

JAN 5 2001

STATE OF ARIZONA

DEPT. OF INSURANCE
BY 

DEPARTMENT OF INSURANCE

In the Matter of:)	Docket No. 01A-002-INS
)	
AMERICAN TRAVELLERS LIFE INSURANCE COMPANY,)	CONSENT ORDER
NKA CONSECO SENIOR HEALTH INSURANCE COMPANY)	
NAIC #76325;)	
)	
Respondent.)	

Examiners for the Department of Insurance (the "Department") conducted a market conduct examination of American Travellers Life Insurance Company ("American Travellers"). The Report of the Examination of the Market Conduct Affairs of American Travellers, dated December 18, 1998 alleges that American Travellers has violated A.R.S. §§20-444, 20-461, 20-466.03, 20-1110, 20-2104, 20-2106, 20-2108, 20-2110, and A.A.C. R20-6-201, R20-6-801, R20-6-1007, R20-6-1008, R20-6-1014, R20-6-1015 and the prior Consent Order, Docket #8372, dated February 28, 1994.

Conseco Senior Health Insurance Company ("CSHIC") wishes to resolve this matter without formal proceedings, neither admits nor denies the following Findings of Fact and Conclusions of Law, and consents to the entry of the following Order.

FINDINGS OF FACT

1. CSHIC is authorized to transact life and disability insurance pursuant to a Certificate of Authority issued by the Director.
2. The Examiners were authorized by the Director to conduct a market conduct examination of American Travellers. The on-site examination covered the time period from April 15, 1995 through April 15, 1998, and was concluded on December 18, 1998. Based on the findings the Examiners prepared the "Report of Examination of the Market Conduct Affairs of American Travellers Life Insurance

1 Company" dated December 18, 1998.

2 3. Conseco closed the acquisition of American Travellers in December, 1996,
3 and closed the Bensalem, PA home office of American Travellers in September, 1997.

4 4. On November 2, 1998 the Company name was changed to Conseco Senior
5 Health Insurance Company ("CSHIC").

6 5. Following a market conduct examination of American Travellers Life
7 Insurance Company as of July 31, 1992, the Director entered a Consent Order, Docket
8 No. 8372, which was filed on February 28, 1994, (the "1994 Order"). Section 1 of the
9 "Order" portion of the 1994 Order stated as follows:

10 "1. American Travellers shall cease and desist from failing to notify insureds of
11 the acceptance or denial of claims within fifteen (15) working days of receipt of
12 properly executed proofs of loss and from failing to either pay claims within thirty
13 (30) days after receipt of a proof of loss which contains all information necessary
14 for claim adjudication, or pay interest on the claims from the date the claim was
15 received by American Travellers."

16 6. The Examiners reviewed 18 of 18 advertising items used by American
17 Travellers during the period of the examination and found that:

18 a. American Travellers failed to file three long-term care advertising
19 items with the Department prior to their use.

20 b. American Travellers stated, in one long-term care sales brochure, that
21 pre-existing conditions are covered immediately, although the policy forms indicate
22 three and six month waiting periods.

23 7. The Examiners reviewed 81 of 81 policy, application and claim forms used
24 by American Travellers during the period of the examination and found as follows:

25 a. American Travellers failed to provide a "Notice of Insurance
Information Practices" that contained all of the required language on five of five long-
term care application forms, two of nine reinstatement and policy change forms, 18 of

1 24 claim forms, and four of 24 health claim forms.

2 b. American Travellers failed to provide three of 15 long-term care
3 outlines of coverage forms with the appropriate "Standard Format Outline of Coverage"
4 as prescribed in Appendix C of Arizona Administrative Code, Article 10. The
5 Department approved these outlines of coverage forms, forms ATL-FQ-LTC-OC-AZ,
6 ATL-FQ-HHC-OC-AZ and ATL-HHC-3-OC-AZ-97 on October 1, 1997, April 8, 1998
7 and July 15, 1997 respectively.

8 c. American Travellers failed to use or include a compliant version of
9 the required statement that warns of the consequences of filing a fraudulent claim, on
10 12 claim forms.

11 8. The Examiners requested copies of various reports that are required to be
12 filed with the Department and found as follows:

13 a. American Travellers failed to file, with the Department by June 30,
14 1996, 1997 and 1998, the long-term care replacement/lapse report for the previous
15 year.

16 b. American Travellers failed to file, with the Department by March 31,
17 1996 and 1998, the long-term care rescission report for the previous year.

18 9. The Examiners reviewed 50 of 2195 long-term care policies issued, 51 of
19 1,520 home health care policies issued, 36 of 90 other health care policies issued, 35
20 of 225 life insurance policies issued, 50 of 467 long-term care insurance applications
21 declined, 51 of 292 home health care insurance applications declined, 5 of 5 hospital
22 confinement insurance applications declined, 29 of 29 life insurance applications
23 declined, 50 of 175 long-term care insurance applications withdrawn, 50 of 131 home
24 health care insurance applications withdrawn, 11 of 11 hospital confinement insurance
25 applications withdrawn, 15 of 15 life insurance applications withdrawn, and four of four

1 recissions processed by the Company during the period of the examination and found
2 as follows:

3 a. American Travellers failed, on 336 applications, to provide an
4 "Information Disclosure Authorization" that contained all of the required information.

5 b. American Travellers failed to provide 155 applicants with a Summary
6 of Rights. The Company provided the examiners with copies of a corrected adverse
7 underwriting procedures, including copies of letters with the appropriate disclosures,
8 while they were still on site. The Examiners were advised that the new procedures had
9 already been implemented.

10 c. American Travellers, when responding to a request from 14 applicants
11 for personal information regarding an adverse underwriting decision, failed to provide
12 the individuals with a summary of the procedures to request correction, amendment or
13 deletion of the recorded personal information.

14 10. The Examiners reviewed 50 of 3,722 long-term care paid claims, 50 of
15 4,449 home health care paid claims, 50 of 931 major medical/dread disease paid
16 claims, 150 of 11,664 Medicare supplement paid claims, 42 of 42 life insurance paid
17 claims, 51 of 1,867 long term care denied claims, 50 of 2,095 home health care denied
18 claims, 50 of 388 major medical/dread disease denied claims, 50 of 3,825 processed
19 by the Company during the period of the examination and found as follows:

20 a. American Travellers failed to acknowledge 53 claimants within ten
21 working days after receiving notice of a claim.

22 b. American Travellers failed to notify 34 claimants of the acceptance or
23 denial of the claim within 15 working days after receipt of an acceptable proof of loss.

24 c. American Travellers failed to notify 44 claimants, of the reason why
25 more time was needed to determine if the claim would be accepted or denied, within 15

1 working days after receipt of an acceptable proof of loss.

2 **CONCLUSIONS OF LAW**

3 1. American Travellers violated A.A.C. R20-6-1014 and A.R.S. §20-1110(E)
4 by failing to file long-term care advertising materials prior to their use in Arizona.

5 2. American Travellers violated A.A.C. R20-6-201(C)(3)(a) and A.R.S. §20-
6 444(A) by using an advertisement that contains misleading and deceptive statements
7 with respect to pre-existing conditions.

8 3. American Travellers violated A.R.S. §20-2104(A)(1) by failing to provide a
9 Notice of Insurance Information Practices, when personal information was collected on
10 the application, that contained all of the required information.

11 4. American Travellers violated A.R.S. §§20-2106(5), (6), (7)(a), (8)(a), (8)(b)
12 and (9) by failing to use language in the Information Disclosure Authorization section of
13 its applications, change forms and claim forms that:

14 a. Named the insurance institution to which the individual is
15 authorizing information to be disclosed.

16 b. Specified the purpose for which the information is collected.

17 c. Specified that the authorization remains valid for 30 months from
18 the date the authorization is signed.

19 d. Specified that the authorization remains valid for the term of
20 coverage of the policy.

21 e. Specified that the authorization remains valid for the duration of
22 the claim.

23 f. Advised that the individual, or the individual's authorized
24 representative, is entitled to receive a copy of the authorization form.

25 5. American Travellers violated A.A.C. R20-6-1015(D) by failing to use long-

1 term care outlines of coverage that are in the format prescribed by Appendix C of
2 A.A.C. R20-6-1015.

3 6. American Travellers violated A.R.S. §20-466.03 by failing to include a fraud
4 warning statement, in at least twelve-point type, on all claim forms.

5 7. American Travellers violated A.A.C. R20-6-1007(G)(2), R20-6-1007(G)(4)
6 and R20-6-1007(G)(5) by failing to file, by June 30, 1996, 1997 and 1998 the long-term
7 care replacement/lapse reports for the previous year.

8 8. American Travellers violated A.A.C. R20-6-1008(E) by failing to file, by
9 March 31, 1996 and 1998, the long-term care rescission report for the prior calendar
10 year.

11 9. American Travellers violated A.R.S. §20-2108(A)(4), when responding to a
12 request for personal information regarding an adverse underwriting decision, by failing
13 to provide the individual with a summary of the procedures to request correction,
14 amendment or deletion of the recorded personal information.

15 10. American Travellers violated A.R.S. §20-2110(A) by failing to provide
16 applicants with a Summary of Rights.

17 11. American Travellers violated A.A.C. R20-6-801(G)(1)(a), A.R.S. §20-
18 461(A)(5) and the Consent Order, Docket No. 8372, by failing to notify the first party
19 claimant of the acceptance or denial of the claim within 15 working days after receipt of
20 an acceptable proof of loss.

21 12. American Travellers violated A.A.C. R20-6-801(G)(1)(b) and A.R.S. §20-
22 461(A)(3) by failing to advise the first party claimant, within 15 working days after
23 receipt of an acceptable proof of loss, of the reasons why more time was needed to
24 determine if the claim would be accepted or denied.

25 13. American Travellers violated A.A.C. R20-6-801(E)(1) and A.R.S. §20-

1 461(A)(2) by failing to acknowledge the receipt of a claim within ten working days of
2 notification of the claim.

3 14. Grounds exist for the entry of the following Order, in accordance with A.R.S.
4 §§20-220, 20-456, and 20-2117.

5 **ORDER**

6 **IT IS ORDERED THAT:**

7 1. Conseco Senior Health Insurance Company shall cease and desist from
8 committing the following practices:

- 9 a. Failing to comply with an Order of the Director.
- 10 b. Using advertising materials prior to their approval for use in Arizona.
- 11 c. Using advertising that contains misleading and deceptive statements
12 with respect to pre-existing conditions.
- 13 d. Using long-term care forms prior to their approval for use in Arizona.
- 14 e. Failing to provide a Notice of Insurance Information Practices in
15 insurance policy applications that request personal information about the applicant.
- 16 f. Failing to provide Information Disclosure Authorizations that contain
17 all the required information.
- 18 g. Using long-term care outlines of coverage that do not contain all of the
19 required information.
- 20 h. Using claim forms without the required fraud warning statement, in at
21 least twelve-point type.
- 22 i. Failing to file its long-term care replacement/lapse report, for the
23 previous year, in a timely manner.
- 24 j. Failing to file its long-term care rescission report, for the previous
25 year, in a timely manner.

1 k. Failing to provide the applicant with a summary of the procedures to
2 request correction, amendment or deletion of recorded personal information within 30
3 business days after receipt of the request.

4 l. Failing to provide the applicant with a Summary of Rights in the event
5 of an adverse underwriting decision.

6 m. Failing to accept or deny claims within 15 working days after receipt of
7 proof of loss.

8 n. Failing to advise the claimant, within 15 working days after receipt of
9 proof of loss, of the reasons why more time is needed to determine if the claim would
10 be accepted or denied.

11 o. Failing to acknowledge the receipt of a claim within ten working days.

12 2. Within 90 days of the filed date of this Order, CSHIC shall submit to the
13 Arizona Department of Insurance, for approval, evidence that corrections have been
14 implemented and communicated to the appropriate personnel, regarding all of the
15 items listed above in Paragraph 1 of the Order section of this Consent Order.
16 Evidence of corrective action and communication thereof includes, but is not limited to,
17 memos, bulletins, E-mails, correspondence, procedures manuals, print screens, and
18 training materials.

19 3. The Department shall be permitted, through authorized representatives, to
20 verify that CSHIC has complied with all provisions of this Order.

21 4. CSHIC shall pay a civil penalty of \$30,000.00 to the Director for deposit in
22 the State General Fund in accordance with A.R.S. §§20-220(B). The civil penalty shall
23 be provided to the Market Conduct Examinations Section of the Department prior to the
24 filing of this Order.

1 5. The Report of Examination of the Market Conduct Affairs of American
2 Travellers Life Insurance Company as of December 18, 1998, including the letter
3 submitted in response to the Report of Examination, shall be filed with the Department
4 after the Director has filed this Order.

5 DATED at Phoenix, Arizona this 5th day of January, 2001.

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8 Charles R. Cohen
9 Director of Insurance
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1 **CONSENT TO ORDER**

2 1. Conseco Senior Health Insurance Company has reviewed the foregoing
3 Order.

4 2. Conseco Senior Health Insurance Company admits the jurisdiction of the
5 Director of Insurance, State of Arizona, admits the foregoing Findings of Fact, and
6 consents to the entry of the Conclusions of Law and Order.

7 3. Conseco Senior Health Insurance Company is aware of the right to a
8 hearing, at which it may be represented by counsel, present evidence, and cross-
9 examine witnesses. Conseco Senior Health Insurance Company irrevocably waives
10 the right to such notice and hearing and to any court appeals related to this Order.

11 4. Conseco Senior Health Insurance Company states that no promise of
12 any kind or nature whatsoever was made to it to induce it to enter into this Consent
13 Order and that it has entered into this Consent Order voluntarily.

14 5. Conseco Senior Health Insurance Company acknowledges that the
15 acceptance of this Order by the Director of the Arizona Department of Insurance is
16 solely for the purpose of settling this matter and does not preclude any other agency or
17 officer of this state or its subdivisions or any other person from instituting proceedings,
18 whether civil, criminal, or administrative, as may be appropriate now or in the future.

19 6. Michael Colliflower, who holds the office of Senior Vice President of Conseco
20 Senior Health Insurance Company is authorized to enter into this Order for it and on its
21 behalf.

22 **CONSECO SENIOR HEALTH INSURANCE COMPANY**

23 12/13/00
24 Date

By:

Michael Colliflower

1 **COPY of the foregoing mailed/delivered**

2 **this 5th day of January, 2001, to:**

3
4 Sara Begley
5 Deputy Director
6 Mary Butterfield
7 Assistant Director
8 Consumer Affairs Division
9 Paul J. Hogan
10 Chief Market Conduct Examiner
11 Deloris E. Williamson
12 Assistant Director
13 Rates & Regulations Division
14 Steve Ferguson
15 Assistant Director
16 Financial Affairs Division
17 Nancy Howse
18 Chief Financial Examiner
19 Alexandra Shafer
20 Assistant Director
21 Life and Health Division
22 Dennis Babka
23 Life and Health Section Supervisor
24 Terry L. Cooper
25 Fraud Unit Chief

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