

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

In the Matter of)
Coventry Health Care of Kansas, Inc.) Docket No. 4018-SO
NAIC #95489)

AMENDED 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 violating applicable provisions of the Kansas Insurance Code and the Kansas Administrative Code. This Amended Summary Order shall become effective as a Final Order, without further notice, upon the expiration of the fifteen (15) day period if no request for a hearing is made, pursuant to K.S.A. 77-542.

Findings of Fact

The Commissioner has been shown the following facts:

1. Coventry, located at 8301 E. 21st Street North, Suite 300, Wichita, KS 76206, has been authorized to transact and has continuously engaged in transacting insurance business in the State of Kansas since August 31, 1981.
2. On April 7, 2009, the Kansas Insurance Department (“KID”) received a complaint from a consumer stating that Coventry had refused to provide continuation of coverage to him for the required eighteen (18) months.
3. The consumer was employed by Thompson-Hill & Associates, Inc. (“THA”) and was covered by Coventry under a group plan.
4. A dispute arose between Coventry and the consumer in 2008 over the coverage of claims for services in St. Louis. Coventry considered the claims to be out-of-network. The consumer states that he had been told by the agent that the services would be in-network.
5. In August, 2008, Coventry informed the consumer that it would cover his services as in-network retroactively to January 2007 provided that on November 1, 2008 he be transferred to the alleged standard group policy or his coverage terminated.
6. In November, 2008, the insured was informed that his coverage under the group policy would be terminated December 31, 2008.

7. The insured elected continuation of coverage and that coverage commenced on January 1, 2009.
8. In mid February, 2009, the insured's employment at THA terminated.
9. Effective April 30, 2009, THA terminated its group policy with Coventry.
10. Effective May 1, 2009, the insured's continuation of coverage was terminated by Coventry on the ground that TMA had terminated its group policy with Coventry.
11. The insured has paid all premiums for continuation of coverage in a timely manner to THA for delivery to Coventry.
12. In its letter dated April 30, 2009, Coventry stated that when TMA terminated its group policy, Coventry offered the insured a conversion policy and referred him to the Missouri High Risk Pool.
13. In its letter to KID dated April 30, 2009, Coventry stated that it would offer the insured continuation of coverage but it did not do so.
14. In May 2009, Coventry sent the consumer notice of increase of the insured's premium from \$517.00 to over \$900.00.
15. The consumer has paid for insurance from the Missouri High Risk Pool for May and June 2009 at the rate of at a rate of \$381.00 per month for a total of \$762.00.
16. The Missouri High Risk Pool insurance provides coverage that is inferior to that of the group policy under which the consumer was previously covered.
17. In its response to the consumer's complaint and Kid's inquiry regarding the increase in cost, Coventry stated that the discrepancy "arises from the different premiums charged for continuation vs. conversion policies."
18. In its letter dated May 29, 2009, Coventry stated: "[T]he insured can disregard the Conversion Policy notice and premium information as he has chosen continuation of coverage for 18 months instead."
19. In June 2009 Coventry offered continuation of coverage to the consumer retrospectively to May 2009 at the cost of \$571.00 per month for May and June 2009.
20. The July 2009 premium in the amount of \$381.00 for the Missouri High Risk Pool insurance is due now and must be paid by the consumer pending a decision.
21. If the consumer elects continuation of coverage from Coventry, he will have to pay the May, June, and July 2009 Coventry premiums of \$571.00 per month for a

- total of \$1,713.00 and for the same months pay the Missouri High Risk Pool premiums \$318.00 totaling \$1143.00.
22. Claims for medical services provided to the consumer have been submitted for May, June and July 2009.
 23. The consumer would have higher out of pocket cost for those claims after insurance coverage by the Missouri High Risk Pool than he would have after coverage under the Coventry policy.
 24. Until the consumer knows whether Coventry will reimburse him for the difference between the amount of the Missouri High Rise pool premiums paid for May, June, and July 2009, he is not able to make a decision on the coverage he will elect.
 25. The difference between the Missouri High Risk Pool cost and the Coventry cost of coverage for the months of May, June, and July 2009 is \$570.00.

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. 40-2,125 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

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

Policy Reason

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.

Conclusions of Law:

Based upon the Findings of Fact enumerated in paragraphs #1 through #25 and the Applicable Law stated above, the commissioner finds that Coventry has violated Kansas insurance laws as follows:

- (a) Coventry has failed to provide continuation of coverage to the insured as required by 40-2209(i).
- (b) 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. 40-2406 (b).

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

Pursuant to K.S.A. 40-2,125, Coventry is ordered to 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 effective May 2009.

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

IT IS SO ORDERED THIS 7th DAY OF AUGUST, 2009 IN THE CITY OF TOPEKA, COUNTY OF SHAWNEE, STATE OF KANSAS.



/s/ Sandy Praeger
Sandy Praeger
Commissioner of Insurance

BY:

/s/ John W. pbell
John Campbell
General Counsel

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 Amended 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

CERTIFICATE OF SERVICE

The undersigned hereby certifies that he served the above and foregoing Amended Summary Order and Notice of Rights on this 7th day of August, 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