

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

In the Matter of)	
NATIONAL HEALTH)	Docket No.: 86735
INSURANCE COMPANY)	
NAIC # 82538)	

CONSENT AGREEMENT AND FINAL ORDER
(Pursuant to K.S.A. 40-222, 40-2,125 and K.S.A. 77-537)

The Kansas Insurance Department ("Department") and National Health Insurance Company ("NHIC" or "the Company") submit this Consent Agreement and Final Order. NHIC hereby waives any and all rights to further administrative or judicial adjudication or review of this matter, including any and all rights conferred upon it under K.S.A. 77-501 et seq. and K.S.A. 77-601 et seq. Pursuant to the authority conferred upon the Commissioner of Insurance in K.S.A. 40-222, Vicki Schmidt, the duly elected, qualified, and serving Commissioner of Insurance, hereby adopts the Department's agreement made with NHIC and makes the following findings and Orders:

The parties stipulate that if a hearing were conducted in this matter, the following evidence could be offered by the Commissioner, and although neither admitted nor denied by NHIC, would be admissible to show the following.

1. NHIC is domiciled in Texas and has been authorized to conduct business in Kansas since 1980.
2. The Department's market regulation division contacted NHIC on December 10, 2018, regarding an increase in both consumer complaints and premium from 2016 to 2018.

As a result of the NHIC's responses to the Department's interrogatories, the

Department requested additional information about the Short-Term Limited Duration (“STLD”) product marketed in Kansas.

3. NHIC’s response to the Department’s 2018 inquiry and the Department’s investigation of a subsequent consumer complaint revealed issues concerning agent sales and potential policy misrepresentations of STLD policies. The Department requested that NHIC complete interrogatories, a health Data Request, and a Producer Data Request for STLD policies in Kansas.

Unapproved Application and Forms

4. NHIC used an unapproved online application from August 1, 2016, to July 23, 2020. The insurer name was not included in the application. Additionally, the application asked, “Will any applicant have other health insurance in force on the policy effective date or be eligible for Medicaid?” and required the application to “certify” that their answers were correct.
5. NHIC acknowledged that a “Yes” answer on the unapproved online application could result in the applicant being ineligible for enrollment in the STLD policy.
6. NHIC reported that the clause “or be eligible for Medicaid” was erroneously programmed into the online application. NHIC confirmed that the paper application that was filed and approved by the Department did not refer to Medicaid eligibility with respect to this question.
7. NHIC reported that it corrected the online application question on July 23, 2020, on all internal and external quoting and policy fulfillment platforms.
8. Due to limitations in the Company’s system, NHIC does not know the number of affected applicants. NHIC reported that all applicants who answered “No” to the

Medicaid question were issued and STLD policy, however, if an applicant answered “Yes” to the Medicaid question, the application could not be submitted. The Company’s system did not capture any data on the number of “Yes” answers or the number of applications that were not allowed submission by applicants that selected “No”.

9. The Department did not approve NHIC’s outline of coverage. The form did not have a section for the name and signature of the insurance agent. The Company reported that it implemented and used the outline of coverage from August 2016 to December 2020. Further, the Company reported that full remediation of the outline of coverage was effectuated for internal quoting system on September 24, 2020, and for external quoting systems in December 2020.
10. The Company’s generative adversarial network (“GAN”) endorsement for the Kansas Life and Health Guaranty Association (“Guaranty Association”) was not updated to include changes to a required disclaimer that contains the address of the Guaranty Association and the Department. The Department sent a notification in the System for Electronic Rates and Form Filing (“SERFF”) on June 19, 2019, which notified insurers that the Department’s address changed. On September 22, 2020, NHIC reported that the GAN endorsement changes would be implemented September 24, 2020 , and the Company confirmed on July 29, 2021, that such changes occurred on such date.

Agent Appointment

11. During the Department’s review of NHIC’s responses to the producer data request, the Department discovered that one agent was not appointed from 2017 to 2019.

While the agent was appropriately licensed in Kansas at the time the policy was sold, the Company's records did not reflect appointment of the agent.

12. NHIC reported that the Company implemented an automated system to maintain records of licensed and appointed producers in 2019.
13. On July 29, 2021, the Company further reported that it has taken corrective actions since its response to the Producer Data Request on July 31, 2020, to ensure the Company maintains a list of producers contracted to sell products in Kansas. The Company implemented another new process in July 2020, in which its Core Processing System (CPS) logs every policy it processes, as well as the response it receives from the Agent Management System (AMS) regarding the "appointment" status of an agent associated with the policy and any discrepancies identified fall out for additional research and review. This new process allows the Company to better ensure that its list of contracted producers is consistently accurate and up-to-date.

Applicable Law

1. K.S.A. 40-222(a) provides:

"Whenever the commissioner of insurance deems it necessary but at least once every five years, the commissioner may make, or direct to be made, a financial examination of any insurance company in the process of organization, or applying for admission or doing business in this state. In addition, at the commissioner's discretion, the commissioner may make, or direct to be made, a market regulation examination of any insurance company doing business in this state."

2. K.S.A. 40-2,125(a)(1) provides:

"(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 not be more than \$1,000 for each and every act or violation;

“(2) suspension or revocation of the person's license or certificate if such person knew or reasonably should have known that such person was in violation of the Kansas insurance statutes or any rule and regulation or order thereunder; or

“(3) that such person cease and desist from the unlawful act or practice and take such affirmative action as in the judgment of the commissioner will carry out the purposes of the violated or potentially violated provision.”

3. K.S.A. 40-2,154 provides:

“No insurance company, health maintenance organization, nonprofit medical and hospital, dental, optometric, or pharmacy corporations, or self-funded health benefit plan whether an employee welfare benefit plan pursuant to section 607(1) of the employee retirement income security act of 1974 (ERISA) as amended or not, shall:

“(a)(1) Refuse to insure, refuse to continue to insure;

“(2) limit the amount, extent or kind of coverage available; or

“(3) charge a different rate for the same coverage;

“to any individual solely because of medicaid eligibility of the individual covered or applying for coverage or any relative of such individual.

“(b) Impose requirements on any agency or official assigned the rights of any individual eligible for or covered by medicaid that are different from requirements applicable to an agent or assignee of any other individual.

“(c) Exclude, limit or otherwise restrict coverage because medicaid benefits as permitted by title XIX of the social security act of 1965 are or may be available for the same accident or illness.”

4. K.S.A. 40-3013a provides, in part:

“(b) Within 180 days of the effective date of this act, the association shall prepare a summary document describing the general purposes and current limitations of this act in complying with subsection (c). This document should be submitted to the commissioner for approval. Sixty days after receiving such approval, no insurer may deliver a policy or contract described in section (b) of K.S.A. 40-3003, and amendments thereto, to a policy or contract holder unless the document is delivered to the policy or contract holder prior to or at the time of delivery of the policy or contract except if subsection (d) applies. The document should also be available upon request by a policyholder. The distribution, delivery or contents or interpretation of this document shall not mean that either the policy or the contract or the holder thereof would be covered in the event of the impairment or insolvency of a member insurer. The description document shall be revised by the association as amendments to this act may

require. Failure to receive this document does not give the policyholder, contract holder, certificate holder or insured any greater rights than those stated in this act.

“(c) The document prepared under subsection (b) shall contain a clear and conspicuous disclaimer on its face. The commissioner shall promulgate a rule establishing the form and content of the disclaimer. The disclaimer shall:

“(1) State the name and address of the life and health insurance guaranty association and insurance department;

“...
“

“(d) No insurer or agent may deliver a policy or contract described in subsection (b) of K.S.A. 40-3003, and amendments thereto, and excluded under subsection (n)(1) of K.S.A. 40-3008, and amendments thereto, from coverage under this act unless the insurer or agent, prior to or at the time of delivery, gives the policy or contract holder a separate written notice which clearly and conspicuously discloses that the policy or contract is not covered by the life and health insurance guaranty association. The commissioner, by rule, shall specify the form and content of the notice.”

5. K.A.R. 40-2-19 provides, in part:

“(a) The disclaimer required by L. 1986, Ch. 180, Sec. 15(c) shall be printed in bold face type and included on the face page of the summary document required by L. 1986, Ch. 180, Sec. 15(b). The disclaimer shall be entitled, “Disclaimer”, and shall contain the following statements:

“...
“

“(3) the Kansas life and health insurance guaranty association or the Kansas insurance department will respond to any questions regarding the extent of coverage, if any, under the Kansas life and health insurance guaranty fund. The addresses of the association and insurance department shall follow this statement;

“...
“

“(b) The notice to policyholders required by L. 1986, Ch. 180, Sec. 15(d) shall be printed in bold face type on a separate one page document not less than eight inches by five inches, with type not less than 10-point. The notice shall be entitled, “Special Notice”, and shall contain the following information:

“...
“

“(3) the statements required by subparagraphs (2), (3) and (4) of subsection (a) of this regulation. ...”

6. K.S.A. 40-4912(a) provides:

“Any company authorized to transact business in this state may, upon determining that the insurance agent is of good business reputation and, if an individual, has had experience in insurance or will immediately receive a course of instruction in insurance and on the policies and policy forms of such company, appoint such insurance agent as the insurance agent of the company under the license in effect for the insurance agent. The appointment shall be made on a form prescribed by the

commissioner. Such form shall be sent to the commissioner within 30 days of the date the company appoints such insurance agent.”

7. K.A.R. 40-4-23(b) provides:

“Each authorized issuer of accident and sickness insurance contracts and each authorized insurance agent who solicits, negotiates or procures such insurance within this state shall meet the following requirements:

“(1) Each agent shall, at the beginning of any solicitation, inform the prospective purchaser that he or she is acting as an insurance agent.

“(2) The prospective purchaser shall be informed of the insurer’s full name.

“(3) The agent or insurer shall provide to the prospective purchaser before or with the delivery of a contract, a dated outline of coverage describing the elements of the contract including:

“(A) The name and signature of the insurance agent, or if no agent is involved, the name of the employee of the insurer who assumes responsibility for completing the outline; ...”

Conclusions and Orders

Based on the allegations enumerated in Paragraphs 1 through 13 and the applicable law cited above, THE COMMISSIONER OF INSURANCE MAKES THE FOLLOWING ORDERS:

1. The Commissioner of Insurance has jurisdiction over this matter pursuant to K.S.A. 40- 222 and shall retain jurisdiction to issue any further orders deemed necessary.
2. NHIC neither admits nor denies the stated violations, enumerated above.
3. NHIC shall comply with recommendations of the Department’s examiners, as outlined in the confidential letter sent to NHIC on December 28, 2021.
4. NHIC shall pay a monetary penalty of \$20,000 total for violations of Kansas law.

IT IS SO ORDERED THIS 28th DAY OF DECEMBER 2021, IN THE CITY OF TOPEKA, COUNTY OF SHAWNEE, STATE OF KANSAS



Vicki Schmidt
Commissioner of Insurance

BY:

Paige Blevins
Lead Regulatory Counsel

APPROVED BY:

Charles Harris
President
National Health Insurance Company
4455 LBJ Freeway Suite 375
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CERTIFICATE OF SERVICE

The undersigned hereby certifies that she served the above and foregoing Consent Agreement and Final Order on this 04 day of January 2022, by causing the same to be deposited in the United States Mail, certified first class postage prepaid and first class postage prepaid, addressed to the following:

Charles Harris
President
National Health Insurance Company
4455 LBJ Freeway Suite 375
Dallas, TX 75244


Toni Garrard
Senior Administrative Specialist