

**FINAL ORDER**

Effective: 10/13/03

**BEFORE THE COMMISSIONER OF INSURANCE  
OF THE STATE OF KANSAS**

In the Matter of )  
UNITED WISCONSIN LIFE INSURANCE COMPANY ) Docket No. 3216-SO

**SUMMARY ORDER**

Pursuant to the authority conferred to the Commissioner of Insurance in K.S.A. 40-2,125, and in accordance with the Kansas Administrative Procedure Act (as amended), K.S.A. 77-537, *et seq.*, the Commissioner hereby asserts the findings of fact, conclusions of law and orders as follows:

**Findings of Fact**

1. Kansas Insurance Department (“KID”) performed a market conduct examination of United Wisconsin Life Insurance Company (“UWLIC” or the “Company”) in 2003 by reviewing the Company’s manuals, provider claims, grievance procedures and by meeting with UWLIC staff regarding its current operations.

2. During the course of the above-said examination, KID’s examiner discovered that UWLIC’s “A. Indexed Starting Values,” effective July 1, 1999, pertaining to its underwriting rates of various sizes of small employer groups without maternity, did not bear KID’s stamp of approval. This single page rate schedule also contains no page number or sequential reference to any other rate scheduling of UWLIC.

3. KID’s internal records contain no information indicating the said document regarding UWLIC’s group rates without maternity was ever submitted for filing in 1999 or any time thereafter.

4. UWLIC claims that the said rating schedule was filed with KID as a part of the Company's Small Employer Rate Filing in April 1999, and the same was subsequently approved by KID staff.

5. A letter by Jay Rogers, dated May 19, 1999, acknowledged KID's receipt submission of UWLIC's Group Medical Insurance Rating Manual. The letter specifically stated that the submitted rates were considered "NOT FILED" pending the reply and additional submissions from the Company.

6. Subsequently, KID approved UWLIC's Group Medical Insurance Rating Manual by stamping each and every page of the submitted rates schedules.

7. The UWLIC's Indexed Starting Values pertaining to its small employer group rates without maternity, effective July 1, 1999, was not and has never been a part of the approved UWLIC's rates schedule submitted by the Company in 1999.

#### **Applicable Law**

8. K.S.A. 40-2215 provides, in part:

(a) No individual policy of accident and sickness insurance as defined in K.S.A. 40-2201 and amendments thereto shall be issued or delivered to any person in this state nor shall any application, rider or endorsement be used in connection therewith, until a copy of the form thereof and of the classification of risks and the premium rates pertaining thereto, have been filed with the commissioner of insurance.

9. K.S.A. 40-2,125 further provides:

(a) If the commissioner determines after notice and opportunity for a hearing that any person has engaged in or is engaging in any act or practice constituting a violation of any provision of Kansas insurance statutes or any rule and regulation or order thereunder, the commissioner may in the exercise of discretion, order . . . (1) Payment of a monetary penalty of not more than \$1,000 for each and every act or violation. . .

10. K.S.A. 77-537 provides, in part:

(b) A state agency may use summary proceedings, subject to a party's request for a hearing on the order, if: (1) The use of those proceedings in the circumstances does not violate any provision of law; and (2) the protection of the public interest does not require the state agency to give notice and an opportunity to participate to persons other than the parties.

### **Conclusions of Law**

11. Based upon the findings of fact set forth above, it appears that UWLIC has failed to comply with the rate filing requirement set forth in K.S.A. 40-2215. UWLIC's non-stamped rate schedule pertaining to its small employer's group rates without maternity indicates the same was never submitted to KID for proper filing. This assumption was further supported by lacking of same in KID's internal records. Furthermore, even assuming UWLIC had submitted the rate schedule at issue as a part of its group medical insurance rating manual in April 1999, such mere submission would have not met the statutory filing requirement set forth in K.S.A. 40-2215.

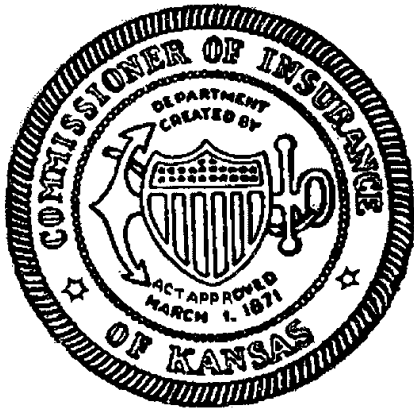
12. However, it is not a statutory violation if UWLIC has never underwritten or delivered any sickness policies in this state under its small employer group rate without maternity, effective July 1, 1999. Regardless the Company has failed to file the same with KID.

**IT IS THEREFORE, BY THE COMMISSIONER OF INSURANCE,  
ORDERED THAT:**

United Wisconsin Life Insurance Company shall pay a monetary penalty, due and payable on or before the 14<sup>th</sup> day from the date of this order, in the amount of One Thousand and 00/100 Dollars (\$1,000.00) for violations of K.S.A. 40-2215(a).

**IT IS FURTHER ORDERED** that the assessment of fine is herein suspended for 14 days from the date of this order to allow UWLIC to submit an affidavit by an officer of appropriate authority within the Company to declare that no sickness policies were ever written or delivered by UWLIC in relation to the Company's Indexed Starting Values, effective July 1, 1999, pertaining to rates of small employer group without maternity. If such affidavit is not received on or before the 14<sup>th</sup> day from the date of this order, the suspension will be automatically vacated.

**IT IS SO ORDERED THIS 23<sup>rd</sup> DAY OF SEPTEMBER, IN THE CITY OF TOPEKA, COUNTY OF SHAWNEE, STATE OF KANSAS.**



/s/ Sandy Praeger  
Sandy Praeger  
Commissioner of Insurance  
BY:

/s/ John W. Campbell  
John W. Campbell  
General Counsel

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that he served the above and foregoing Summary Order on this 23<sup>rd</sup> day of September, 2003, by causing the same to be deposited in the United States Mail, first-class mail postage prepaid, addressed to the following:

Samuel Miller  
President  
United Wisconsin Life Insurance Company  
3100 AMS Boulevard  
Green Bay, WI 54313-0000

/s/ John W. Campbell  
John W. Campbell, General Counsel

**NOTICE OF RIGHTS**

United Wisconsin Life Insurance Company (“UWLIC”) is entitled to a hearing pursuant to K.S.A. §77-537, the Kansas Administrative Procedure Act. If UWLIC desires a hearing, the company must file a written request for a hearing with:

John W. Campbell, General Counsel  
Kansas Insurance Department  
420 S.W. 9<sup>th</sup> Street  
Topeka, Kansas 66612

This request must be filed within fifteen (15) days from the date of service of this Order. If UWLIC requests a hearing, the Kansas Insurance Department will notify the company of the time and place of the hearing and information on the procedures, right of representation, and other rights of parties relating to the conduct of the hearing, before commencement of same.

If a hearing is not requested in the time and manner stated above, this Summary Order shall become effective as a Final Order upon the expiration of time for requesting a hearing, pursuant to K.S.A. §77-613. In the event that UWLIC files a petition for judicial review, pursuant to K.S.A. §77-613(e), the agency officer to be served on behalf of the Kansas Insurance Department is:

John W. Campbell, General Counsel  
Kansas Insurance Department  
420 S.W. 9<sup>th</sup> Street  
Topeka, Kansas 66612

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that he served the above and foregoing Notice of Rights on this 23<sup>rd</sup> day of September, 2003, by causing the same to be deposited in the United States Mail, first-class mail postage prepaid, addressed to the following:

Samuel Miller  
President  
United Wisconsin Life Insurance Company  
3100 AMS Boulevard  
Green Bay, WI 54313-0000

\_ /s/ John W. Campbell \_\_\_\_\_  
John W. Campbell, General Counsel