

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

In Re: HEALTHY ALLIANCE LIFE)	
INSURANCE COMPANY)	
SERFF TRACKING NUMBER)	Case No. 130627390C
ANTA-129009489)	

ORDER DISAPPROVING FORM FILING

Upon review and consideration of the filing of Healthy Alliance Life Insurance Company, SERFF Tracking Number ANTA-129009489, specifically Forms MO_OFFHIX_PP(1/14); MO_SB_CAT_6350_OFF(1/14); MO_SB_BRZ_4000_OFF(1/14); MO_SB_BRZ_4300_OFF(1/14); MO_SB_BRZ_5750_OFF(1/14); MO_SB_BRZ_6050_OFF(1/14); MO_SB_BRZ_4300DN_OFF(1/14); MO_SB_GLD_750_OFF(1/14); MO_SB_GLD_750DN_OFF(1/14); MO_SB_SLV_1750_OFF(1/14); MO_SB_SLV_2500_OFF(1/14); MO_SB_SLV_3000_OFF(1/14); and MO_SB_SLV_3500_OFF(1/14), 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.
2. Healthy Alliance Life Insurance Company (“Anthem”), NAIC Number 78972, is a domestic life and health insurance company organized pursuant to the laws of the state of Missouri and transacting insurance business in this state pursuant to a Certificate of Authority issued by the Director.
3. Pursuant to §376.777.7,¹ 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 Division of Market Regulation (the “Division”) is designated pursuant to section 374.075² with the review of forms that are filed by insurance companies.

¹ RSMo (2000).

² All statutory citations are to RSMo (Supp. 2012) unless otherwise noted.

5. Anthem filed policy forms with the Director via the System for Electronic Rate and Form Filing (“SERFF”) on May 1, 2013. The SERFF Tracking Number is ANTA-129009489 (“Filing”).
6. The Filing contains, in pertinent part: form MO_OFFHIX_PP(1/14), titled “Individual Contract” (“Contract”); and forms
MO_SB_CAT_6350_OFF(1/14); MO_SB_BRZ_4000_OFF(1/14);
MO_SB_BRZ_4300_OFF(1/14); MO_SB_BRZ_5750_OFF(1/14);
MO_SB_BRZ_6050_OFF(1/14); MO_SB_BRZ_4300DN_OFF(1/14);
MO_SB_GLD_750_OFF(1/14); MO_SB_GLD_750DN_OFF(1/14);
MO_SB_SLV_1750_OFF(1/14); MO_SB_SLV_2500_OFF(1/14);
MO_SB_SLV_3000_OFF(1/14); and MO_SB_SLV_3500_OFF(1/14) each titled “Summary of Cost-Shares & Benefits” (collectively “Summaries”).
7. On pages 15, 50, 62, and 63 of the Contract Anthem includes within a bracket an area to provide additional language not provided as a part of the filing, which appears thusly: “[Optional Language].”
8. On page 1 of each of the Summaries, with respect to coverage for Autism services, Anthem states:

Maximum hours for Applied Behavior Analysis per calendar year per Member through age 18 –

415* hours, Network and Non-Network combined.

*This maximum will be adjusted triennially for inflation by the Director of the Missouri Department of Insurance, Financial Institutions and Professional Registration (DIFP).

9. When questioned by the Division about the hourly limit placed on Applied Behavior Analysis (“ABA”) in filing ANTA-129001372,³ Anthem stated in part:

As an “essential health benefit” within the meaning of the Patient Protection and Affordable Care Act (PPACA), we are prohibited by federal law from placing a dollar limit on autism benefits. However, pursuant to CMS guidance issued on March 4, 2013, plans are permitted to make “actuarially equivalent substitutions” for statutory dollar limits applicable to state-mandated benefits. Through careful actuarial analysis, we have converted the current dollar limit of \$42,117 to 415 hours.

³ Cross-reference in Order Disapproving Form Filing Case No. 130627387C.

CONCLUSIONS OF LAW

10. 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 §376.777.
11. “Specific” is defined as “precisely formulated or restricted; definite; explicit; of an exact or particular nature.”⁴ “Certain” is defined as “ascertained; precise; identified; settled; exact; definitive; clearly known; unambiguous....”⁵ “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.”⁶
12. 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.
13. Anthem’s Contract is not compliant with Missouri insurance laws. The phrase “[Optional Language]” within the Contract is imprecise, inexact, and uncertain because it does not contain the specific language within the policy form that the policy holder will receive. As such, the Contract 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.
14. Section 376.1224 states in relevant part:
 1. For purposes of this section, the following terms shall mean:
 - (1) “Applied behavior analysis”, the design, implementation, and evaluation of environmental modifications, using behavioral stimuli and consequences, to produce socially significant improvement in human behavior, including the use of direct observation, measurement, and functional analysis of the relationships between environment behavior;
5. Coverage provided under this section for applied behavior analysis shall be subject to a maximum benefit of forty thousand dollars per calendar year for individuals through eighteen years of age. Such maximum benefit limit may be exceeded, upon prior approval by

⁴ *Black’s Law Dictionary* 1398 (6th ed., West 1990)

⁵ *Id.* at 225.

⁶ *Seeck v. Geico Gen. Ins. Co.*, 212 S.W. 3d 129, 132 (Mo. banc 2007).

the health benefit plan, if the provision of applied behavior analysis services beyond the maximum limit is medically necessary for such individual....

7. Subject to the provisions set forth in subdivision (3) of subsection 4 of this section, coverage provided under this section shall not be subject to any limits on the number of visits an individual may make to an autism service provider, except that the maximum total benefit for applied behavior analysis set forth in subsection 5 of this section shall apply to this subsection.
15. Anthem's Summaries are not compliant with Missouri insurance laws. With respect to autism coverage:
 - a. While section 376.1224 mandates the maximum benefit shall be \$40,000 per year,⁷ Anthem's Summaries limit benefits for Applied Behavioral Analysis to 415 hours, as statutorily adjusted, per Member per Benefit Period. In explanation of its hourly limit, Anthem states the time limit is an actuarially derived equivalent of the statutory, yearly limit of \$40,000. However, no discovered statute provides for the substitution of a maximum dollar benefit with an actuarially derived equivalent. As such, the Summaries do not comply with the laws of this state as required by §376.777.
 - b. Anthem's Summaries do not provide for enrollees, with prior approval, to exceed the maximum benefit allowed if medically necessary. However, section 376.1224 allows for enrollees to exceed the limits if it is medically necessary and they obtain prior approval. As such, the Summaries do not comply with the laws of this state as required by §376.777.
 16. After review and consideration of the forms included in the Anthem Filing, the company has failed to demonstrate its compliance with Missouri law as enumerated herein.
 17. While there may be additional reasons as to why this policy forms do not comply with Missouri's insurance laws, the reasons stated herein are sufficient to disapprove the forms.
 18. Anthem's Contract is not in compliance with Missouri law. This form does not comply with Missouri's specificity standards related to providing language that the policy holder will receive. Additionally, Anthem's Summaries are not in compliance with Missouri law. These forms do not provide for the mandatory yearly limit benefit of \$40,000 for Applied

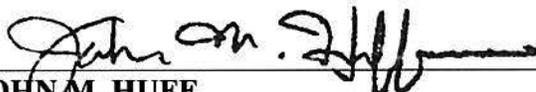
⁷ The statute provides that the maximum is to be adjusted for inflation annually. Section 376.1224.6.

Behavior Analysis coverage as it relates to autism coverage and do not allow enrollees to exceed the maximum benefit upon prior approval when the treatment is medically necessary. As such, neither the Contract nor the Summaries are in the public interest.

19. This Order is in the public interest.

IT IS THEREFORE ORDERED that Forms MO_OFFHIX_PP(1/14); MO_SB_CAT_6350_OFF(1/14); MO_SB_BRZ_4000_OFF(1/14); MO_SB_BRZ_4300_OFF(1/14); MO_SB_BRZ_5750_OFF(1/14); MO_SB_BRZ_6050_OFF(1/14); MO_SB_BRZ_4300DN_OFF(1/14); MO_SB_GLD_750_OFF(1/14); MO_SB_GLD_750DN_OFF(1/14); MO_SB_SLV_1750_OFF(1/14); MO_SB_SLV_2500_OFF(1/14); MO_SB_SLV_3000_OFF(1/14); and MO_SB_SLV_3500_OFF(1/14), are hereby **DISAPPROVED**. Healthy Alliance 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 1st day of
July, 2013.



JOHN M. HUFF
DIRECTOR



NOTICE

TO: Health Alliance 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

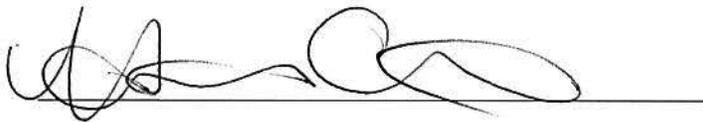
I hereby certify that on this 1st day of July, 2013, a copy of the foregoing Order and Notice was

- 1) Delivered via electronic mail to:

Susanne Campbell
campbells@bcbsmo.com; and

- 2) Served via certified mail addressed to:

Steve Martenet
President, Anthem Blue Cross and Blue Shield
1831 Chestnut
St. Louis, MO 63103

A handwritten signature in black ink, appearing to read "Steve Martenet", is written over a horizontal line.