

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

In Re: SIRIUS AMERICA)	
INSURANCE COMPANY)	
SERFF TRACKING NUMBER)	Case No. 140306279C
LWEL-129402741)	

ORDER DISAPPROVING FORM FILING

Upon review and consideration of the filing of Sirius America Insurance Company, SERFF Tracking Number LWEL-129402741, specifically Form SHLD-13-1000MO, the Deputy Director DISAPPROVES said form 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. Sirius America Insurance Company ("Sirius America"), NAIC Number 38776, is a foreign life and health insurance company organized pursuant to the laws of the state of New York and transacting insurance business in the state of Missouri pursuant to a Certificate of Authority issued by the Director.
3. Pursuant to §376.777,¹ insurance companies licensed to transact business in this state may not deliver or issue for delivery in this state a policy of accident or health insurance unless the form has been approved.
4. The Division of Market Regulation (the "Division") is designated pursuant to section 374.075 with the review of forms that are filed by insurance companies.
5. Lewis & Ellis, Inc., on behalf of Sirius America, filed policy forms with the Director via the System for Electronic Rate and Form Filing ("SERFF") on February 4, 2014. The SERFF Tracking Number is LWEL-129402741 ("Filing").
6. The Filing contains, in pertinent part, form SHLD-13-1000MO, identified as an Individual High Limit Disability Insurance Policy ("Policy").
7. Brackets ([...]) within a policy form reviewed by the Division indicate that the language within the brackets may be included or excluded from the policy form, or the brackets may indicate a numeric range.

¹All statutory citations are to RSMo (Supp. 2013) unless otherwise noted.

8. Potentially, all benefits, coverages, or terms in brackets could be included in an issued policy form.
9. Conversely, all benefits, coverages, or terms in brackets could be excluded from an issued policy.
10. On February 6, 2014, Sirius America amended the Filing and replaced the Policy with an amended form. The replacement form is the subject of this Order.
11. Sirius America filed the individual Policy within SERFF as an Individual Health Disability Income policy.
12. On page 11 of the Policy under the section titled General Provisions and the subsection titled Grace Period, the form states:

This Policy will be in force during the Policy Grace Period. If the required premiums are not paid during the Policy Grace Period, insurance will end on the last day of the last period for which the premium was paid. You are liable to Us for any unpaid premium for the time this Policy was in force.

13. On page 12 of the Policy under the section titled General Provisions and the subsection Reinstatement, the form states:

This Policy may be reinstated if it lapsed for nonpayment of premium. Requirements for reinstatement are Your written application satisfactory to Us and payment of all overdue premiums. Any premium accepted in connection with a reinstatement will be applied to the earliest period for which premium was not previously paid.

14. On page 11 of the Policy under the section titled General Provisions and the subsection Misstatement of Facts, the form states:

If You have misstated any fact, all amounts payable under this Policy will be such as the premium paid would have purchased had such fact been correctly stated.

CONCLUSIONS OF LAW

15. 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 §376.777.

16. 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 §376.777.

**Sirius America's Filing Does Not Comply Will All
Provisions Required in a Policy Under Section 376.777**

17. Section 376.777 provides in relevant part:

1. *Required provisions.* Except as provided in subsection 3 of this section *each such policy delivered or issued for delivery to any person in this state shall contain the provisions specified in this subsection in the words in which the same appear in this section[.]*

(3) *A provision* as follows: "**GRACE PERIOD:**

A grace period of . . . (insert a number not less than "7" for weekly premium policies, "10" for monthly premium policies and "31" for all other policies) days will be granted for the payment of each premium falling due after the first premium, during which grace period the policy shall continue in force."

(4) *A provision* as follows: "**REINSTATEMENT:**

If any renewal premium be not paid within the time granted the insured for payment, a subsequent acceptance of premium by the insurer or by any agent duly authorized by the insurer to accept such premium, without requiring in connection therewith an application for reinstatement, shall reinstate the policy; provided, however, that if the insurer or such agent requires an application for reinstatement and issues a conditional receipt for the premium tendered, the policy will be reinstated upon approval of such application by the insurer, or, lacking such approval, upon the forty-fifth day following the date of such conditional receipt unless the insurer has previously notified the insured in writing of its disapproval of such application. The reinstated policy shall cover only loss resulting from such accidental injury as may be sustained after the date of reinstatement and loss due to such sickness as may begin more than ten days after such date. In all other respects the insured and insurer shall have the same rights thereunder as they had under the policy immediately before the due date of the

defaulted premium, subject to any provisions endorsed hereon or attached hereto in connection with the reinstatement. Any premium accepted in connection with a reinstatement shall be applied to a period for which premium has not been previously paid, but not to any period more than sixty days prior to the date of reinstatement".

2. **Other provisions.** Except as provided in subsection 3 of this section, *no such policy delivered or issued for delivery to any person in this state shall contain provisions respecting the matters set forth below unless such provisions are in the words in which the same appear in this section*.[.]

(2) *A provision* as follows: "MISSTATEMENT OF AGE:

If the age of the insured has been misstated, all amounts payable under this policy shall be such as the premium paid would have purchased at the correct age".

(Emphasis added.)

18. Sirius America's Policy is not compliant with Missouri insurance laws. Under the section titled General Provisions and the subsection Grace Period, Sirius America states the policy will remain in force during the grace period, as required by §376.777.1(3). However, Sirius America then states "[i]f the required premiums are not paid during the Policy Grace Period, insurance will end on the last day of the last period for which the premium was paid." Section 376.777.1(3) requires the policy to stay in full force during the grace period. Because the policy is not in full force and retroactively terminates, the Policy does not meet the substantive requirements of §376.777.1(3). As such, the Policy does not comply with the laws of this state as required by §376.777.
19. Sirius America's Policy is not compliant with Missouri insurance laws. Under the section titled General Provisions and the subsection Reinstatement, Sirius America provides a portion of the required provisions within §376.777.1(4). However, Sirius America fails to accurately and completely provide the remainder of the provision from §376.777.1(4). Because Sirius America does not fully notify the insured of the required provision, the Policy does not comply with §376.777.1(4). As such, the Policy does not comply with the laws of this state as required by §376.777.
20. Sirius America's Policy is not compliant with Missouri insurance laws. Under the section titled General Provisions and the subsection titled Misstatement of Fact, the Policy provides that if there is a misstatement of fact (which could include misstatement of age) "all amounts payable...will be such as the premium paid would have purchased had such fact been correctly stated." Section 376.777.2(2) requires the provision to state "[i]f the age of the insured

has been misstated, all amounts payable under this policy shall be such as the premium paid would have purchased at the correct age." The Policy does not comply with §376.777.2(2) in that the provision does not use the same language as the statute provision nor is it more favorable to the insured. As such, the Policy does not comply with the laws of this state as required by §376.777.

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

IT IS THEREFORE ORDERED that Form SHLD-13-1000MO is hereby **DISAPPROVED**. Sirius America Insurance Company is hereby prohibited from delivering or issuing for delivery any policies of health insurance utilizing said form.

SO ORDERED, SIGNED AND OFFICIAL SEAL AFFIXED this 21st day of March, 2014.




JAMES R. McADAMS
DEPUTY DIRECTOR

NOTICE

TO: Sirius America Insurance Company and any unnamed persons aggrieved by this Order:

You may request a hearing on the disapproval of these forms. 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 21st day of March, 2014, a copy of the foregoing Order and Notice was

Served via certified mail addressed to:

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President
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