

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

**In Re: ASSURITY LIFE)
INSURANCE COMPANY)
SERFF TRACKING NUMBER) Case No. 140611501C
SEFL-129566833)**

ORDER DISAPPROVING FORM FILING

Upon review and consideration of the filing of Assurity Life Insurance Company, SERFF Tracking Number SEFL-129566833, specifically Forms G H1230CT (MO), R G1248CT, R G1249CT, R G1250CT (MO) and R G1252CT, 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. Assurity Life Insurance Company ("Assurity"), NAIC Number 71439, is a foreign life and health insurance company organized pursuant to the laws of the state of Nebraska 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. Assurity filed forms with the Director via the System for Electronic Rate and Form Filing ("SERFF") on May 29, 2014. The SERFF Tracking Number is SEFL-129566833 ("Filing").
6. The Filing contains, in pertinent part, form R G1248CT, identified as the First Hospital Admission Certificate Rider; form R G1249CT, identified as the Initial Hospitalization Lump Sum Certificate Rider; form R G1250CT (MO) identified as the Intensive Care Unit Certificate Rider; and R G1252CT, identified as the Private Duty Nurse Certificate Rider (hereinafter collectively referred to as the "Riders"); and form G H1230CT (MO), identified as the Hospital Indemnity Certificate of Insurance ("Certificate").

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

7. Assurity filed the Certificate within SERFF as a Group Health – Hospital Indemnity Policy.
8. On June 9, 2014, Assurity amended the Filing and replaced the Certificate with an amended form. The replacement form, along with the Riders, are the subject of this Order.
9. On page 5 of the Certificate under the section titled Definitions, Assurity defines pre-existing condition as:

[A] Sickness or physical condition for which, during the 12 months before the Issue Date, an Insured Person (a) had symptoms which would cause an ordinary prudent person to seek diagnosis, care or treatment or (b) received medical consultation, diagnosis, advice or treatment from a Physician or had taken prescribed medication.

10. On page 10 of the Certificate under the section titled General Provisions and the subsection titled Misstatement of Age, the form states:

If the age of any Insured Person has been misstated, an adjustment in premiums, coverage, or both, will be made based on the Insured Person's correct age. If, according to the correct age, the coverage provided would not have become effective, or would have ceased, Our only liability during the period in which the Insured Person was not eligible for coverage, shall be limited to the refund, upon written request to Our administrative office, of premiums paid for such period.

11. On page 8 of the Certificate under the section titled Claim Procedures and the subsection titled Notice of Claim, the form states:

Written notice of claim must be given to Us within 20 calendar days after a loss covered by this Certificate occurs, or as soon as reasonably possible, subject to the Proof of Loss section. Notice must be given to Us at Assurity Life Insurance Company, P.O. Box 82533, Lincoln, Nebraska 68501-2533. The notice should include the Insured Person's name and Certificate number as shown on the Certificate Schedule. Notice should also include the name and address of the individual submitting the notice along with a description of their relationship to the Insured Person, if different, and a statement that payment of a claim is being requested.

12. On page 8 of the Certificate under the section titled Claim Procedures and the subsection titled Proof of Loss, the form states:

Written proof of loss satisfactory to Us must be given to Us within 120 calendar days after such loss. If it is not possible to give written proof in the time required, We will not reduce or deny the claim for this reason if such proof is filed as soon as reasonably possible. In any event, the proof required must be given to Us no later than one year after proof of loss is due unless You are legally incapacitated.

13. On page 8 of the Certificate under the section titled Claim Procedures and the subsection titled Time of Payment of Claim, the form states:

Benefits for any loss covered by this Certificate will be paid within 30 days after We receive written proof satisfactory to Us and all other provisions herein are met.

14. On page 8 of the Certificate under the section titled Termination, the form lists the conditions for which the policy may be terminated.

15. Nowhere within the Certificate is there a provision notifying the insured that the termination of the policy shall be without prejudice to any expenses originating prior to the effective date of termination.

16. The Riders contain provisions under the sections titled Termination that list when coverage can be terminated and the forms state:

Coverage will terminate and no benefits will be payable on the earliest of the following:

- the date the Certificate terminates for any reason;
- when any premium due for this rider is not paid before the end of the Grace Period; or
- the date We receive written notice to terminate this rider unless the notice specifies a later date.

17. Nowhere within the Riders is there a provision notifying the insured that the termination of the policy shall be without prejudice to any expenses originating prior to the effective date of termination.

18. On page 8 of the Certificate under the section titled Termination and the subsection titled Termination of Child Coverage, the form states:

The attainment of the limiting age for an eligible Dependent Child will not cause coverage to terminate while such child continues to be both:

- incapable of self-sustaining employment by reason of mental or physical handicap; and
- chiefly dependent on You for support and maintenance. For the purposes of this provision, "chiefly dependent" means the eligible Dependent Child receives the majority of his or her financial support from You.

19. On page 4 of the Certificate under the section titled Definitions, Assurity defines Dependent Child(ren) as "any child who is (a) unmarried, (b) younger than age 26 and (c) for whom You or Your Spouse is required to provide coverage."

CONCLUSIONS OF LAW

20. 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.
21. 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.

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

22. 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;

* * *

(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. 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.)

23. Assurity's Certificate is not compliant with Missouri insurance laws. Under the section titled Definitions, the Certificate fails to comply with the required provisions of §376.426(5) and is noncompliant for the following reasons:
- a. The Certificate defines preexisting conditions to include symptoms that "would cause an ordinary prudent person to seek diagnosis, care or treatment[.]" Section 376.426(5) defines a pre-existing condition as one for which the insured received medical advice or treatment; it does not include conditions for which the insured should have sought diagnosis, care or treatment. 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.
 - b. The Certificate defines preexisting conditions to include conditions which the insured "had been prescribed medication." 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 took medication. 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.

24. Assurity's Certificate does not comply with Missouri insurance laws. Under the subsection titled Misstatement of Age, the Certificate provides that if there is a misstatement of age "an adjustment in premiums, coverage, or both, will be made based on the Insured Person's correct age[;]" 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.
25. Assurity's Certificate is not compliant with Missouri insurance laws. Under the subsection titled Notice of Claim, the Certificate excludes a required substantive notice provision. The form 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.
26. Assurity's Certificate is not compliant with Missouri insurance laws. Under the subsection Proof of Loss, the Certificate provides that "[w]ritten proof of loss satisfactory to US must be given to US within 120 calendar days[.]"

While the Certificate provides a more favorable time frame to provide proof than §376.426(10), it requires written proof that is satisfactory to Assurity. Pursuant to §376.426(10), "written proof of such loss must be furnished to the insurer" is all that is required. The Certificate's provision does not comply with §376.426(10) 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. Assurity's Certificate is not compliant with Missouri insurance laws. Under the subsection titled Time of Payment of Claim, the Certificate notifies the insured that benefits "will be paid within 30 days after We receive written proof satisfactory to Us and all other provisions herein are met." 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.
28. Neither Assurity's Certificate nor its Riders are compliant with Missouri insurance laws. Under the sections titled Termination, the Certificate and Riders state the conditions for which the policy may be terminated. However, both the Certificate and Riders fail to substantively notify the insured that "[a]ny 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). Because neither the Certificate nor the Riders substantively include such a statement, none are in compliance with §376.426(15). As such, the Certificate and the Riders do not comply with the laws of this state as required by §376.405.
29. Assurity's Certificate is not compliant with Missouri insurance laws. Under the subsection titled Termination of Child Coverage, the Certificate provides that coverage for a dependent child will not terminate while the child is "incapable of self-sustaining employment by reason of mental or physical handicap; and chiefly dependent on You for support and maintenance." Further, the provision defines chiefly dependent as one who "receives the majority of his or her financial support from You." 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). Because the Certificate adds the requirement that the dependent child must "receive[] the majority of his or her financial support" from the insured, 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.

30. Assurity's Certificate is not compliant with Missouri insurance laws. Assurity defines dependent as one to whom the insured "is required to provide coverage." Section 376.426(17) does not provide such a restriction. Because the Certificate adds the requirement that the insured be required to provide coverage in order for the dependent to be eligible for coverage, the language is not substantially similar to nor more favorable than §376.426(17). As such, the Certificate is not compliant with the laws of this state as required by §376.405.
31. After review and consideration of the forms included in the Assurity Filing, the company has failed to demonstrate its compliance with Missouri law as enumerated herein.
32. While there may be additional reasons as to why the forms do not comply with Missouri's insurance laws, the reasons stated herein are sufficient to disapprove the forms.
33. Each reason stated herein for disapproval of the forms is a separate and sufficient cause to disapprove such forms.
34. Assurity's Certificate and Riders do not comply with Missouri law. As such, said forms are not in the public interest.
35. This Order is in the public interest.

IT IS THEREFORE ORDERED that Forms G H1230CT (MO), R G1248CT, R G1249CT, R G1250CT (MO) and R G1252CT are hereby **DISAPPROVED**. Assurity 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 11TH day of July, 2014.



JOHN M. HUFF
DIRECTOR



NOTICE

TO: Assurity 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.

CERTIFICATE OF SERVICE

I hereby certify that on this 11th day of July, 2014, a copy of the foregoing Order and Notice was

1) Served via certified mail addressed to:

Thomas E. Henning
President
Assurity Life Insurance Company
2000 Q St.
Lincoln, NE 68503

Kristi Hendrickson
Policy Filing Specialist
Assurity Life Insurance Company
P.O. Box 82533
Lincoln, NE 68501

Amy Leele