

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

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| In the Matter of |) | |
| BANKERS LIFE & |) | |
| CASUALTY COMPANY |) | Docket No. 4180-SO |
| NAIC #61263 |) | |

SUMMARY ORDER

Pursuant to the authority granted to the Commissioner of Insurance (“Commissioner”) by K.S.A. 40-2,125 *et seq.* and in accordance with K.S.A. 77-537, the Commissioner hereby admonishes and assesses penalty against BANKERS LIFE & CASUALTY COMPANY (“Bankers Life”) for violation of the applicable provisions of the Kansas Insurance statutes. This Summary Order shall become effective as a Final Order, without further notice, upon the expiration of the fifteen (15) day period if no hearing is requested, pursuant to K.S.A. 77-542.

Findings of Fact

The Commissioner has been shown the following facts:

1. Bankers Life & Casualty Company located at 600 W. Chicago Ave., Chicago, IL has been authorized to transact and has continuously engaged in transacting insurance business in the State of Kansas since November 29, 1948.
2. On December 17, 2010, the Kansas Insurance Department (“KID”) received a complaint from J.N. on behalf of her aunt, M.S.
3. M.S. is the owner of two policies, 930,252,051 & 990,188,098, with Bankers Life and began receiving long term care benefits beginning January 9, 2009.
4. M.S. changed long term care facilities on or about August 25, 2009. At this time, the facility and J.N. submitted claim information and credentials to Bankers Life. J.N. and the facility continued to contact Bankers Life to inquiry about the claims but were never given a specific reason for the delay.

5. Bankers Life responded to KID on January 13, 2010 regarding payments on behalf of M.S. Bankers Life admittedly stated that claim information was received by Bankers Life on October 15, 2009 but the servicing was “inadvertently delayed.”
6. On December 18, 2009, December 21, 2009 and January 4, 2010, payments were finally issued to the insured for claims beginning August 25, 2009 which Bankers Life admitted to receiving on October 15, 2009.
7. Between August 2009 and December 2009, J.N. was paying premium on behalf of her aunt, M.S., due to Bankers Life’s failure to recognize that M.S. was still receiving long term care benefits which would have activated her waiver of premium provision.
8. C.F. complained to KID on April 29, 2010 on behalf of her deceased husband, L.F. L.F. was a Bankers Life policyholder, policy number 209,058,655 and began receiving long term care benefits beginning November 5, 2008.
9. In response to KID, Bankers Life admits receiving billing statements for L.F.’s care on March 30, 2009 for February and March 2009. Bankers Life finally issued payment on May 27, 2010 despite a year of C.F. trying to resolve the problem on her own. Bankers Life states that the claims were “inadvertently overlooked.”
10. On April 26, 2010, KID received a complaint from P.L. who composed a complaint on behalf of his mother E.L. E.L. is the owner of Bankers Life policy 970,133,521 and began receiving long term care benefits August 2009.
11. E.L. was moved to a long term care facility on January 4, 2010 as her health was declining. On February 15, 2010, P.L. submitted claim information via mail to the address listed on the claim forms located on Bankers Life website.
12. Early March, P.L. contacted Bankers Life which stated that the company had received the forms but not until March 1, 2010. There was a delay in receipt of the claim information due to Bankers Life providing an incorrect address on the claim material on its website.

13. On March 15, 2010, Bankers Life received E.L.'s claim for February. On April 16, 2010, Bankers Life received E.L.'s claim for March.
14. On April 9, 2010, P.L. called to check on the claim process and was informed by Bankers Life that all items necessary to process the claim had been collected and that there was a backlog. In the response to the complaint, Bankers Life states that this information is not true and that Bankers Life was missing a copy of the facility's license. However, from March 1 to April 23, P.L. was never informed that Bankers Life was missing any information. In fact, he was informed otherwise.
15. On February 2, 2010, KID received a complaint from E.T. on behalf of her husband, A.T. A.T. is the owner of Bankers Life policy 204,097,471 and began receiving long term care on July 28, 2009.
16. A claim was made and received by Bankers Life for A.T.'s care on August 27, 2009. On September 15, 2009, Bankers Life denied the claim based on the lapse of the policy. On October 12, 2009, Bankers Life received premium payment from A.T. and reinstated that policy.
17. On December 15, 2009, Bankers Life received the additional information it needed to pay A.T.'s claim. Bankers Life states that the claim was "inadvertently overlooked" and the claim was not paid until February 26, 2010.
18. L.V. is a Bankers Life policyholder and has been receiving qualified home healthcare benefits consistently since June 24, 2009.
19. S.V. indicates that he has to submit claims numerous times prior to Bankers Life acknowledging that the claim has been received.
20. Due to failure to pay timely, L.V.'s home healthcare agency, Advocare, refuses to provide her care. Therefore, L.V. was forced to change agencies.
21. To ensure that Bankers Life received March's invoice and care notes, KID faxed a copy to Bankers Life on April 12, 2010 and received confirmation that the fax was received.

22. S.V. was instructed by Lesley with Bankers Life to email Steve Marsh, her supervisor, a copy of the invoice and care notes. S.V. did this on April 12, 2010 and received an email confirmation from Steve Marsh that it had been received.
23. On May 13, 2010, KID received an email from S.V. indicating that he had not received payment for the March invoice.
24. On May 14, 2010, Jennifer Sourk, staff attorney for KID, left a message for Ruth Daudel with Bankers Life inquiring about the status of the payment. KID did not receive a return call.
25. On May 18, 2010, Jennifer Sourk left another message for Ruth Daudel with Bankers Life making another inquiry about the status of the payment. Ruth Daudel returned the phone call and indicated that Bankers Life had not received copies of the invoice and/or care notes and therefore, payment had not been issued. KID requested that payment be made by the end of business on May 18, 2010.

Applicable Law

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 \$1,000 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. 40-2228h states, in pertinent part:

- (a) Within 30 days after receipt of any claim, and amendments thereto, any insurer issuing a policy of long-term care insurance shall pay a clean claim for reimbursement in accordance with this section or send a written or electronic notice acknowledging receipt of and the status of the claim. Such notice shall include the date such claim was received by the insurer and state that:

- (1) The insurer refuses to reimburse all or part of the claim and specify each reason for denial; or
- (2) additional information is necessary to determine if all or any part of the claim will be reimbursed and what specific additional information is necessary.

K.S.A. 40-2404(9) states, in pertinent part:

- (9) *Unfair claim settlement practices.* It is an unfair claim settlement practice if any 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.
 - (b) failing to acknowledge and act reasonably promptly upon communications with respect to claims arising under insurance policies;
 - (c) failing to adopt and implement reasonable standards for the prompt investigation of claims arising under insurance policies;
 - (e) failing to affirm or deny coverage of claims within a reasonable time after proof of loss statements have been completed;
 - (f) not attempting in good faith to effectuate prompt, fair and equitable settlements of claims in which liability has become reasonably clear;

Conclusions of Law

Based on the Findings of Fact in Paragraphs #1 through #25 and the Applicable Law above,

IT IS THEREFORE ORDERED BY THE COMMISSIONER OF INSURANCE:

26. Bankers Life failure to pay claims within 30 days of receipt of claims and/or failure to properly notify policy holders of information needed to process the claims constitutes a violation of K.S.A. 2228h.
27. Bankers Life's multiple failure to acknowledge receipt of claims, to promptly investigate claims, to affirm or deny claims and to effectuate prompt and fair claims settlement practices are committed with such frequency to establish a business practice and constitutes violations of K.S.A. 40-2404(9)(b),(c),(e) and (f).
28. Pursuant to K.S.A. 40-2,125 Bankers Life shall pay a monetary penalty in the amount of Twenty-Two Thousand Dollars and no/100 (\$22,000.00) for the above-stated violations of K.S.A. 40-2228h and K.S.A. 40-2404(9).
29. The Commissioner shall retain jurisdiction over this matter to issue any Order(s) deemed necessary and appropriate.

NOTICE OF RIGHTS

Bankers Life and Casualty Company is entitled to a hearing pursuant to K.S.A. 77-537, the Kansas administrative Procedure Act. If Bankers Life and Casualty Company 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 Bankers Life and Casualty Company 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.

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 Bankers Life and Casualty Company 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 19TH DAY OF JULY, 2010, 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 Summary Order was served via the United States Postal Service, first-class postage prepaid, on this 19th day of July, 2010, addressed to the following:

Mr. Scott Perry
President
Bankers Life & Casualty Company
11825 N. Pennsylvania St.
Carmel, IN 46032

/s/ Jennifer R. Sourk_____
Jennifer R. Sourk
Staff Attorney