

**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. 140107024C</b> |
| <b>SERFF TRACKING NUMBER</b>     | ) |                            |
| <b>SNLF-129345620</b>            | ) |                            |

**ORDER DISAPPROVING FORM FILING**

Upon review and consideration of the filing of Sun Life Assurance Company of Canada, SERFF Tracking Number SNLF-129345620, specifically Form 13-ADD-C-01, the 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. 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 a policy form with the Director via the System for Electronic Rate and Form Filing ("SERFF") on December 19, 2013. The SERFF Tracking Number is SNLF-129345620 ("Filing").
6. The Filing contains form 13-ADD-C-01, identified as the Group Accident Insurance Certificate ("Certificate").
7. On January 3, 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 46 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 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 36 of the Certificate under the section titled Notice of Claim, the form states:

**When does written notice of claim have to be submitted?**

[Written notice of claim must be given to us no later than [90 days] after the Insured's date of loss.]

For the Accidental Death Benefit, written notice of claim must be given to us no later than [30 days] after date of death.

\* \* \*

If notice cannot be given within the applicable time period, we must be notified as soon as it is reasonably possible.

12. On page 37 of the Certificate under the section titled Payment of Benefits, the form states:

**When are benefits payable?**

Benefits are payable upon our receipt of satisfactory Proof of claim that establishes benefit eligibility according to the provisions of the Policy.

13. On page 14 of the Certificate under the section titled Eligibility, Effective Dates and Termination of [Employee] Insurance, the form states:

**When does [Employee] Insurance end?**

Your insurance under the Policy will end upon the earliest of the following:

- the date the Policy terminates;
- [the date your Employer's participation in the Trust and under the Policy is terminated];
- the date you are no longer in an Eligible Class;
- the date your class is no longer included for insurance;
- the last day for which any required premium has been paid for your insurance;
- the date you request in writing to end your insurance;
- [the date on which you attain age [80];]
- [the last day you are Actively at Work[, subject to any applicable Insurance Continuation or Portability provisions provided];]
- the date you enter active duty in any armed service during time of war, declared or undeclared[; or]
- [the date you retire; or]
- the date you die.

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

**[Dependent Child (Dependent Children) means your:**

- [unmarried] child from live birth to under age [26]

Dependent Child includes:

- [your [unmarried] step-child];
- [your grandchild [who depends on you for support];]
- [a foster child placed with you by a licensed agency];
- [a child for whom you have legal guardianship]; or
- your adopted child, including any child placed with you for adoption.

[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
- [dependent on you for [[50%] or more of his/her] support;]

that child will continue to be a Dependent Child under the Policy for as long as these conditions exist.]

### 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 §376.405.

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 §376.405.

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

17. 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;*

\* \* \*

*(8) A provision that written notice of claim must be given to the insurer within twenty days after the occurrence or commencement of any loss covered by the policy. Failure to give notice within such time shall not invalidate nor reduce any claim if it shall be shown not to have been reasonably possible to give such notice and that notice was given as soon as was reasonably possible;*

\* \* \*

*(11) A provision that all benefits payable under the policy other than benefits for loss of time shall be payable not more than thirty days after receipt of proof and that, subject to due proof of loss, all accrued benefits payable under the policy for loss of time shall be paid not less frequently than monthly during the continuance of the period for which the insurer is liable, and that any balance remaining unpaid at the termination of such period shall be paid as soon as possible after receipt of such proof;*

\* \* \*

(15) *A provision specifying the conditions under which the policy may be terminated.* Such provision shall state that except for nonpayment of the required premium or the failure to meet continued underwriting standards, *the insurer may not terminate the policy prior to the first anniversary date of the effective date of the policy* as specified therein, and a notice of any intention to terminate the policy by the insurer must be given to the policyholder at least thirty-one days prior to the effective date of the termination. *Any termination by the insurer shall be without prejudice to any expenses originating prior to the effective date of termination.* An expense will be considered incurred on the date the medical care or supply is received;

(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.)

18. Sun Life's Certificate is not compliant with Missouri insurance laws. Under the section titled Misstatement of Facts, the form provides that if there is a misstatement of fact – which could include a 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.
19. Sun Life's Certificate is not compliant with Missouri insurance laws. Under the section titled Notice of Claim, the Certificate excludes a required substantive notice provision. The Certificate does not notify the insured that failure to give notice within the time frame “shall not invalidate nor reduce any claim” if it was not reasonably possible to do so as required by §376.426(8). As such, the Certificate does not comply with the laws of this state as required by §376.405.
20. Sun Life's Certificate is not compliant with Missouri insurance laws. Under the subsection titled Payment of Benefits, the Certificate notifies the insured that benefits due will be paid upon receipt of satisfactory proof of claim.

Pursuant to §376.426(11), the provision must substantively notify the insured that payment for benefits “shall be payable not more than thirty days after receipt of proof” of claim. The Certificate’s provision does not comply with §376.426(11) in that the language is neither substantially similar to the statutory language nor is it more favorable to the insured. As such, the Certificate does not comply with the laws of this state as required by §376.405.

21. Sun Life’s Certificate is not compliant with Missouri insurance laws. Under the section titled Eligibility, Effective Dates and Termination of [Employee] Insurance, Sun Life fails to substantively provide some of the required provisions from §376.426(15) and is, therefore, noncompliant for the following reasons:
  - a. Sun Life’s Certificate fails to provide the statutory provision notifying the insured that Sun Life may not terminate the policy prior to the first anniversary date. The §376.426(15) provision is required to be substantively included within the policy.
  - b. Also, Sun Life’s Certificate fails to substantively notify the insured that “any termination by the insurer shall be without prejudice to any expenses originating prior to the effective date of termination,” as required by §376.426(15). The Certificate does not contain the required substantive provision.

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

22. Sun Life’s Certificate is not compliant with Missouri insurance laws. Under the section titled “Definitions,” the definition of dependent and the section defining dependent children who are handicapped and unable to care for themselves, are contained in two separately bracketed sections and, therefore, could be independently included or excluded from the policy. If the policy offers coverage for dependents, the policy must also offer continuing coverage for a child that “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,” as required by §376.426(16). In the event dependent coverage is offered but the second bracketed section offering continuing coverage for disabled dependents is excluded from the policy, the policy would not be in compliance with §376.426(16). As such, the Certificate does not comply with the laws of this state as required by §376.405.
23. 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.

24. 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 forms.
25. Each reason stated herein for disapproval of a policy form is a separate and sufficient cause to disapprove such form.
26. Sun Life's Certificate does not comply with Missouri law. As such, said forms are not in the public interest.
27. 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** 18<sup>th</sup>  
day of February, 2014.



  
**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 18<sup>th</sup> day of February, 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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