

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

**In Re: AETNA LIFE)
INSURANCE COMPANY)
SERFF TRACKING NUMBER) Case No. 140402373C
AENX-G129473497)**

ORDER DISAPPROVING FORM FILING

Upon review and consideration of the filing of Aetna Life Insurance Company, SERFF Tracking Number AENX-G129473497, specifically Forms GR-96134-MO ED. 2-14 and GR-96134-A1 ED. 2-14, 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. Aetna Life Insurance Company ("Aetna"), NAIC Number 60054, is a foreign life and health insurance company organized pursuant to the laws of the state of Connecticut and transacting insurance business in this state pursuant to a Group Policy 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. Aetna filed the policy forms with the Director via the System for Electronic Rate and Form Filing ("SERFF") on March 26, 2014. The SERFF Tracking Number is AENX-G129473497 ("Filing").
6. The Filing contains forms GR-96134-MO ED. 2-14, titled Student Health Policy ("Group Policy") and GR-96134-A1 ED. 2-14, identified as a Blanket Amendment ("Amendment").
7. Brackets ([...]) within a 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.

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

8. Potentially, all benefits, coverages, or terms in brackets could be included in an issued form.
9. Conversely, all benefits, coverages, or terms in brackets could be excluded from an issued form.
10. Aetna filed the Group Policy within SERFF as Group Health-Blanket Accident and Sickness Policy.
11. On page 244 of the Group Policy under the section titled Coverage, and the subsection titled Supplemental Accident Medical Benefits, the form states:

[Exclusions:

The following exclusion applies to coverage provided under the Supplemental Accident Medical Benefits:

- Expenses incurred for treatment of a **pre-existing condition** as defined in this section.]

Pre-existing condition means expenses incurred by a **covered person** as a result of a **preexisting condition** will not be considered **covered medical expense** unless (a) no charges are incurred or treatment rendered for the condition for a period of six months while covered under this Policy; or (b) the **covered person** has been covered under this Policy for six consecutive months; or (c) the **covered person** has been covered under another Student Accident or Student Accident and Sickness policy immediately prior to becoming a **covered person** under this policy.

(Emphasis in original.)

12. On page 145 of the Group Policy under the section titled General Provisions and the subsection titled [Misstatement] of Age, the form states:

If the age of the insured has been misstated, all amounts payable under this Policy shall be equal to the amount that the premium paid would have been, if purchased at the actual age when this Policy was issued.
13. Nowhere within the Group Policy is there a provision stating that Aetna will 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.

14. On page 137 of the Group Policy under the section titled Termination of Coverage, Extension of Benefits, Continuation and the bracketed subsection titled Termination of Dependent Coverage, the form states:

Insurance for a **covered student's dependent** will end when insurance for the **covered student** ends. Before then; coverage will end:

(a) For a child; on the first premium due date following the first to occur of:

* * *

(3) the child's [19th -26th] birthday[.]

(Emphasis in original.)

15. On page 137 of the Group Policy under the section titled Termination of Coverage, Extension of Benefits, Continuation and the bracketed subsection titled Incapacitated Dependent Children, the form states:

Insurance may be continued for incapacitated **dependent** children who reach the age at which insurance would otherwise cease. The **dependent** child must be chiefly dependent for support upon the **covered student** and be incapable of self-sustaining employment because of mental or physical disability.

(Emphasis in original.)

16. The Amendment is essentially a blank form, in fact a substantially blank page, containing almost no language, other than brackets where policy language could be inserted, and which the company admits will be used with the Policy.
17. The company would not issue a form that only contains brackets but no policy language unless it intended to later insert policy language into the form.

CONCLUSIONS OF LAW

18. 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.
19. 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.

**Aetna's Filing Does Not Substantively Provide All Provisions Required
In All Group Policies Under Section 376.426**

20. 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...:

* * *

(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;*

* * *

(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. After such two-year period, the insurer may require subsequent proof not more than once each year...[:]

(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.)

21. "Specific" is defined as "precisely formulated or restricted; definite; explicit; of an exact or particular nature."² "Certain" is defined as "ascertained; precise; identified; settled; exact; definitive; clearly known; unambiguous..."³ "An ambiguity exists when there is duplicity, indistinctness, or uncertainty in the meaning of the language in the policy. Language is ambiguous if it is reasonably open to different constructions."⁴
22. Aetna's Group Policy is not compliant with Missouri insurance laws. Under the section titled Coverage, the Group Policy is noncompliant with §376.426(5) for the following reasons:
 - a. The Group Policy provides that a "[p]re-existing condition means expenses incurred by a **covered person** as a result of a **preexisting condition**[" but does not further define pre-existing condition. In the event pre-existing condition, as used in the Group Policy, meant "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," are required by §376.426(5), it would be acceptable. However, the term is only defined by itself, if

² *Black's Law Dictionary* 1398 (6th ed., West 1990)

³ *Id.* at 225.

⁴ *Seeck v. Geico Gen. Ins. Co.*, 212 S.W. 3d 129, 132 (Mo. banc 2007).

at all, and, therefore, is not definite, clearly known, or distinct. As such, the Group Policy uses words, phraseology, conditions, and provisions which are not specific, certain and unambiguous and reasonably adequate to meet needed requirements for the protection of those insured as required by §376.405.

- b. The Group Policy includes within the scope of pre-existing conditions, "expenses incurred by a **covered person** as a result of a **preexisting condition.**" Section 376.426(5) defines a pre-existing condition as "one for which the insured received medical advice or treatment"; it should not include every situation where the insured merely incurred expense. The Group Policy 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 Group Policy does not comply with the laws of this state as required by §376.405.

23. Aetna's Group Policy is not compliant with Missouri insurance laws. Under the section titled General Provisions and the subsection titled [Misstatement] of Age, the form provides that if there is a misstatement of age "all amounts payable under this Policy shall be equal to the amount that the premium paid would have been, if purchased at the actual age when this Policy was issued;" however, the Group Policy 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 Group Policy does not comply with the laws of this state as required by §376.405.
24. Aetna's Group Policy is not compliant with Missouri insurance laws. Section 376.426(7) requires all group policies to contain a provision that a certificate of coverage will be issued to the policyholder for delivery to each person insured. The Group Policy does not contain the required provision. As such, the Group Policy does not comply with the laws of this state as required by §376.405.
25. Aetna's Group Policy is not compliant with Missouri insurance laws. Under the bracketed subsection titled Termination of Dependent Coverage, the form provides coverage for dependent children. In the immediately subsequent bracketed subsection titled Incapacitated Dependent Children, the form provides an adequate definition of incapacitated dependent children. Because both provisions are in separate, bracketed sections, each could be independently included or excluded from the policy. If the policy offers coverage of 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 incapacitated dependents is excluded from the policy, the policy would not be in compliance with §376.426(16). As such, the Group Policy does not comply with the laws of this state as required by §376.405.

26. Aetna's Group Policy is not compliant with Missouri insurance laws. Under the section titled Termination of Coverage, Extension of Benefits, Continuation and the bracketed subsection titled Termination of Dependent Coverage, the Group Policy provides that dependent children coverage terminates on "the child's [19th-26th] birthday[.]" Section 376.426(17) defines a dependent child as one not older than twenty-five. While a provision providing coverage for dependent children through age 25 would be compliant with §376.426(17), discontinuing coverage prior to such an age is not permissible. Because Aetna's Group Policy has a dependent age range that includes ages younger than 25, it does not substantively provide the requirements of §376.426(17). As such, the Group Policy does not comply with the laws of this state as required by §376.405.

Aetna's Amendment is a Blank Form

27. Aetna's Amendment is not compliant with Missouri insurance laws. The Amendment was submitted as brackets with almost no language, which would later be filled in by the company. The Amendment is noncompliant for the following specific reasons:
 - a. Insurers are only allowed to provide policies of individual health insurance to insureds that have been approved by the Director. By submitting an almost blank form for approval and then later modifying that form, Aetna is attempting to avoid the review process provided in §376.405 to protect insureds. Further, by later modifying a form that had been previously submitted, Aetna would be providing an unsubmitted and unapproved form to insureds in violation of §376.405.
 - b. Because this form contains no substantive content as submitted, the provisions at the time of review are not specific, certain, or unambiguous.
 - c. Because this form contains no language for the Director to review as submitted, it is per se noncompliant with Missouri law. Regardless of the language Aetna later places in the form, because that language will not have received the Director's statutory review, the provisions are not reasonably adequate to meet the needed requirements of the insureds.

For these reasons the Amendment uses word, phraseology, conditions, and provisions which are not specific, certain and unambiguous and reasonably adequate to meet needed requirements for the protection of those insured as required by 376.405. As such, the Amendment does not comply with the laws of this state as required by §376.405.

28. After review and consideration of the forms included in the Aetna Filing, the company has failed to demonstrate its compliance with Missouri law as enumerated herein.
29. While there may be additional reasons as to why these forms do not comply with Missouri's insurance laws, the reasons stated herein are sufficient to disapprove the forms.
30. Each reason stated herein for disapproval of a form is a separate and sufficient cause to disapprove such form.
31. Aetna's Group Policy and Amendment do not comply with Missouri law. As such, said forms are not in the public interest.
32. This Order is in the public interest.

IT IS THEREFORE ORDERED that Forms GR-96134-MO ED. 2-14 and GR-96134-A1 ED. 2-14 are hereby **DISAPPROVED**. Aetna Life 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 9714
day of May, 2014.


JOHN M. HUFF
DIRECTOR



NOTICE

TO: Aetna Life 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.

GROUP POLICY OF SERVICE

I hereby certify that on this 9th day of May, 2014, a copy of the foregoing Order and Notice was

1) Served via certified mail addressed to:

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