

STATE OF MISSOURI



DEPARTMENT OF COMMERCE & INSURANCE

P.O. Box 690, Jefferson City, Mo. 65102-0690

In Re:)
)
GUARDIAN LIFE INSURANCE) **Market Conduct Investigation No. 391628**
COMPANY OF AMERICA)
 (NAIC #429-64246))

ORDER OF THE DIRECTOR

NOW, on this 2nd day of August, 2024, Director Chlora Lindley-Myers, after consideration and review of the Stipulation of Settlement and Voluntary Forfeiture (hereinafter “Stipulation”) entered into by the Division of Insurance Market Regulation (hereinafter “Division”) and Guardian Life Insurance Company of America (NAIC #429-64246) (hereinafter “Guardian Life”), relating to the market conduct investigation no. 391628, does hereby issue the following orders:

This order, issued pursuant to §374.046.15¹ and §374.280, is in the public interest.

IT IS THEREFORE ORDERED that the Director does hereby approve the Stipulation as agreed to by Guardian Life and the Division.

IT IS FURTHER ORDERED that Guardian Life shall not engage in any of the violations of statutes and regulations set forth in the Stipulation, shall implement procedures to place it in full compliance with the requirements in the Stipulation and the statutes and regulations of the State of Missouri, shall maintain those corrective actions at all times, and shall fully comply with all terms of the Stipulation.

¹ All references, unless otherwise noted, are to Revised Statutes of Missouri 2016.

IT IS FURTHER ORDERED that Guardian Life shall pay, and the Department of Commerce and Insurance, State of Missouri, shall accept, the Voluntary Forfeiture of \$500.00, payable to the Missouri State School Fund.

IT IS SO ORDERED.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of my office in Jefferson City, Missouri, this 02nd day of August, 2024.



Chlora Lindley Myers
Chlora Lindley-Myers
Director

**IN THE DEPARTMENT OF COMMERCE AND INSURANCE
STATE OF MISSOURI**

In Re:)
)
GUARDIAN LIFE INSURANCE COMPANY) **Market Conduct Investigation No. 391628**
OF AMERICA (NAIC # 429-64246))

STIPULATION OF SETTLEMENT AND VOLUNTARY FORFEITURE

It is hereby stipulated and agreed by the Division of Insurance Market Regulation (hereinafter the “Division”), and Guardian Life Insurance Company of America (NAIC #429-64246) (hereinafter “Guardian Life”), as follows:

WHEREAS, the Division is a unit of the Missouri Department of Commerce and Insurance (hereinafter the “Department”), an agency of the State of Missouri, created and established for administering and enforcing all laws in relation to insurance companies doing business in the State of Missouri;

WHEREAS, Guardian Life has been granted a certificate of authority to transact the business of insurance in the State of Missouri;

WHEREAS, the Division conducted a market conduct investigation of Guardian Life, Investigation No. 391628; and

WHEREAS, based on the market conduct investigation of Guardian Life the Division alleges that:

1. Guardian Life did not timely file its 2022 Utilization Review Activities Report and Certification of Compliance in violation of §376.1359.2¹, §376.1369 and 20 CSR 400-10-10.020.
2. Guardian Life sent second level grievances to two peer reviewers prior to the meeting of the second level grievance advisory panel in violation of §376.1385.
3. Guardian Life did not follow the provisions of its contracts with regard to second level

review procedures by sending second level grievances to peer reviewers prior to the meeting of the second level grievance advisory panel in violation of §375.1007 (3) and §375.1005 (2).

4. Guardian Life did not retain documentation identifying the name and specialty of a second level grievance clinical peer reviewer and the name and specialty of the persons completing the utilization review of dental claims in violation of §374.205.2 (2) and 20 CSR 100-8.040 (2) & (3) (B).

5. Guardian Life did not provide a first level appeal acknowledgement notification in 7 files and a second level appeal acknowledgement notification in 22 files in violation of §376.1382.2 (1) and §376.1385.3.

6. Guardian Life did not provide written notification to two enrollees or providers within one working day of an adverse utilization review determination in violation of §376.1363.2 (2).

WHEREAS, the Division and Guardian Life have agreed to resolve the issues raised in the market conduct examination as follows:

A. **Scope of Agreement.** This Stipulation of Settlement and Voluntary Forfeiture (hereinafter “Stipulation”) embodies the entire agreement and understanding of the signatories with respect to the subject matter contained herein. The signatories hereby declare and represent that no promise, inducement or agreement not herein expressed has been made, and acknowledge that the terms and conditions of this agreement are contractual and not a mere recital.

B. **Remedial Action.** Guardian Life agrees to take remedial action bringing it into compliance with the statutes and regulations of Missouri and agrees to maintain those remedial actions at all times. Such remedial actions shall include the following:

1. Guardian Life agrees to timely file Utilization Review Activities Reports and Certifications of Compliance in accord with the provisions of §376.1359.2, §376.1369 and 20 CSR

¹ All statutory references, unless otherwise noted, are to the 2016 Revised Statutes of Missouri, as amended.

400-10.020.

2. Guardian Life agrees to follow the provisions of §376.1385 and its own contracts by submitting second level reviews to a grievance advisory panel prior to submitting the grievance for review by two independent clinical peers.

3. Guardian Life agrees to retain documentation for the time periods outlined in §374.205.2 (2) identifying the name and specialty of second level grievance clinical peer reviewers and the name and specialty of the persons completing utilization review of dental claims.

4. Guardian Life agrees to provide first level appeal acknowledgement notifications as required by §376.1382.2 (1) and second level appeal acknowledgment notifications as required by §376.1385.3.

5. Guardian Life agrees to provide written notification to enrollees and providers within one working day of an adverse utilization review determination as required by §376.1363.2 (2).

C. **Compliance.** Guardian Life agrees to file documentation pursuant to section 374.190 with the Division, in a format acceptable to the Division, within 60 days of the entry of an Order approving this Stipulation, of any remedial action taken to implement compliance with the terms of this Stipulation.

D. **Voluntary Forfeiture.** Guardian Life agrees, voluntarily and knowingly, to surrender and forfeit the sum of \$500 (five hundred dollars), such sum payable to the Missouri State School Fund, in accordance with §§374.049.11 and 374.280.2.

E. **Non-Admission.** Nothing in this Stipulation shall be construed as an admission by Guardian Life, this Stipulation being part of a compromise settlement to resolve disputed factual and legal allegations arising out of the above referenced market conduct investigation.

F. **Waivers.** Guardian Life, after being advised by legal counsel, does hereby voluntarily and knowingly waive any and all rights to procedural requirements, including notice and an

opportunity for a hearing, and review or appeal by any trial or appellate court, which may have otherwise applied to the market conduct investigation no.391628.

G. **Amendments.** No amendments to this Stipulation shall be effective unless made in writing and agreed to by authorized representatives of the Division and Guardian Life.

H. **Governing Law.** This Stipulation shall be governed and construed in accordance with the laws of the State of Missouri.


I. **Authority.** The signatories below represent, acknowledge and warrant that they are authorized to sign this Stipulation, on behalf of the Division and Guardian Life, respectively.

J. **Counterparts.** This Stipulation may be executed in multiple counterparts, each of which shall be deemed an original and all of which taken together shall constitute a single document. Execution by facsimile or by electronically transmitted signature shall be fully and legally effective and binding.

K. **Effect of Stipulation.** This Stipulation shall not become effective until entry of an Order by the Director of the Department (hereinafter “Director”) approving this Stipulation.

L. **Request for an Order.** The signatories below request that the Director issue an Order approving this Stipulation and ordering the relief agreed to in the Stipulation, and consent to the issuance of such Order.

DATED: July 30, 2024



Teresa Kroll
Chief Market Conduct Examiner
Division of Insurance Market Regulation

DATED: June 10, 2024



Sharri Norman
Head of Dental Claims
Guardian Life Insurance Company of America