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

In Re: COVENTRY HEALTH AND LIFE INSURANCE COMPANY SERFF TRACKING NUMBER GHPI-128623468	))))	**Case No. 121116606C**

ORDER DISAPPROVING FORM FILING

Upon review and consideration of the filing of Coventry Health and Life Insurance Company, SERFF Tracking Number GHPI-128623468, specifically Form MOWPINDPPOCHL, 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.

2. Coventry Health and Life Insurance Company ("Coventry"), NAIC Number 81973, is a foreign life and health insurance company organized pursuant to the laws of the state of Delaware 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 individual accident or individual health insurance unless the form has been approved.

4. The Missouri General Assembly overrode the Governor's veto of CCS HCS SS SB 749 ("SB 749") on September 12, 2012 and thereby enacted new requirements for health insurance policies and forms under §376.1199.[2]

5. Coventry filed forms with the Director via the System for Electronic Rate and Form Filing ("SERFF") on August 08, 2012. The SERFF Tracking Number is GHPI-128623468 ("Filing"). The Filing was subsequently amended on September 14, 2012.

6. The Filing contains Form Number MOWPINDPPOCHL, titled "Preventive Rider" ("Preventive Rider").

[1] RSMo (2000).
[2] RSMo (Supp. 2012).

7. The Preventive Rider will be used with two Certificates of Coverage for Coventry Individual Plans, which are forms "MO_ PPOIND10_CHL" and "MO_PPO_IND_ND_COC_0104_CHL" (collectively "COCs" or the "Plan(s)").
8. These COCs were filed and approved prior to the enactment of SB 749.

9. The Preventive Rider provides benefits for preventive services as outlined in Patient Protection and Affordable Care Act.

10. The Preventive Rider includes coverage for contraceptive methods "including all … FDA approved contraceptive drugs and other contraceptive methods as well as sterilization procedures."

11. The Preventive Rider specifies that "requests from groups and/or individual enrollees for exclusions from coverage for contraceptive drugs and methods will be considered, granted and continued to the extent permitted by both state and federal law."

CONCLUSIONS OF LAW

12. The Director shall approve only those 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.

13. Specific is defined as "precisely formulated or restricted; definite; explicit; of an exact or particular nature."[3] Certain is defined as "ascertained; precise; identified; settled; exact; definitive; clearly known; unambiguous…"[4] "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."[5]

14. 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.

15. The Preventive Rider is not compliant with Missouri insurance laws. The Preventive Rider states that "requests for exclusion [of contraceptive coverage] will be considered, granted and continued to the extent permitted by both state and federal law." As such, the Preventive Rider 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 §376.777.

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[3] *Black's Law Dictionary* 1398 (6th ed., West 1990)
[4] *Id.* at 225.
[5] *Seeck v. Geico Gen. Ins. Co.*, 212 S.W. 3d 129, 132 (Mo. banc 2007).

16. Missouri law also requires health carriers to offer and issue to any person or entity purchasing a health benefit plan that includes coverage for obstetrical and gynecological services and prescription drugs, a Plan that excludes coverage for contraceptives if the use of contraceptives is contrary to the moral, ethical or religious beliefs or tenets of the person or entity, pursuant to §376.1199.4.

17. The Preventive Rider amends a Plan under which Coventry proposes to provide coverage for obstetrical and gynecological services and prescription drugs.

18. The Preventive Rider, and the COCs it amends, does not distinguish between applicants and enrollees who wish to opt in or out of contraceptive coverage based on moral, ethical, or religious beliefs. While federal law provides a narrow exception for religious employers, state law provides greater protections allowing anyone with a moral, ethical, or religious belief to exclude contraceptive coverage.

19. The Preventive Rider is not compliant with Missouri insurance laws. While the Preventive Rider states that "requests for exclusion [of contraceptive coverage] will be considered, granted and continued to the extent permitted by both state and federal law," the Rider does not provide for the offer and issuance of a plan that excludes contraceptive coverage if the use of contraceptives is contrary to the moral, ethical or religious beliefs or tenets of the person or entity as required by §376.1199.4.

20. The Preventive Rider is not compliant with Missouri insurance laws. While the Preventive Rider states that "requests for exclusion [of contraceptive coverage] will be considered, granted and continued to the extent permitted by both state and federal law," the Rider does not make allowances or exceptions for applicants' or enrollees' moral, ethical, or religious beliefs or tenets that are contrary to the use of contraceptives as required by §376.1199.4.

21. Because the Preventive Rider neither meets the offer and issue requirements stated in paragraph 17, nor meets the exclusionary requirements stated in paragraph 18, the Rider is not reasonably adequate to meet needed requirements for the protection of those insured.

22. After review and consideration of the forms included in the Coventry Filing, the company has failed to demonstrate its compliance with Missouri law as enumerated herein.

23. The Preventive Rider is not in compliance with Missouri law. This form does not provide for the required offer and issuance of a policy that excludes contraceptive coverage; this form does not specify that entities with moral, ethical or religious objections may exclude coverage for contraceptives if it is contrary to their beliefs; and, the form does not comply with Missouri's specificity standards. As such, this Preventive Rider is not in the public interest.

24. This Order is in the public interest.

IT IS THEREFORE ORDERED that Form MOWPINDPPOCHL is hereby **DISAPPROVED.** Coventry Health and Life Insurance Company 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 15th day of NOVEMBER, 2012.

JOHN M. HUFF
DIRECTOR

NOTICE

TO: Coventry Health and 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 16 day of November, 2012, a copy of the foregoing Order and Notice was

1) Delivered via electronic mail to:

   Neil Miller
   namiller1@cvty.com; and

2) Served via certified mail addressed to:

   Roman Kulich
   President, Coventry Health Care of Missouri, Inc.
   550 Maryville Centre Drive, Suite 300
   St. Louis, MO 63141

   Michael Bahr
   President, Coventry Health and Life Insurance Company
   6705 Rockledge Drive, Suite 900
   Bethesda, MD 20817