

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

In the Matter of)
Coventry Health Care of Kansas, Inc.)
NAIC #95489

Docket No. 4016-SO

SUMMARY ORDER
(Pursuant to K.S.A. 40-2,125 and K.S.A. 77-537)

Pursuant to the authority granted to the Commissioner of Insurance (“Commissioner”) by K.S.A. 40-2,125 and in accordance with K.S.A. 77-537, the Commissioner hereby admonishes and assesses penalty against Coventry Health Care of Kansas, Inc. (“Coventry”) for engaging in unfair claim settlement practices and violating applicable provisions of the Kansas Insurance Code and the Kansas Administrative Code.

Findings of Fact

The Commissioner has been shown the following facts:

1. A complaint has been filed on behalf of a consumer stating that Coventry failed and refused to provide continuation of coverage to the consumer whose employer terminated its group policy when it went out of business.
2. The consumer was insured under a group policy by Coventry prior to January 9, 2009.
3. On January 9, 2009, the employer, Presley’s Conoco of Kechi, Kansas, terminated its business.
4. Accordingly, the consumer’s coverage terminated under the group policy effective January 1, 2009.
5. Coventry is required offer her continuation of coverage.
6. Coventry has refused to provide continuation of coverage on the ground that when an employer is not available to take the premiums and forward them to the insurer, continuation of coverage is not required.

Applicable Law

K.S.A. 40-2209 (i) states, in pertinent part:

A group policy of insurance delivered or issued for delivery or renewed which provides hospital, surgical or major medical expense insurance, or any combination of these coverages, on an expense incurred basis, shall provide that an employee . . . whose insurance under the group policy has been terminated for any reason, including discontinuance of the group policy in its entirety or with respect to an insured class . . . shall be entitled to have such coverage nonetheless continued under the group policy for a period of 18 months

K.S.A. 40-2406 states, in pertinent part:

- (a) Whenever the commissioner has reason to believe that any . . . person has been engaged or is engaging in this state in any unfair . . . act or practice, whether or not defined in K.S.A. 40-2404 and amendments thereto, and that a proceeding by the commissioner in respect thereto would be in the interest of the public, the commissioner shall issue and serve upon such person a statement of the charges in that respect and conduct a hearing thereon in accordance with the provisions of the Kansas administrative procedure act.
- (b) If, after such hearing, the commissioner determines that the person charged has engaged in any unfair . . . practice, any costs incurred as a result of conducting any administrative hearing authorized under the provisions of this section shall be assessed against such person or the company or companies represented by such person as an agent, broker or adjuster who is a participating party to the matter giving rise to the hearing. As used in this subsection, "costs" shall include witness fees, mileage allowances, any costs associated with reproduction of documents which become a part of the hearing record and the expense of making a record of the hearing.

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

If, after such hearing, the commissioner shall determine that the person charged has engaged in an . . . unfair . . . act or practice, the commissioner shall render an order requiring such person to cease and desist from engaging in such . . . act or practice

K.S.A. 40-2,125 states, in pertinent part:

- (a) If the commissioner determines after notice and opportunity for a hearing that any person has engaged 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 any one or more of the following:

- (1) Payment of a monetary penalty of not more than \$1000 for each and every act or violation, unless the person knew or reasonably should have known such person was in violation of the Kansas insurance statutes or any rule and regulation or order thereunder, in which case the penalty shall be not more than \$2,000 for each and every act or violation;

Conclusions of Law:

Based upon the Findings of Fact enumerated in paragraphs #1 through #6 and the Applicable Law stated above, the commissioner finds that Coventry has violated Kansas insurance laws as follows:

1. Coventry has failed to provide continuation of coverage to the insured as required by K.S.A. 40-2209(i).
2. Coventry has engaged in an . . . unfair . . . act or practice by stating to KID that it would provide continuation of coverage and sending the insured a notice of premium amount of a conversion policy in violation of K.S.A. 40-2407(a).
3. If it is determined that Coventry has engaged an unfair practice, any costs incurred as a result of conducting any administrative hearing authorized under the provisions of this section shall be assessed against Coventry.

Policy Reasons

1. No statutory or rational basis exists for extending continuation of coverage to consumers who have lost coverage because of termination the group policy by the employer or the insurer but not to consumers who have lost coverage because of the termination of the business.
2. Continuation of coverage that provides transition coverage for consumers whose coverage under a group policy has been terminated for any reason serves the needs of consumers and the state of Kansas.

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

Pursuant to K.S.A. 40-2,125 Coventry shall pay a monetary penalty, due and payable to the Kansas Insurance Commissioner on or before the 14th day from the date of this Order, in the amount of ONE THOUSAND DOLLARS AND 00/100 (\$1000.00) for its above-stated violation of K.S.A. 40-2209(i).

Pursuant to K.S.A. 40-2407 (1), Coventry is ordered to cease and desist from denying continuation coverage to the insured and to other like situated individuals whose coverage under a group policy has ceased due to the termination of group policy.

The Commissioner shall maintain jurisdiction over this matter to issue any Order(s) deemed necessary and appropriate.

NOTICE OF RIGHTS

Coventry is entitled to a hearing pursuant to K.S.A. 77-537, the Kansas Administrative Procedures Act. If Coventry 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. 9th Street
Topeka, Kansas 66612

This request must be filed within fifteen (15) days from the date of service of this Order. If Coventry requests a hearing, the Kansas Insurance Department will notify the company of the time and place of the hearing and the information on the procedures, right of representation, and other rights of parties relating to the conduct of the hearing, before commencement of the 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 Coventry 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. 9th Street
Topeka, Kansas 66612

IT IS SO ORDERED THIS 2nd DAY OF July , 2009, 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 and Notice of Rights on this 2nd day of July , 2009, by causing the same to be deposited in the United States Mail, first-class mail postage prepaid, addressed to the following:

Michael Murphy
President
Coventry Health Care of Kansas, Inc.
8320 Ward Parkway
Kansas City, MO 64114
And

Adrienne R. Blanche
Policy and Compliance Specialist
Coventry Health Care of Kansas, Inc.
8320 Ward Parkway
Kansas City MO 64114

/s/ Susan Ellmaker
Susan Ellmaker
Staff Attorney