

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

**In Re: COMPANION LIFE)
INSURANCE COMPANY)
SERFF TRACKING NUMBER) Case No. 140312300C
INCS-129249329)**

ORDER DISAPPROVING FORM FILING

Upon review and consideration of the filing of Companion Life Insurance Company, SERFF Tracking Number INCS-129249329, specifically Forms LBHP 3050 and LBHC 3050, 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. Companion Life Insurance Company (“Companion Life”), NAIC Number 77828, is a foreign life and health insurance company organized pursuant to the laws of the state of South Carolina 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. Innovative Compliance Solutions, LLC, on behalf of Companion Life, filed forms with the Director via the System for Electronic Rate and Form Filing (“SERFF”) on March 12, 2014. The SERFF Tracking Number is INCS-129249329 (“Filing”).
6. The Filing contains, in pertinent part, form LBHP 3050, identified as the Group Policy Providing [Life and] Accident & Health Benefits Non-Participating (“Group Policy”) and form LBHC 3050, identified as the Group Certificate Providing [Life and] Accident & Health Benefits Non-Participating (“Certificate”).

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

7. Brackets ([...]) within a form reviewed by the Division indicate that the language within the brackets may be included or excluded from the form, or the brackets may indicate a numeric range.
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. Based upon the bracketing within this filing, the forms could offer almost no benefits whatsoever.
11. Companion Life filed the Certificate within SERFF as Group Health - Hospital Indemnity policy.
12. On page 8 of the Group Policy and the Certificate under the section titled Definitions, the forms, in brackets, define Pre-Existing Condition as:

[A] disease, Accident, Sickness or physical condition for which a Covered Person:

- (a) had treatment;
- (b) incurred expense;
- (c) took medication; or
- (d) received a diagnosis or advice from a Physician,

during the [6-12] month period immediately before the Effective Date of his or her coverage.

13. On page 24 of the Group Policy and Certificate under the section titled General Provisions and the subsection titled Misstatement of Age, the forms state:

If the age of any Covered Person is incorrectly stated, the amount of benefits payable will be the amount shown on the Schedule. The premium will be adjusted so that the Company will be paid any amount due based on such Covered Person's true age.

14. On page 24 of the Group Policy and Certificate under the section titled General Provisions and the subsection titled Proof of Loss, the forms state:

Proof of loss for which the Policy provides any periodic payment contingent upon continuing loss must be given to the Company within 90 days after termination of the period for which the Company is liable. For any other loss, proof of loss must be given

to the Company within 90 days after such loss. Late proof may be accepted if:

- (a) it was not reasonably possible to give proof in that time; and
- (b) the proof is given within one year from the date proof of loss was otherwise required. This one year limit will not apply in the absence of legal capacity.

15. On page 24 of the Group Policy and Certificate under the section titled General Provisions and the subsection titled Time of Payment of Claims, the forms state:

All accrued benefits for loss for which the Policy provides periodic payment will be paid each month, subject to written proof of loss. Any balance not paid when liability ends will be paid immediately upon receipt of written proof. Benefits for any other covered loss will be paid as soon as the Company receives written proof of such loss.

16. On page 7 of the Group Policy and Certificate under the section titled Definitions, the forms define Dependent as:

[A]n Insured's:

* * *

- (b) unmarried child (natural, step or adopted) who is not eligible for medical coverage as an Insured under the Policy or any other group policy[.]

CONCLUSIONS OF LAW

17. 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.
18. 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.

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

19. 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;*

* * *

(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[.]*

* * *

(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.)

20. Neither Companion Life's Group Policy nor its Certificate is compliant with Missouri insurance laws. Under the section titled Definitions, the forms define pre-existing conditions to include conditions "for which a covered person ... incurred expense [or] took 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 merely incurred expense or took medication. The Group Policy and Certificate definitions do 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 and Certificate do not comply with the laws of this state as required by §376.405.
21. Neither Companion Life's Group Policy nor its Certificate is compliant with Missouri insurance laws. Under the section titled General Provisions, the forms provide that if there is a misstatement of age "[t]he premium will be adjusted so that the Company will be paid any amount due based on such Covered Person's true age;" 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.
22. Neither Companion Life's Group Policy nor its Certificate is compliant with Missouri insurance laws. Under the section titled General Provisions and the subsection titled Proof of Loss, the forms exclude a required substantive notice provision. While the forms do provide the appropriate time frame to provide proof of loss, they do not notify the insured that failure to provide proof of loss 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(10). As such, the Group Policy and Certificate do not comply with the laws of this state as required by §376.405.

23. "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
24. Neither Companion Life's Group Policy nor its Certificate is compliant with Missouri insurance laws. Under the section titled General Provisions and the subsection Time of Payment of Claims, the forms notify the insured that benefits will be paid as soon as Companion Life receives written proof of such loss. "As soon as" may mean that payment would occur within: a day or two, a week or two, or something else entirely. This is because the phrase "as soon as" is not defined within the forms. In the event the time frame envisioned by Companion Life were less than the 30 days required by §376.426(11), it would be acceptable as a more favorable provision; however, because "as soon as" is not defined and the law requires at least a specified number of days, the language is not definite, clearly known, or distinct. As such, the Group Policy and Certificate use 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.
25. Neither Companion Life's Group Policy nor its Certificate is compliant with Missouri insurance laws. The forms state a Covered Dependent must be ineligible "for medical coverage as an Insured under the Policy or any other group policy[.]" Section 376.426(17) does not provide such a restriction. Because the forms add the restriction that the dependent not be eligible under the policy or eligible under another group policy, the language is not substantially similar to nor more favorable than §376.426(17). As such, the Group Policy and Certificate are not compliant with the laws of this state as required by §376.405.
26. After review and consideration of the policy forms included in the Companion Life Filing, the company has failed to demonstrate its compliance with Missouri law as enumerated herein.

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).

27. While there may be additional reasons as to why the policy forms do not comply with Missouri's insurance laws, the reasons stated herein are sufficient to disapprove the forms.
28. Each reason stated herein for disapproval of the policy forms is a separate and sufficient cause to disapprove such forms.
29. Companion Life's Group Policy and Certificate do not comply with Missouri law. As such, said forms are not in the public interest.
30. This Order is in the public interest.

IT IS THEREFORE ORDERED that Forms LBHP 3050 and LBHC 3050 are hereby **DISAPPROVED**. Companion 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 25th day of April, 2014.





JOHN M. HUFF
DIRECTOR

NOTICE

TO: Companion 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 25th day of April, 2014, a copy of the foregoing Order and Notice was

1) Served via certified mail addressed to:

Trescott Newton Hinton Jr.
President
Companion Life Insurance Company
7909 Parklane Rd. Suite 200
Columbia, SC 29223

2) Served via first class mail addressed to:

Renee Weaver
Consultant
Innovative Compliance Solutions, LLC
PO Box 773
Anoka, MN 55303



A handwritten signature in blue ink, appearing to be 'R. Hinton', is written over a horizontal line.