

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

**In Re: HUMANA)
INSURANCE COMPANY)
SERFF TRACKING NUMBER) Case No. 140130140C
ICCI-129389780)**

ORDER DISAPPROVING FORM FILING

Upon review and consideration of the filing of Humana Insurance Company, SERFF Tracking Number ICCI-129389780, specifically Forms HIC-GP-HI-POL-MO 10/13 and HIC-GP-HI-CERT-MO 10/13 the Deputy 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. Humana Insurance Company (“Humana”), NAIC Number 73288, is a foreign life and health insurance company organized pursuant to the laws of the state of Wisconsin and transacting insurance business in this state pursuant to a Certificate of Authority issued by the Director.
3. Pursuant to §376.405,¹ 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. Insurance Compliance Consultants, Inc., on behalf of Humana, filed policy forms with the Director via the System for Electronic Rate and Form Filing (“SERFF”) on January 27, 2014. The SERFF Tracking Number is ICCI-129389780 (“Filing”).
6. The Filing contains, in pertinent part, forms HIC-GP-HI-POL-MO 10/13, identified as the Group Health Hospital Indemnity Policy (“Group Policy”), and HIC-GP-HI-CERT-MO 10/13, identified as the Group Health Hospital Indemnity Insurance Certificate (“Certificate”).

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

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.
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 form.
10. Based upon the brackets within the Group Policy and Certificate, these forms could offer almost no benefits whatsoever.
11. Humana filed the Group Policy and Certificate within SERFF as a Group Health Hospital Indemnity Policy.
12. On page 3 of the Group Policy under the section titled Termination of Insurance, the Group Policy states:

If the premium is not paid when it is due or during the Grace Period, this Policy will terminate at midnight on the last day for which premium was paid. The Policyholder must pay all premiums due for the full period each Certificate is in force.

If We cancel this Policy for reasons other than the Policyholder's failure to remit premium, a written notice will be delivered to the Policyholder at least 60 days prior to the cancellation date.

13. On page 26 of the Certificate under the section titled Definitions, Humana defines Pre-existing Condition as:

[A] condition which a Physician has treated or for which a Physician has advised treatment of the Covered Person within 12 months before the Covered Person's Effective Date of Insurance. It is also one which would cause a person to seek diagnosis or care within the same 12-month period.

14. On page 4 of the Group Policy under the section titled General Provisions and the subsection titled Misstatement of Age, the Group Policy states:

If premiums for the Covered Person are based on age and the Covered Person's age has been misstated, there will be a fair adjustment of premiums based on his or her true age. If the benefits for which the Covered Person is insured are based on age and the Covered Person's age has been misstated, there will be an

adjustment of said benefit based on his or her true age. We may require satisfactory proof of age before paying any claim.

15. On page 19 of the Certificate under the section titled General Provisions and the subsection titled Misstatement of Age, the Certificate states:

If a Covered Person's age is misstated, We will adjust the Benefits payable. The Benefits will be those which We would have issued based on the correct age.

16. On page 3 of the Group Policy under the section titled Certificate, the Group Policy states "[i]f Certificates are delivered to the Policyholder, it will be the Policyholder's responsibility to deliver the Certificate to each respective Insured Person."

17. On page 14 of the Certificate under the section titled Claim Provisions and the subsection titled Notice of Claim, the Certificate states:

Written notice of claim must be given to Us within 20 days after the date of a loss. If that is not possible, We must be notified as soon as it is reasonably possible to do so.

18. On page 14 of the Certificate under the section titled Claim Provisions and the subsection titled Proof of Loss, the Certificate states:

Proof of Loss must be given to Us within 90 days after a loss occurs or starts.

If it is not possible to give proof within this time limit, it must be given as soon as reasonably possible. Proof of Loss may not be given later than one year after the time such proof is otherwise required, except if the individual is legally unable to provide it.

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

We will pay Benefits when We receive Proof of Loss acceptable to Us. Benefits are subject to the Benefit Conditions, Limitations and Exclusions.

20. On page 18 of the Certificate under the bracketed section Termination of Insurance-Covered Persons, the Certificate states:

Subject to the [Waiver of Premium] [and Portability] provision[s], all insurance ends on the earliest of the following dates:

- [Your retirement;]
- the Maximum Age shown on the Insuring Information [except that if You remain Actively At Work You may continue the coverage];
- the end of the Grace Period, if Premium for this coverage is not paid;
- the end of the [Calendar Month] when the Covered Person is no longer Eligible;
- the Policy's termination date;
- the end of the [Calendar Month] when We receive a request to end this insurance;
- [the date that a Spouse reaches the maximum age showing on the Insuring Information page;
- [the date that a Child reaches Age [19-26]; [or]
- Your death.

When Your coverage ends, insurance on other persons covered by this Certificate will also end.

Termination of insurance on a Covered Person or of the Policy is without prejudice to claims that occur or start prior to the date of termination.]

21. On page 23 of the Certificate under the section titled Definitions, Humana defines Covered Dependent as:

- a) Your spouse, unless divorced or legally separated from You;
- b) Your [unmarried] Child(ren) who are less than age [19-26] and [primarily dependent on You for support and maintenance];
- c) Your [unmarried] Child(ren) who are at least age [19-26] but less than age [19-26] who:
 - 1) regularly attend an institution of learning; and
 - 2) are primarily dependent on You for support and maintenance.
- d) Your [unmarried] Child(ren) who are at least age [19-26] who are chiefly dependent on You for support and are incapable of self-sustaining employment due to mental incapacity or physical handicap. You must furnish Us with proof of mental incapacity or physical handicap within 31 days after the Child's eligibility would otherwise end. Thereafter, We may require proof, but not more frequently than annually.

CONCLUSIONS OF LAW

22. 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.
23. 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.

Humana’s Filing Does Not Substantively Provide All Provisions Required In All Group Policies Under Section 376.426

24. 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...:

(1) *A provision that the policyholder is entitled to a grace period of thirty-one days for the payment of any premium due except the first, during which grace period the policy shall continue in force*, unless the policyholder shall have given the insurer written notice of discontinuance in advance of the date of discontinuance and in accordance with the terms of the policy. The policy may provide that the policyholder shall be liable to the insurer for the payment of a pro rata premium for the time the policy was in force during such grace period;

* * *

(5) *A provision specifying the additional exclusions or limitations, if any, applicable under the policy with respect to a disease or physical condition of a person*, not otherwise excluded from the person's coverage by name or specific description effective on the date of the person's loss, *which existed prior to the effective date of the person's coverage under the policy. Any such exclusion or limitation may only apply to a disease or physical condition for which medical advice or treatment was received by the person during the twelve months prior to the effective date of the person's coverage....;*

(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;*

(7) *A provision that the insurer shall issue to the policyholder, for delivery to each person insured, a certificate setting forth a statement as to the insurance protection to which that person is entitled, to whom the insurance benefits are payable, and a statement as to any family member's or dependent's coverage;*

(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;*

* * *

(10) *A provision that in the case of claim for loss of time for disability, written proof of such loss must be furnished to the insurer within ninety days after the commencement of the period for which the insurer is liable, and that subsequent written proofs of the continuance of such disability must be furnished to the insurer at such intervals as the insurer may reasonably require, and that in the case of claim for any other loss, written proof of such loss must be furnished to the insurer within ninety days after the date of such loss. Failure to furnish such proof within such time shall not invalidate nor reduce any claim if it was not reasonably possible to furnish such proof within such time, provided such proof is furnished as soon as reasonably possible and in no event, except in the absence of legal capacity of the claimant, later than one year from the time proof is otherwise required;*

(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*. Proof of such incapacity and dependency must be furnished to the insurer by the certificate holder at least thirty-one days after the child's attainment of the limiting age. The insurer may require at reasonable intervals during the two years following the child's attainment of the limiting age subsequent proof of the child's incapacity and dependency...;

(17) *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, until the dependent child attains the limiting age, shall remain in force at the option of the certificate holder. *Eligibility for continued coverage shall be established where the dependent child is:*

- (a) *Unmarried and no more than that twenty-five years of age;* and
- (b) A resident of this state; and
- (c) Not provided coverage as a named subscriber, insured, enrollee, or covered person under any group or individual health benefit plan, or entitled to benefits under Title XVIII of the Social Security Act[.]

(Emphasis added.)

25. Humana's Group Policy is not compliant with Missouri insurance laws. Under the section titled Termination of Insurance, the Group Policy states "[i]f the premium is not paid when it is due or during the Grace Period, this Policy will terminate at midnight on the last day for which premium was paid." Section 376.426(1) requires the policy to stay in full force during the grace period. The Group Policy does not stay in full force during the Grace Period because the policy ends the last day of the month for which the premium was paid. Because the policy is not in full force and retroactively terminates, the Group Policy does not meet the substantive requirements of §376.426(1). As such, the Group Policy does not comply with the laws of this state as required by §376.405.
26. Humana's Certificate is not compliant with Missouri insurance laws. Under the section titled Definitions, Humana defines preexisting conditions to include conditions, "which would cause a person to seek diagnosis or care within the same 12-months period." Section 376.426(5) defines a pre-existing condition as "one for which the insured received medical advice or treatment; it does not say that the insured should have sought diagnosis or care. The Certificate's definition does not comply with §376.426(5) 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.
27. Neither Humana's Group Policy nor its Certificate is compliant with Missouri insurance laws. Under the section titled General Provisions, the Group Policy provides that if there is a misstatement of age "there will be a fair adjustment of premiums based on his or her true age" and the Certificate provides "[i]f a Covered Person's age is misstated, We will adjust the Benefits payable;" however, neither the Group Policy nor the Certificate contain a clear statement of the method of adjustment to be used. Section 376.426(6) requires such a clear statement. As such, the Group Policy and Certificate do not comply with the laws of this state as required by §376.405.
28. Humana's Group Policy is not compliant with Missouri insurance laws. Under the section titled Certificate, Humana states "[i]f Certificates are delivered to the Policyholder." Section 376.426(7) requires all group policies to contain a provision that a certificate of coverage shall be issued to the policyholder for delivery to each person insured. Because a Certificate must be issued to the policyholder for delivery, but Humana does not provide such certainty by using the term "if," the Group Policy provision is neither substantially similar to the statutory language nor more favorable to the insured. As such, the Group Policy does not comply with the laws of this state as required by §376.405.
29. Humana's Certificate is not compliant with Missouri insurance laws. Under the section titled Claim Provisions and the subsection titled Notice of Claim,

Humana provides that written notice of claim must be given to it within 20 days. However, the Certificate does not substantively provide a statement notifying the insured that “failure to give notice within such time shall not invalidate nor reduce any claim,” as required by §376.426(8). As such, the Certificate does not comply with the laws of this state as required by §376.405.

30. Humana’s Certificate is not compliant with Missouri insurance laws. Under the section titled Claim Provisions and the subsection titled Proof of Loss, Humana provides proof of loss must “not be given later than one year after the time such proof is otherwise required, except if the individual is legally unable to provide it.” Section 376.426(10) requires proof of loss to be given within one year “except in the absence of legal capacity.” Humana’s provision is neither substantially similar to nor more favorable than the requirements of §376.426(10) in that the reason for untimely notice need only be due to the absence of legal capacity, not whether or not the individual was legally unable to provide such proof. As such, the Certificate does not comply with the laws of this state as required by §376.405.
31. Humana’s Certificate is not compliant with Missouri insurance laws. Under the section titled Payment of Benefits, Humana provides that benefits will be payable “when We receive Proof of Loss acceptable to Us.” The Certificate does not substantively provide that the claim will be paid within thirty days, as required by §376.426(11). As such, Certificate does not comply with the laws of this state as required by §376.405.
32. Neither Humana’s Group Policy nor its Certificate is compliant with Missouri insurance laws. Under the termination-of-insurance sections, Humana notifies the insured of when the policy may be terminated by the insurer. However, Humana does not provide notice to the insured that the insurer may not terminate the policy prior to the first anniversary of the effective date of the policy; §376.426(15) requires such a notice statement. As such, the Group Policy and Certificate do not comply with the laws of this state as required by §376.405.
33. Humana’s Certificate is not compliant with Missouri insurance laws. Section 376.426(16) states coverage for a dependent child will continue in force while the child remains “both incapable of self-sustaining employment by reason of mental or physical handicap and chiefly dependent upon the certificate holder for support and maintenance.” Under the section titled Definitions, Humana fails to substantively provide several of the required provisions from §376.426(16) and is, therefore, noncompliant for the following reasons:
 - a. Humana’s Certificate states a Covered Dependent must be unmarried and “chiefly dependent on You for support and are incapable of self-sustaining employment due to mental incapacity or physical

handicap.” Section 376.426(16) does not provide that a handicapped dependent must remain unmarried. Because the Certificate adds the requirement that the handicapped dependent be unmarried, the language is not substantially similar to nor more favorable to the insured than §376.426(16).

- b. Humana’s Certificate provides that Covered Dependent includes “[c]hild(ren) who are at least age [19-26]...who are...incapable of self-sustaining employment due to mental incapacity or physical handicap.” Section 376.426(16) requires the insurer to continue coverage for a dependent child beyond a limiting age for the reasons stated above. The Certificate does not comply with §376.426(16) because coverage for a handicapped dependent child terminates at a limiting age.

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

34. Humana’s Certificate is not compliant with Missouri insurance laws. Under the section titled Definitions, Humana fails to substantively provide several of the required provisions from §376.426(17) and is, therefore, noncompliant for the following reasons:

- a. The Certificate provides dependent children must be less than age [19-26]. Section 376.426(17) defines a dependent child as one not older than twenty-five. Because the Group Policy and Certificate have a dependent age range that includes ages younger than 25, it does not substantively provide the requirements of §376.426(17).
- b. The Certificate provides a Covered Dependent must be “primarily dependent on [the insured] for support and maintenance.” Section 376.426(17) does not provide that a child must remain primarily dependent on the insured. Because the Certificate adds the requirement that the dependent child be primarily dependent on the insured, the language is not substantially similar to nor more favorable than §376.426(17).
- c. The Certificate provides a Covered Dependent must “regularly attend an institution of learning.” Section 376.426(17) does not provide that a child must attend an institution of learning. Because the Certificate adds the requirement that the dependent child attend an institution of learning, the language is not substantially similar to nor more favorable than §376.426(17).

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

35. After review and consideration of the policy forms included in the Humana Filing, the company has failed to demonstrate its compliance with Missouri law as enumerated herein.
36. While there may be additional reasons as to why these policy forms do not comply with Missouri's insurance laws, the reasons stated herein are sufficient to disapprove the forms.
37. Each reason stated herein for disapproval of a policy form is a separate and sufficient cause to disapprove such form.
38. Humana's Policy and Certificate do not comply with Missouri law. As such, said forms are not in the public interest.
39. This Order is in the public interest.

IT IS THEREFORE ORDERED that Forms HIC-GP-HI-POL-MO 10/13 and HIC-GP-HI-CERT-MO 10/13 are hereby **DISAPPROVED**. Humana Insurance Company is hereby prohibited from delivering or issuing for delivery any policies of group health insurance utilizing said forms.

SO ORDERED, SIGNED AND OFFICIAL SEAL AFFIXED THIS 7th
day of March, 2014.



JAMES R. McADAMS
DEPUTY DIRECTOR



NOTICE

TO: Humana 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 10th day of March, 2014, a copy of the foregoing Order and Notice was

1) Served via certified mail addressed to:

Bruce D. Broussard
President
Humana Insurance Company
500 West Main Street
Louisville, KY 40202

Brenda Dawson
Authorized Representative
Insurance Compliance Consultants, Inc.
3925 East State Street, Suite 200
Rockford, IL 61108


