
One Sun Life Executive Park  
Wellesley Hills, MA 02481

  
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