

**BEFORE THE COMMISSONER OF INSURANCE  
OF THE STATE OF KANSAS**

In the Matter of )  
**Golden Rule Insurance** )                                     Docket No. 3931-EO  
**Company** )

**EMERGENCY ORDER**  
**(Pursuant to K.S.A. 40-2404 and K.S.A. 77-536)**

Pursuant to the authority granted to the Commissioner of Insurance (“Commissioner”) by K.S.A. 40-2404 and K.S.A. 77-536, the Commissioner hereby makes the following Findings of Fact, Conclusions of Law, Policy Reasons, and Order as follows:

**Findings of Fact**

The Commissioner has been shown the following:

1. Records maintained by the Kansas Insurance Department (“KID”) indicate that Golden Rule Insurance Company (“Golden Rule”) located at 7440 Woodland Drive, Indianapolis, Indiana 46278, is licensed to transact and has continuously transacted the business of insurance in the State of Kansas since April 13, 1977.
2. On May 5, 2008, KID received a complaint from Ms. Patti Denney (“Ms. Denney”) against Golden Rule for the company’s denial of pre-approval for a medical procedure for Ms. Denney.
3. According to Ms. Denney’s complaint, her physician attempted to schedule exploratory surgery for Ms. Denney in January 2008, March 2008 and May 2008. In each instance, Golden Rule declined coverage.
4. Golden Rule does not dispute the procedure was medically necessary, however, the Company has maintained the procedure was not covered under Ms. Denney’s

policy due to an alleged failure to properly disclose medical history in the insurance application.

5. The application provided to KID by Golden Rule does not reflect any preexisting condition for Ms. Denney or any member of her family.
6. Ms. Denney's application was prepared and submitted to Golden Rule electronically by Golden Rule appointed agent, Mr. Dirk McClary.
7. Mr. McClary responded to an inquiry from KID by stating the application he prepared and submitted to Golden Rule included reference to a hernia disclosed to Mr. McClary by Ms. Denney.
8. Neither Mr. McClary nor Golden Rule has provided an explanation as to why the reference to Ms. Denney's hernia was not present on the application presented to KID by Golden Rule.
9. Golden Rule maintains had the company known Ms. Denney's complete medical history at the time the policy was issued the company would have attached a rider excluding all coverage for digestive system diseases or disorders.
10. To date, Golden Rule has denied coverage to Ms. Denney resulting in severe medical problems in renal failure.

#### **Applicable Law**

K.S.A. 40-2404 states, in pertinent part:

- (9) *Unfair claim settlement practices.* It is an unfair claim settlement practice if any one of the following or any rules and regulations pertaining thereto are: (A) Committed flagrantly and in conscious disregard of such provisions, or (B) committed with such frequency as to indicate a general business practice.
  - (d) refusing to pay claims without conducting a reasonable investigation based upon all available information;

- (f) not attempting in good faith to effectuate prompt, fair and equitable settlements of claims in which liability has become reasonably clear;
- (i) attempting to settle claims on the basis of an application which was altered without notice to, or knowledge or consent of the insured;

K.S.A. 40-2407 states, in pertinent part:

- (a) If, after such hearing, the commissioner shall determine that the person charged has engaged in an unfair method of competition or an unfair or deceptive act or practice, the commissioner shall render an order requiring such person to cease and desist from engaging in such method of competition, act or practice and if the act or practice is a violation of K.S.A. 40-2404 and amendments thereto, the commissioner may in the exercise of discretion order any one or more of the following:
  - (3) redress of the injury by requiring the refund of any premium paid by, the payment of any moneys withheld from, any consumer and appropriate public notification.

K.S.A. 77-536 states, in pertinent part:

- (a) A state agency may use emergency proceedings: (1) In a situation involving an immediate danger to the public health safety or welfare requiring immediate state action.
- (c) The state agency shall render an order, including a brief statement of findings of fact, conclusions of law, and policies reasons for the decision if it is an exercise of the state agency's discretion, to justify the state agency's decision to take the specific action and the determination of:
  - (1) An immediate danger.

### **Policy Reasons**

The Commissioner finds it is the public policy of the Kansas Insurance Department to protect the public health, safety and welfare of Kansas citizens. Golden Rule's denial of Ms. Denney's claim constitutes an immediate danger to the health, safety and welfare of the public requiring immediate state action.

### **Conclusions of Law**

11. The Commissioner has jurisdiction over Golden Rule as well as the subject matter of this proceeding, and such proceeding is held in the public interest.
12. Based on the Findings of Fact, Applicable Law and Policy Reasons set forth above, the Commissioner finds Golden Rule's denial of Ms. Denney's claim constitutes violations of K.S.A. 40-2404(9)(d), K.S.A. 40-2404(9)(f), and K.S.A. 40-2404(9)(i).
13. The Commissioner finds Ms. Denney's current health status constitutes an immediate danger to the health, safety, and welfare of the public requiring immediate state action.
14. Pursuant to K.S.A. 40-2407(a)(3), Golden Rule shall redress Ms. Denney's injury by the payment of money withheld as a result of the company's denial of Ms. Denney's claim.
15. The Commissioner shall retain jurisdiction over this matter to issue any Order(s) deemed necessary and appropriate.

### **NOTICE OF RIGHTS**

Pursuant to K.S.A. 77-536(d), this Emergency Order shall become effective when rendered.

Golden Rule Insurance Company ("Golden Rule") is entitled to a hearing pursuant to K.S.A. 77-542, the Kansas Administrative Procedure Act. If Golden Rule 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 Golden Rule 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 the same.

In the event Golden Rule 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

**IT IS SO ORDERED THIS 13th DAY OF AUGUST, 2008, 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 above and foregoing Emergency Order and Notice of Rights was served via the United States Postal Service, first-class postage prepaid, on this   13th   day of   August  , 2008, addressed to the following:

Kristyn K. Looney  
Assistant General Counsel  
Golden Rule Insurance Company  
712 Eleventh Street  
Lawrenceville, Illinois 62439

Kristyn K. Looney  
Assistant General Counsel  
Golden Rule Insurance Company  
7440 Woodland Drive  
Indianapolis, Indiana 46278-1719

John M. Whelan  
President  
Golden Rule Insurance Company  
7440 Woodland Drive  
Indianapolis, Indiana 46278

Patrick Carr  
Secretary  
Golden Rule Insurance Company  
7440 Woodland Drive  
Indianapolis, Indiana 46278

And via fax to Kristyn K. Looney at:  
(317) 328-9645

\_ /s/ Zachary J.C. Anshutz \_\_\_\_\_  
Zachary J.C. Anshutz  
Assistant General Counsel