

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

In the Matter of)
)
SPARTA INSURANCE)
COMPANY)
)
NAIC #20613)

Docket No. 5132-CO

CONSENT AGREEMENT AND FINAL ORDER
(Pursuant to K.S.A. 44-5,120 and K.S.A 2016 Supp. 77-537)

Now on this 30th day of October, 2017, the Kansas Insurance Department (“KID”) and Sparta Insurance Company (“Sparta”) come before the Commissioner for formal disposition of the above captioned matter. The parties submit this proposed Consent Agreement and Final Order for adoption, rejection, or modification pursuant to the provisions of K.S.A. 40-222.

KID and Sparta wish to resolve this matter by entering into this Consent Agreement. Sparta hereby waives any and all rights to further administrative adjudication or review of this matter, including any and all rights conferred upon it under K.S.A. 77-501 *et seq.*

Pursuant to the authority granted to the Commissioner of Insurance (“Commissioner”) by K.S.A. 40-222 and K.S.A. 40-2,125 and in accordance with K.S.A. 77-501 *et seq.*, the Commissioner and Sparta Insurance Company (“Sparta”) have mutually agreed on the assessment of a penalty against Sparta and the entry of a cease and desist order. This Order shall become effective as a Final Order, without further notice, when signed by the Commissioner or his designee and filed of record with the KID.

Findings of Fact

1. At pertinent times, Sparta Insurance company was located at Cityplace II, 185 Asylum Street, Hartford, CT, 06103. It is currently located at 5 Batterson Park Road, 3rd floor, Farmington, CT, 06032.
2. Sparta has been authorized to transact insurance business in the State of Kansas since December 23, 1926.
3. Sparta utilizes a Third-Party Administrator (“TPA”) to handle claims against its insureds in the State of Kansas.
4. In September 2012, an employee (“Claimant”) of Sparta’s insured suffered damage to his pulmonary system, bringing rise to a workers’ compensation claim.
5. Claimant gave notice of injury to the employer on October 4, 2012.
6. Claimant’s personal physician was of the opinion that his chronic cough and sore throat was caused by exposure to cement dust and recommended that he not be exposed to cement dust.
7. Claimant was evaluated by the employer’s company physician on October 8, 2012.
8. The employer’s company physician agreed with the temporary work restrictions ordered by Claimant’s personal physician and ordered light duty with no exposure to cement dust.
9. Sparta’s TPA subsequently denied the claim when Claimant refused to accept accommodated work.
10. On November 30, 2012, Claimant’s private specialist concurred with the diagnosis of occupational asthma due to inhalation of cement dust.

11. After a preliminary hearing on December 12, 2012, the Administrative Law Judge (“ALJ”) for the Kansas Division of Workers’ Compensation found that Claimant was entitled to medical care and ordered that his medical expenses be paid.
12. Further, the ALJ ordered Temporary Total Disability (“TTD”) paid at the rate of \$468.23 per week from November 1, 2012, until the Claimant was released to return to work, was offered accommodated work within temporary work restrictions, attained maximum medical improvement, or until further Order of the Court.
13. On January 8, 2013, Claimant was not able to fill his prescriptions because Sparta’s Third-Party Prescription Vendor had not authorized them.
14. After investigation, the prescriptions were authorized and filled.
15. On March 13, 2013, a new claims adjuster for Sparta’s TPA was contacted for authorization of prescriptions that were not prescribed by the designated physician.
16. After clarification, the prescriptions were authorized and filled.
17. On March 27, 2013, TTD payments were terminated because the new claims adjuster incorrectly believed Claimant had refused accommodated work.
18. Payments for TTD were recommended along with a payment for back TTD on May 16, 2013, when it was determined that no new offer of accommodated work had been made.
19. On May 20, 2013, Claimant attempted to fill three prescriptions not prescribed by the authorized physician.

20. The claims adjuster refused to authorize filling these prescriptions because they were written by Claimant's personal physician, not the authorized physician.
21. Again in June 2013, Claimant attempted to fill prescriptions written by his personal physician.
22. This time the nurse case manager called Claimant's wife to discuss the issue.
23. The nurse learned that the authorized physician had continued the prescriptions of Claimant's personal physician.
24. Sparta's TPA then authorized filling the prescriptions.
25. In March 2014, Claimant was working for a different employer when he suffered pneumonia-like symptoms without exposure to cement dust.
26. Sparta's TPA refused to authorize medical treatment at that time on the ground that Claimant's condition was the result of a new work injury and not related to the September 2012 work injury.
27. A causation opinion was requested from the authorized physician in April 2014, but was not obtained until May 2015.
28. In May 2015, the authorized physician stated that, in his opinion, Claimant's symptoms resulted from the original work injury.
29. Based upon this opinion, Sparta's TPA authorized a resumption of medical treatment in May 2015.

Applicable Law

30. K.S.A.44-5,120 states, in part:
 - (d) Fraudulent or abusive acts or practices for purposes of the workers compensation act include, willfully, knowingly or intentionally:

10) refusing or failing to make prompt delivery to the employee or legal beneficiary of funds belonging to the employee or legal beneficiary as a result of a settlement, agreement, order or award.

Conclusions of Law

Based upon the Findings of Fact enumerated in Paragraphs #1 through #29 and the applicable law cited above, **THE COMMISSIONER CONCLUDES:**

1. The Commissioner has jurisdiction over Sparta and the subject matter of this proceeding and such proceeding is held in the public interest.
2. Sparta, by and through its TPA, has violated K.S.A. 44-5,120 by wrongfully refusing to authorize medical treatment or prescriptions promptly five times.
3. KID acknowledges that Sparta admits no liability in agreeing to this Consent Order.

Orders

Based on the Findings of Fact, Applicable Law, and Conclusions cited above, and pursuant to K.S.A. 40-2,125(a)(1), **IT IS ORDERED, BY THE COMMISSIONER OF INSURANCE:**

1. Pursuant to K.S.A. 44-5,120, Sparta shall pay a fine of \$10,000.00.
2. Sparta shall cease and desist from “failing to make prompt delivery to the employee . . . of funds belonging to the employee . . . as a result of a . . . order or award.”
3. The Commissioner shall retain jurisdiction over this matter to issue any orders deemed necessary.

IT IS SO ORDERED THIS 30th DAY OF October, 2017, IN THE CITY

OF TOPEKA, COUNTY OF SHAWNEE, STATE OF KANSAS.



Ken Selzer

Ken Selzer
Commissioner of Insurance

BY:

Clark Shultz

Clark Shultz
Assistant Commissioner

Approved By:

[Signature]

President
Sparta Insurance Company