

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

In Re:)
)
AETNA LIFE INSURANCE COMPANY)
) Case No. 120730479C
and)
)
AETNA HEALTH INSURANCE)
COMPANY)
)

ORDER OF THE DIRECTOR

NOW, on this 26th day of SEPTEMBER, 2012, Director John M. Huff, after consideration and review of the Verified Statement of Charges filed by the Division of Market Regulation (hereinafter "the Division") and the Stipulation of Settlement and Voluntary Forfeiture (hereinafter "Stipulation") entered into by the Division and Aetna Life Insurance Company, Aetna Health, Inc., Aetna Health Insurance Company and their affiliated companies, including, but not limited to their successors and assigns (hereinafter collectively referred to as "Aetna"), does hereby issue the following orders:

IT IS THEREFORE ORDERED that Aetna and the Division of Insurance Market Regulation having agreed to the Stipulation, the Director does hereby approve and agree to the Stipulation.

IT IS FURTHER ORDERED that the Director hereby adopts as Findings of Fact the admissions of fact set out and agreed to by Aetna in the Stipulation.

IT IS FURTHER ORDERED that the Director adopts as Conclusions of Law the violations of law set out and agreed to by Aetna in the Stipulation.

IT IS FURTHER ORDERED that Aetna shall not engage in any of the violations of law set forth in the Stipulation and shall implement procedures to place the Company in full compliance with the requirements in the Stipulation and to maintain the remedial actions set forth in the Stipulation at all times.

IT IS FURTHER ORDERED that Aetna shall pay any restitution required to be paid pursuant to the terms of the Stipulation.

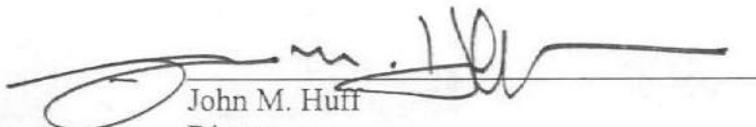
IT IS FURTHER ORDERED that Aetna shall pay, and the Department of Insurance, Financial Institutions and Professional Registration, State of Missouri, shall accept, the Voluntary Forfeiture of one million five hundred thousand dollars (\$1,500,000), payable to the State of Missouri for distribution to the Missouri State School Fund in accordance with §374.280 RSMo (Cum. Supp. 2011).

This order, issued pursuant to §§374.046.15 and 374.280, RSMo (Cum. Supp. 2011), is in the public interest.

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 26th day of SEPTEMBER, 2012.




John M. Huff
Director

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

In Re:)
)
AETNA LIFE INSURANCE COMPANY)
) **Case No. 120730479C**
and)
)
AETNA HEALTH INSURANCE)
COMPANY)
)

**STIPULATION OF SETTLEMENT
AND VOLUNTARY FORFEITURE**

It is hereby stipulated and agreed by the Market Regulation Division of the Department of Insurance, Financial Institutions and Professional Registration (hereinafter “the Division”) and Aetna Life Insurance Company, Aetna Health Inc., Aetna Health Insurance Company and their affiliated companies, including, but not limited to their successors and assigns (hereinafter collectively referred to as “Aetna”) , as follows:

WHEREAS, the Division is a unit of the Missouri Department of Insurance, Financial Institutions and Professional Registration (hereafter referred to as “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 in Missouri; and

WHEREAS, Aetna has been granted certificates of authority to transact the business of insurance in the State of Missouri; and

WHEREAS, the Division filed a Verified Statement of Charges on July 30, 2012 in case number 120730479C; and

WHEREAS, Aetna admits that the Director has jurisdiction to administer this proceeding; and

WHEREAS, the Division and Aetna have agreed to resolve the issues raised in the Verified Statement of Charges and by the foregoing course of conduct as follows:

1. **Scope of Agreement.** This Stipulation of Settlement and Voluntary Forfeiture 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. The signatories agree that matters settled by this Stipulation shall not be subject to market conduct review, but that nothing in this Stipulation shall prevent the Division from conducting market conduct examinations or investigations of Aetna concerning matters that are not the subject of this Stipulation, or from seeking and obtaining forfeitures or remediation regarding such unrelated matters.

2. **Admissions of Fact.** Aetna admits the following facts:

A. John M. Huff is the duly appointed Director of the Missouri Department of Insurance, Financial Institutions, and Professional Registration whose duties pursuant to Chapters 354, 374, 375, 376, and 379 RSMo¹ include the supervision, regulation and discipline of health insurance carriers;

B. Aetna Life Insurance Company is a foreign life and health insurance company organized pursuant to the laws of the state of Connecticut and transacting insurance business in the state of Missouri pursuant to a Certificate of Authority issued by the Director. Aetna Health Inc. is a foreign health maintenance company organized pursuant to the laws of the state of Pennsylvania and transacting insurance business in the state of Missouri pursuant to a

¹ All references, unless otherwise noted, are to Missouri Revised Statutes 2000, as amended.

Certificate of Authority issued by the Director. Aetna Health Insurance Company is a foreign life and health insurance company organized pursuant to the laws of the state of Pennsylvania and transacting insurance business in the state of Missouri pursuant to a Certificate of Authority issued by the Director;

C. On April 24, 2012, the Department's Market Regulation Division was made aware of potential violations of Missouri insurance laws by Aetna through testimony offered during a public hearing of the Missouri House of Representatives' Health Insurance Committee;

D. At the public hearing, a representative of a Missouri employer alleged Aetna had violated the provisions of §376.805 RSMo (Cum. Supp. 2011), by including coverage for elective abortion in its employees' health insurance plan without the employer electing that such coverage be included, contrary to Missouri law;

E. The Missouri employer has not filed any complaints with any Division within the Department regarding its allegation of non-compliance. The Department has received no complaints against Aetna regarding this alleged non-compliance from the Missouri employer or any other entity or entities;

F. Angela Nelson, Director of the Division contacted Kelly McGivern, Aetna's Director of Government Affairs by telephone on April 25, 2012 to discuss the allegations made at the public hearing on April 24, 2012. Ms. Nelson subsequently had several additional conversations with Ms. McGivern discussing the allegations and Aetna's response;

G. On May 2, 2012, Ms. Nelson sent a letter to Ms. McGivern summarizing the telephone conversations and requesting a written response to a number of questions posed by

the Division to Aetna regarding the allegations made at the public hearing;

H. On June 4, 2012, representatives from Aetna met with representatives from the Division to further discuss the allegations and Aetna's response;

I. Based on the information provided by Aetna on June 4, 2012 and through other communications, the following timeline of events occurred with regard to the policy issued to the Missouri employer:

a. On September 1, 2011, a policy was issued by Aetna, providing health insurance coverage to the employees of the Missouri employer;

b. On February 13, 2012, counsel for the Missouri employer contacted its producer regarding concerns about the Aetna policy, noting it included coverage for abortions, FDA-approved abortifacients, and voluntary sterilizations;

c. The producer contacted Aetna on February 23, 2012, requesting exclusion of elective abortions, voluntary sterilization, and certain forms of contraception from the Missouri employer's policy;

d. According to Aetna, a local representative responded to the producer on February 28, 2012, indicating that they were doing further research, but noting that the company has a standard plan that is offered and sold to employers with between 51 and 124 employees. Aetna stated this plan could not be changed or have the benefits in question carved out;

e. On February 29, 2012, Aetna contacted the producer notifying him or her that it had received approval to remove the family planning benefit, including any form of sterilization. Aetna noted that it would not carve out specific contraceptives

individually and that any carve-out of contraceptive benefits would exclude all contraceptives;

f. On March 16, 2012 counsel for the Missouri employer sent a letter to Aetna formally requesting changes to the employer's benefit plan including removing family planning services, removing contraceptive services, removing elective abortion, and retaining coverage for voluntary sterilization;

g. On March 26, 2012, Aetna updated its systems to reflect that family planning services were no longer covered, and made this change retroactive to September 1, 2011;

h. Aetna issued revised plan documents to the Missouri employer reflecting this change in coverage on April 26, 2012;

i. When the policy was purchased in September, 2011, the Missouri employer was not notified as to the coverage of elective abortions under the policy, did not pay a separate premium for the elective abortion coverage and was not offered the option to reject coverage for contraception;

J. Aetna violated the provisions of §376.805 RSMo (Cum. Supp. 2011) in that claims for elective abortion were routinely, and as a business practice, paid under policies of insurance issued in the State of Missouri, until August 1, 2012. Those claims were paid under policies that did not have a separate, optional rider for coverage of elective abortion and for which no additional premium was paid.

K. Under Aetna's claims policy, claims for facility and professional charges related to elective abortion were paid where the enrollee's health plan includes maternity benefits,

when the service was performed by a qualified physician, and when there was no elective abortion exclusion specifically noted within the policy;

L. The Division alleges that Aetna was aware it was in violation of Missouri law regarding coverage for elective abortions. Aetna contends that it was not aware of such violations.

M. Aetna did not self-report its violations to the Department prior to the public hearing in April, 2012.

N. Aetna did not consistently provide notice as to whether coverage for contraception was included in a policy, until August 1, 2012

O. Aetna did not consistently notify subscribers of their right to individually reject coverage for contraception, until August 1, 2012.

P. Aetna did not consistently notify subscribers of their right to individually purchase coverage for contraception, where the employer had rejected such coverage.

Q. Aetna maintains that they implemented the Missouri Autism Mandate in their claims system and paid claims according to the law, but admitted that group insurance policies issued in Missouri and policies of insurance issued in other states but covering Missouri residents specified that the coverage for applied behavioral analysis and for therapies for the treatment of delays in development for diagnoses such as pervasive developmental disorders including autism was excluded.

3. **Violations of Law.** Aetna admits the following violations of law:

A. On or after September 28, 1983, Aetna entered into health insurance contracts and plans and issued and delivered policies in Missouri that provide coverage for elective

abortion without an optional rider for which there is paid an additional premium, in violation of §376.805.1 RSMo (Cum. Supp. 2011);

B. Each policy issued by Aetna and delivered in Missouri that provided for elective abortion without an optional rider for which there is paid an additional premium is a separate violation of §376.805.1 RSMo (Cum. Supp. 2011);

C. Aetna maintains that it implemented the Missouri contraceptive mandate, but admitted that on or after January 1, 2002, Aetna issued, issued for delivery, continued or renewed, health benefit plans in Missouri, sold out of its Kansas City and Chicago offices, providing obstetrical/gynecological benefits and pharmaceutical coverage that did not provide clear and conspicuous written notice on the enrollment form or any accompanying materials 1) whether coverage for contraceptives is or is not included, 2) that an enrollee who is a member of a group health benefit plan with coverage for contraceptives has the right to exclude coverage for contraceptives if such coverage is contrary to his or her moral, ethical or religious beliefs, and 3) that an enrollee who is a member of a group health benefit plan without coverage for contraceptives has the right to purchase coverage for contraceptives, all in violation of §376.1199.6 RSMo (Cum. Supp. 2011);

D. Each instance in which a health benefit plan failed to contain the notice required by §376.1199.6 RSMo (Cum. Supp. 2011) on the enrollment form or accompanying materials constitutes a separate violation of §376.1199.6 RSMo (Cum. Supp. 2011);

E. On or after January 1, 2011, Aetna delivered, issued for delivery, continued or renewed, health benefit plans in Missouri and issued certificates of coverage to Missouri residents covered under health benefit plans issued in other states that stated coverage was

excluded for the diagnosis and treatment of autism spectrum disorders in violation of §376.1224.2 RSMo (Cum. Supp. 2011), and;

F. Each instance in which a health benefit plan excluded coverage for the diagnosis and treatment of autism spectrum disorders constitutes a separate violation of §376.1224.2 RSMo (Cum. Supp. 2011).

4. **Mitigating Factors.**

A. Aetna has fully cooperated with the Department regarding its investigation of these matters, and has been prompt and responsive to the Department's inquiries and requests.

B. Aetna has undertaken prompt measures to correct violations prior to the execution of this agreement; specifically, policies and systems were updated to clearly exclude coverage for elective abortion beginning August 1, 2012.

C. The Department has not received any consumer complaints regarding denials of autism-related claims by Aetna since January 1, 2011.

D. Aetna has indicated it will undertake a full and complete audit of its compliance with all Missouri mandates, and have agreed to provide a report of its findings to the Department within 60 days of the completion of the audit.

5. **Remedial Action.** Aetna shall undertake the following remedial actions immediately upon issuance of a Final Order issued by the Director of the Department of Insurance, Financial Institutions and Professional Registration (hereinafter "the Director") approving this Stipulation of Settlement and Voluntary Forfeiture:

A. Aetna shall not deliver, issue for delivery, continue or renew health insurance contracts, plans or policies delivered or issued for delivery in the State of Missouri providing

coverage for elective abortion except by an optional rider for which there must be paid an additional premium as required by §376.805.1 RSMo (Cum. Supp. 2011);

B. Aetna, subject to applicable law, shall not deliver, issue for delivery, continue or renew in the State of Missouri any health benefit plan(s) that offers or issues obstetrical/gynecological benefits and pharmaceutical coverage, unless such health benefit plan(s), pursuant to §376.1199.6 RSMo (Cum. Supp. 2011) provides clear and conspicuous written notice on the enrollment form, any accompanying materials to the enrollment form, and the group health benefit plan contract (i) whether coverage for contraceptives is or is not included in the group health benefit plan, (ii) that an enrollee who is a member of a group health benefit plan with coverage for contraceptives has the right to exclude coverage for contraceptives if such coverage is contrary to his or her moral, ethical, or religious beliefs, and (iii) that an enrollee who is a member of a group health benefit plan without coverage for contraceptives has the right to purchase coverage for contraceptives.

C. Aetna shall not deliver, issue for delivery, continue or renew any health benefit plan in the State of Missouri or written outside of the State of Missouri but insuring Missouri residents unless the policy form affirmatively discloses coverage for the diagnosis and treatment of autism spectrum disorders and Aetna shall ensure that it has provided and continues to provide coverage for the diagnosis and treatment of autism spectrum disorders in all group health benefit plans that are delivered, issued for delivery, continued or renewed, if written inside the State of Missouri, or written outside the State of Missouri but insuring Missouri residents as required by §376.1224.2 RSMo (Cum. Supp. 2011).

6. **Notification and Review of Claims.** Aetna shall notify in writing all enrollees of

group health benefit plans that were delivered, issued for delivery, continued or renewed on or after January 1, 2011, written inside the State of Missouri or written outside the State of Missouri, but insuring Missouri residents, that they were legally entitled to coverage for the diagnosis and treatment of autism spectrum disorders. The written communication shall invite any enrollee who underwent or whose covered dependent underwent diagnosis and treatment of autism spectrum disorders since January 1, 2011 to file a claim, if they have not already done so, with Aetna for such treatment. Aetna shall review any such claims received and pay those claims as required by §376.1224 RSMo (Cum. Supp. 2011). Interest at the rate of 9% per annum shall be included, if required, on the payment of claims pursuant to §408.020. Aetna shall also review all claims for the treatment of autism spectrum disorders that were received by the Company since January 1, 2011 and shall pay those claims as required by §376.1224 RSMo (Cum. Supp. 2011). Interest at the rate of 9% per annum shall be included, if required, on the payment of claims pursuant to §408.020. The Department has the right to monitor compliance with this provision by conducting an investigation pursuant to §374.190.

7. **Voluntary Forfeiture.** Aetna agrees, voluntarily and knowingly, to surrender and forfeit the sum of one million five hundred thousand dollars (\$1,500,000). Such payment shall be made payable to the State of Missouri and will be distributed to the Missouri State School Fund in accordance with §374.280 RSMo (Cum. Supp. 2011). Payment in this amount is due within five business days after issuance of a Final Order issued by the Director approving this Stipulation of Settlement and Voluntary Forfeiture. The payment set forth above shall be delivered to the Department of Insurance, Financial Institutions and Professional Registration, Attn. Stewart Freilich, Legal Counsel, PO Box 690, Jefferson City, MO 65102.

8. **Charitable Contribution.** In order to demonstrate its commitment to the treatment of

autism spectrum disorders, Aetna will contribute the sum of two hundred fifty thousand dollars (\$250,000) to a recognized Missouri non-profit organization specializing in the care and treatment of autism spectrum disorders. Such contribution shall be made within 90 days after issuance of a Final Order issued by the Director approving this Stipulation of Settlement and Voluntary Forfeiture.

9. **Enforcement.** Aetna agrees that the Director, the Department or the Division may institute any action necessary to enforce the terms of this Stipulation of Settlement and Voluntary Forfeiture. In any such action, Aetna bears the burden of proving that it has complied with the terms of this Stipulation of Settlement and Voluntary Forfeiture.

10. **Compliance.** Aetna agrees to file documentation with the Director within 90 days of the entry of a final order of all remedial action taken to implement compliance with the terms of this Stipulation and to document payment of the restitution required by the terms of this Stipulation.

11. **Waivers.** Aetna, after being advised by legal counsel, does hereby voluntarily and knowingly waive any and all rights for procedural requirements, including notice, opportunity for a hearing and review or appeal by any trial or appellate court, which may have otherwise applied to the Verified Statement of Charges or to the Order to Show Cause.

12. **Preparation of Documents.** This Stipulation of Settlement and Voluntary Forfeiture is the joint work product of the parties hereto and, in the event of any ambiguity herein, no inference shall be drawn against a party by reason of document preparation.

13. **Governing Law.** This Stipulation of Settlement and Voluntary Forfeiture shall be governed by and construed in accordance with the laws of the State of Missouri.

14. **Authority.** The signatories to this Stipulation of Settlement and Voluntary Forfeiture represent, acknowledge, and warrant that they are authorized to sign this Stipulation of Settlement and

Voluntary Forfeiture, and that the same will not be effective until entry of a Final Order by the Director approving this Stipulation of Settlement and Voluntary Forfeiture.

15. **Signatures.** This Stipulation of Settlement and Voluntary Forfeiture may be signed electronically in several counterparts, each of which will be deemed an original; however, all shall constitute one and the same settlement agreement.

16. **Request For an Order.** The signatories to this Stipulation of Settlement and Voluntary Forfeiture request that the Director issue an Order approving this Stipulation of Settlement and Voluntary Forfeiture and ordering the relief agreed to in the Stipulation.

IN WITNESS WHEREOF, the parties have caused this Stipulation of Settlement and Voluntary Forfeiture to be deemed executed as of the date the Stipulation is signed by the President(s) of respective Aetna entities.

(Title)
Aetna Life Insurance Company

Patrick M. Young

(Title) *President*
Aetna Health Inc.

Date

9/25/2012

Date

Patrick M. Young

(Title) *President*
Aetna Health Insurance Company

9/25/2012

Date

Counsel for Aetna Life Insurance Company, Aetna Health, Inc. and Aetna Health Insurance Company

Bobbie Stefan, Regional Counsel

Date

(Title)
Aetna Life Insurance Company

Date

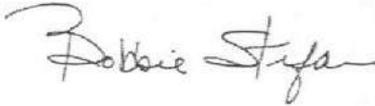
(Title)
Aetna Health Inc.

Date

(Title)
Aetna Health Insurance Company

Date

Counsel for Aetna Life Insurance Company, Aetna Health, Inc. and Aetna Health Insurance Company



Bobbie Stefan, Regional Counsel

September 25, 2012
Date

STEWART M. FREILICH
Missouri Bar No. 36924

Date

AMY V. HOYT
Missouri Bar No. 49338

Date

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9/25/2012

Date

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9/25/2012

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