

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

**In Re: UNIFIED LIFE)
INSURANCE COMPANY)
SERFF TRACKING NUMBER) Case No. 140826636C
UNLI-129691079)**

ORDER DISAPPROVING FORM FILING

Upon review and consideration of the filing of Unified Life Insurance Company, SERFF Tracking Number UNLI-129691079, specifically Form GRP 2014 STM CERT MO, the Deputy 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 (“Director” of the “Department”).
2. Unified Life Insurance Company (“Unified”), NAIC Number 11121, is a foreign life and health insurance company organized pursuant to the laws of the state of Texas 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. Coulter and Associates, Inc., on behalf of Unified, filed forms with the Director via the System for Electronic Rate and Form Filing (“SERFF”) on August 21, 2014. The SERFF Tracking Number is UNLI-129691079 (“Filing”).
6. The Filing contains, in pertinent part, form GRP 2014 STM CERT MO, identified as the Short-Term Medical Certificate of Coverage (“Certificate”).
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. On September 16, 2014, Unified amended the Filing and replaced the Certificate with an amended form. The amended form is the subject of this Order.
9. Unified filed the policy within SERFF as a Group Health-Major Medical policy.
10. On page 15 of the Certificate under the section titled Section 5 - Premiums, the form states:
 - d. If the Insured has not given written notice to Us that insurance is to be terminated prior to the premium due date, a grace period of thirty-one (31) days beginning with the premium due date will be allowed for any premium after the first premium. If the Insured fails to pay premium before the grace period expires, all coverage shall lapse as of that premium due date.

11. Nowhere within the Certificate does the form provide the following provisions:

[A] copy of the application, if any, of the policyholder shall be attached to the policy when issued, that all statements made by the policyholder or by the persons insured shall be deemed representations and not warranties and that no statement made by any person insured shall be used in any contest unless a copy of the instrument containing the statement is or has been furnished to such person or, in the event of the death or incapacity of the insured person, to the individual's beneficiary or personal representative[.]

12. On page 16 of the Certificate under the section titled Section 6 – General Provisions and the subsection titled Notice and Proof of Claim, the form states:

Written notice of Bodily Injury or Sickness upon which claim [sic] be based must be given to Us within thirty (30) days of the date of first loss for which benefits arising out of each Bodily Injury or Sickness may be claimed. Written proof of loss on which claim may be based must [sic] furnished to Us not later than ninety (90) days after the date of such loss. Notice given by or on behalf of the claimant to Us, with particular [sic] sufficient to identify the Insured Person is considered to be notice to Us. Failure to file that notice within the time required shall not invalidate or reduce any claim if it was not reasonably possible to give notice within that time if notice is given as soon as reasonably possible. In no event shall notice be later than one year from the date of [sic] proof is

otherwise required, except if the claimant lacks the legal capacity to give notice. The claimant shall be deemed to have complied with the requirements of the Policy as to proof of loss upon submitting within the time fixed in the Policy for filing proof of loss, written proof covering the occurrence, character and extent of loss for which claim is made. Failure to furnish such proof within the required [sic] shall not invalidate or reduce any claim if it was not reasonably possible to give proof within such time, provided the proof is furnished as soon as reasonably possible, but in no event, except if the claimant lacks legal capacity, later than one year from the date of time such proof is otherwise required.

13. Nowhere within the Certificate does the form provide the following provision:

[T]he insurer shall furnish to the person making claim, or to the policyholder for delivery to such person, such forms as are usually furnished by it for filing proof of loss. If such forms are not furnished before the expiration of fifteen days after the insurer receives notice of any claim under the policy, the person making such claim shall be deemed to have complied with the requirements of the policy as to proof of loss upon submitting, within the time fixed in the policy for filing proof of loss, written proof covering the occurrence, character, and extent of the loss for which claim is made[.]

14. Nowhere within the Certificate is there a provision notifying the insured that the policy may not be terminated by Unified before the first anniversary date of the effective date of coverage.

15. Nowhere within the Certificate is there a provision notifying the insured that dependent coverage will continue if a child “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.”

16. On page 4 of the Certificate under the section titled Section 1 - Definitions, Unified defines Dependents in a bracketed section as:

[A] person who meets the eligibility requirements for a Dependent as stated in the Insured’s Individual Application, Master Application and the Policy, whose coverage under the Policy has become effective and has not terminated, and is:

a. an Insured’s spouse, [or Domestic Partner] who is not legally separated or divorced from the Insured and is not a member of the armed forces;

b. an Insured's unmarried child, including any step child, legally adopted child, or foster child, who has not reached 26 and is not a member of the armed forces.

If both husband and wife are insured as Insureds, eligible children may be insured only as Dependents of either Insured, but not both. A Dependent spouse [or Domestic Partner] who also is an eligible Insured may be insured as either an Insured or Dependent but not as both.

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.

Unified'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...:

(1) *A provision that the policyholder is entitled to a grace period of thirty-one days for the payment of any premium due except the first, during which grace period the policy shall continue in force*, unless the policyholder shall have given the insurer written notice of discontinuance in advance of the date of discontinuance and in accordance with the terms of the policy. The policy may provide that the policyholder shall be liable to the insurer for the payment of a pro rata premium for the time the policy was in force during such grace period;

(3) *A provision that* a copy of the application, if any, of the policyholder shall be attached to the policy when issued, that all statements made by the policyholder or by the persons insured shall be deemed representations and not warranties and that no statement made by any person insured shall be used in any contest unless a copy of the instrument containing the

statement is or has been furnished to such person or, in the event of the death or incapacity of the insured person, to the individual's beneficiary or personal representative;

(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;

(9) *A provision that* the insurer shall furnish to the person making claim, or to the policyholder for delivery to such person, such forms as are usually furnished by it for filing proof of loss. If such forms are not furnished before the expiration of fifteen days after the insurer receives notice of any claim under the policy, the person making such claim shall be deemed to have complied with the requirements of the policy as to proof of loss upon submitting, within the time fixed in the policy for filing proof of loss, written proof covering the occurrence, character, and extent of the loss for which claim is made;

(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;*

(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.)

20. Unified's Certificate is not compliant with Missouri insurance laws. Under the section titled Section 5 - Premiums, the Certificate provides the statutorily required grace period but adds the phrase "[i]f the Insured fails to pay premium before the grace period expires, all coverage shall lapse as of that premium due date." Section 376.426(1) requires the policy to stay in full force during the grace period. The policy does not stay in full force because the policy ends the last date for which the premium was paid. Because the policy is not in full force and retroactively terminates, the Certificate does not meet the substantive requirements of §376.426(1). As such, the Certificate does not comply with the laws of this state as required by §376.405.
21. Unified's Certificate is not compliant with Missouri insurance laws. Each provision included within §376.426(3) must be substantively included within the form as notice to the insured. Unified's Certificate contains none of these provisions. As such, the Certificate does not comply with the laws of this state as required by §376.405.
22. "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
23. Unified's Certificate is not compliant with Missouri insurance laws. Under the subsection titled Notice and Proof of Claim, Unified conflates two separate provisions of Missouri law, §376.426(8) addressing deadlines for notice of claims and §376.426(10) addressing deadlines for proof of loss, into one section. While it may be possible to take multiple provisions from the statute and combine them into a single, coherent policy section, in this instance Unified has created a section with language that is imprecise, inexact, and uncertain, and which omits required substantive language. As such, the Certificate 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.
24. Unified's Certificate is not compliant with Missouri insurance laws. The provision included within §376.426(9) must be substantively included within the form as notice to the insured. Unified's Certificate does not contain such a provision. As such, the Certificate does not comply with the laws of this state as required by §376.405.

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).

25. Unified's Certificate is not compliant with Missouri insurance laws. Section 376.426(15) requires a provision substantively notifying the insured that the policy may not be terminated by Unified before the first anniversary date of the effective date of coverage. The Certificate does not contain such a provision and, therefore, does not meet the substantive requirements of §376.426(15). As such, the Certificate does not comply with the laws of this state as required by §376.405.
26. Unified's Certificate is not compliant with Missouri insurance laws. Under the section titled Section 1 - Definitions, the form addresses coverage for dependent children. However, nowhere within the Certificate is there a provision that provides continuation of coverage for dependent children who are "both incapable of self-sustaining employment by reason of mental or physical handicap and chiefly dependent upon the certificate holder for support and maintenance." 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). The Certificate does not contain such a provision and, therefore, does not meet the substantive requirements of §376.426(16). As such, the Certificate does not comply with the laws of this state as required by §376.405.
27. Unified's Certificate is not compliance with Missouri insurance laws. The Certificate provides that a dependent does not include "a member of the armed forces." Nowhere within §376.426(17) is there the Certificate's limiting language regarding military service. Because the Certificate contains the additional requirement that the dependent child be not be "a member of the armed forces," the language is not substantially similar to nor more favorable than that required by §376.426(17). As such, the Certificate does not comply with the laws of this state as required by §376.405.
28. After review and consideration of the form included in the Unified 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 the form does not comply with Missouri's insurance laws, the reasons stated herein are sufficient to disapprove the form.
30. Each reason stated herein for disapproval of the form is a separate and sufficient cause to disapprove such form.
31. Unified's Certificate does not comply with Missouri law. As such, said form is not in the public interest.

32. This Order is in the public interest.

IT IS THEREFORE ORDERED that form GRP 2014 STM CERT MO is hereby **DISAPPROVED**. Unified 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 30 day of October, 2014.




JAMES R. McADAMS
DEPUTY DIRECTOR

NOTICE

TO: Unified Life Insurance Company and any unnamed persons aggrieved by this Order:

You may request a hearing on the disapproval of this form. 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 3rd day of October, 2014, a copy of the foregoing Order and Notice was

Served via certified mail addressed to:

Kevin A. Dill
President
Unified Life Insurance Company
7201 West 129th Street, Suite 300
Overland Park, Kansas 66213

Frank Cripps
Senior Compliance Consultant
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