

SEP 2 2004

STATE OF ARIZONA  
DEPARTMENT OF INSURANCE

DEPT OF INSURANCE  
BY CB

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3  
4 In the Matter of: ) Docket No. 04A-150-INS  
5 )  
6 **UNITED WISCONSIN LIFE INSURANCE COMPANY,** )  
7 NAIC # 97179, )  
8 Respondent. ) **CONSENT ORDER**

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9 Examiners for the Department of Insurance (the "Department") conducted a  
10 market conduct examination of United Wisconsin Life Insurance Company ("United  
11 Wisconsin"). In the Report of Examination of the Market Conduct Affairs of United  
12 Wisconsin, the Examiners allege that United Wisconsin violated A.R.S. §§20-446, 20-  
13 461, 20-448, 20-485.01, 20-1355, 20-1402, 20-2104, 20-2106, 20-2304, 20-2307, 20-  
2309, 20-2310, 20-2323, 20-2533, 20-2536, and A.A.C. R20-6-209.

14 United Wisconsin wishes to resolve this matter without formal proceedings,  
15 admits that the following Findings of Fact are true, and consents to the entry of the  
16 following Conclusions of Law and Order.

**FINDINGS OF FACT**

- 17
- 18 1. United Wisconsin is authorized to transact life and disability insurance  
19 pursuant to a Certificate of Authority issued by the Director.
  - 20 2. The Examiners were authorized by the Director to conduct a market  
21 conduct examination of United Wisconsin. The on-site examination covered the time  
22 period from January 1, 2001 to December 31, 2001 and was concluded on September  
23 16, 2002. Based on their findings, the Examiners prepared the "Report of Examination  
24 of the Market Conduct Affairs of United Wisconsin Life Insurance Company" dated  
25 September 16, 2002.

1           5.       The Examiners reviewed 61 pieces of advertising used by the Company  
2 during the time frame of the examination and found that seven [BR-0354-09-1-00  
3 6/01, BR-0336-09-1-00 3/01, BR-0336-09-1-00 7/01, BR-0326-09-1-00 10/00, BR-  
4 0373-00-1-00 6/01, BR-0373-00-1-00, and BR-0382-09-1-TG 12/01] contained  
5 language that established eligibility requirements for employees covered under the  
6 health benefits plan.

7           6.       The Examiners reviewed the Company's agreement with its wholly-  
8 owned Third Party Administrator and found that United Wisconsin's agreement failed to  
9 contain a provision which requires United Wisconsin to provide 15 days written notice  
10 to the Director of any changes to the agreement.

11           7.       The Examiners reviewed the accountable health plan disclosure notices  
12 [GN-1757-09-1-00 7/97 and GN-1757-09-1-00 7/01] used by the Company during the  
13 time frame of the examination and found as follows:

14               a.       Both notices used by United Wisconsin failed to disclose the  
15 limitations of the services, kinds of service, benefits and exclusions and prior  
16 authorization requirements that apply to emergency services at a non-network provider.

17               b.       Both notices used by United Wisconsin failed to disclose that the  
18 grievance procedures for claim or treatment denials as listed in the notices are not the  
19 procedures that the Company was actually using from January 18, 2001, and  
20 throughout the examination period.

21           8.       The Examiners reviewed small group health insurance underwriting  
22 procedures used by the Company during the time frame of the examination and found  
23 that United Wisconsin sent a letter to 72 small groups that stated that the United  
24 Wisconsin's premium quote would be "non-competitive," and therefore, no quote or  
25 coverage was offered.

1           9.       The Examiners reviewed the product guides used by the Company during  
 2 the time frame of the examination and found that United Wisconsin used three product  
 3 guides [BR-0354-09-1-00 6/01, BR-0336-09-1-00 7/01, and BR-0382-09-1-TG 12/01]  
 4 that required employers to purchase life insurance and accidental death and  
 5 dismemberment coverage whenever health insurance was purchased.

6           10.       The examiners reviewed all of the policy forms and certificates used by  
 7 the Company during the time frame of the examination and found as follows:

8               a.       United Wisconsin used two certificates of insurance that violated  
 9 the particular statute as referenced in the following table.

Relevant Statute Or Rule	CE A002-09-1-TG 6/01	CE 0002-00-1-TG 1/91
A.R.S. §20-1402(A)(2) Company requires an enrollment form for adopted children when no additional premium is required.	X	
A.R.S. §20-1402(A)(2) Company will provide benefits for medically diagnosed congenital defects of birth abnormalities which are a physical functional defect.	X	
A.R.S. §§20-448(B) and 20-461(A)(6) Certificate contains provisions for paying reduced benefits by the amount that is payable to Medicare regardless of whether or not the insured is enrolled in Medicare.	X	
A.A.C. R20-6-210(D)(1) Company will not honor claims incurred during the grace period even if the premiums are not paid during the grace period.	X	
A.R.S. §20-1355 Insured or dependent is prohibited from bringing any legal action against the company until after the receipt of written proof of loss and the insured or dependent has exhausted any applicable claim appeal or grievance procedure.	X	X

21               b.       United Wisconsin used three large group [PO-B0001-09-1-TG  
 22 6/01, CE-A0001-00-1-TG 6/01, CE-A0002-09-1-TG 6/01] policy forms, two small group  
 23 [CE-0001-001-00 3/01, CE-0002-00-1-00 1/91] policy forms, four application forms [AP-  
 24 0124-00-1-TG 6/01, AP-0118-09-1-TG 6/01, AP-0087-00-1-00 3/98, and AP-0087-00-  
 25 1-00 1/00], one "Participation Statement" [GN-0254-00-1-00 8/99] and one "Full Time

1 Employment Questionnaire” that established eligibility requirements of an employee, or  
2 a spouse or dependent child of the employee.

3 c. United Wisconsin used one MedOne Application [AP-0114-09-1-00  
4 5/01] that failed to contain a Notice of Insurance Information Practices.

5 d. United Wisconsin used five application forms [AP-0094-09-1-00  
6 7/01, AP-0110-09-1-00 7/01, AP-0122-09-1-00 7/01, AP-0121-09-1-00 7/01, and AP-  
7 0114-09-1-00 5/01] that contained a pre-existing condition exclusion statement that  
8 excluded a person who may have had a condition, but fully recovered from it, prior to  
9 the five-year underwriting information period used by the Company.

10 e. United Wisconsin used a disclosure authorization form [TEAMCD-  
11 USERID-CLT3270] that failed to state that the individual or the individual’s authorized  
12 representative was entitled to receive a copy of the authorization.

13 11. The Examiners reviewed one rescission processed by the Company  
14 during the time frame of the examination and found that United Wisconsin improperly  
15 rescinded that contract because of a misrepresentation of medical information on an  
16 application by an employee.

17 12. The Examiners reviewed 50 of 80 formal appeals processed by the  
18 Company during the time frame of the examination and found as follows:

19 a. United Wisconsin failed to provide the appeal information packet to  
20 12 member insureds within five business days after receipt of the appeal.

21 b. United Wisconsin failed to provide a written acknowledgement to  
22 ten member insureds within five business days after receipt of the appeal.

23 c. United Wisconsin failed to provide a written acknowledgement to  
24 11 members’ treating providers within five business days after receipt of the appeal.

1 **CONCLUSIONS OF LAW**

2 1. United Wisconsin violated A.R.S. §20-2307(A) by using language in  
3 policy forms and advertising materials that established the eligibility of employees  
4 and/or dependents.

5 2. United Wisconsin violated A.R.S. §20-485.01(B) by using a third-party  
6 administrator agreement that failed to contain a provision that requires the Company to  
7 provide 15 days written notice to the Director of any changes to the agreement.

8 3. United Wisconsin violated A.R.S. §20-2323(A)(3)(c) by using a disclosure  
9 notice that failed to state the circumstances under which prior authorization is required  
10 for emergency medical care.

11 4. United Wisconsin violated A.R.S. §20-2323(A)(4) by using a disclosure  
12 notice that failed to contain grievance procedures for claim or treatment denials,  
13 creditable coverage determinations, dissatisfaction with care and access to care  
14 issues.

15 5. United Wisconsin violated A.R.S. §20-2304(A) by failing to offer health  
16 benefits plans to small groups.

17 6. United Wisconsin violated A.R.S. §20-446 by requiring the purchase of  
18 other forms of insurance when health insurance was purchased.

19 7. United Wisconsin violated A.R.S. §20-1402(A)(2) by using language in its  
20 certificate of insurance that:

21 a. Required an enrollment form for adopted children when no  
22 additional premium is required.

23 b. Provided benefits only for medically diagnosed congenital defects  
24 of birth abnormalities that are a functional defect.

25 8. United Wisconsin violated A.R.S. §§20-448(B) and 20-461(A)(6) by

1 reducing benefits by the amount payable to Medicare if the plan is not subject to  
2 Medicare Secondary Payer law regardless of whether or not the insured was enrolled  
3 in Medicare.

4 9. United Wisconsin violated A.A.C. R20-6-210(D)(1) by including a  
5 statement in its certificate of insurance that disallowed claims incurred during the grace  
6 period even if the premiums were not paid during the grace period.

7 10. United Wisconsin violated A.R.S. §20-1355 by using language in its  
8 certificate of insurance that states the insured or dependent is prohibited from bringing  
9 any legal action against the Company until after receipt of written proof of loss and the  
10 insured or dependent has exhausted any applicable claim appeal or grievance  
11 procedure.

12 11. United Wisconsin violated A.R.S. §20-2104(A)(1) by using application  
13 forms that failed to contain a Notice of Insurance Information Practices.

14 12. United Wisconsin violated A.R.S. §20-2310(B)(1) by adopting a pre-  
15 existing condition exclusion in excess of 12 months.

16 13. United Wisconsin violated A.R.S. §20-2106(9) by using a disclosure  
17 authorization that failed to state that the individual or the individual's authorized  
18 representative was entitled to receive a copy of the authorization.

19 14. United Wisconsin violated A.R.S. §20-2309(B)(2) by rescinding the  
20 coverage of a group based on the misrepresentation of an individual on an application  
21 for health insurance.

22 15. United Wisconsin violated A.R.S. §20-2533(C) by failing to provide an  
23 appeal information packet within five business days after receipt of the appeal.

24 16. United Wisconsin violated A.R.S. §20-2536(B)(3) by failing to provide a  
25 written acknowledgement to the insured and the insured's provider within five business

1 days after receipt of the appeal.

2 9. Grounds exist for the entry of the following Order in accordance with  
3 A.R.S. §§ 20-220, 20-456, 20-2117, and 20-2508.

4 **ORDER**

5 **IT IS HEREBY ORDERED THAT:**

6 1. United Wisconsin shall cease and desist from:

7 a. Using advertising materials and policy forms and certificates that  
8 establish the eligibility requirements of employees covered under the health benefits  
9 plan.

10 b. Using a third-party administrator agreement that fails to contain a  
11 provision that requires the Company to provide 15 days written notice to the Director of  
12 any changes to the agreement.

13 c. Using a disclosure notice that fails to disclose the limitations of the  
14 services, kinds of service, benefits and exclusions and prior authorization requirements  
15 that apply to emergency services at a non-network provider.

16 d. Using a disclosure notice that fails to contain grievance procedures  
17 for claim or treatment denials, creditable coverage determinations, dissatisfaction with  
18 care, and access to care issues.

19 e. Failing to offer health benefits plans to small groups.

20 f. Requiring the purchase of other forms of insurance when health  
21 insurance is purchased.

22 g. Using language in its policy forms and certificates of insurance  
23 that:

24 i. Require an enrollment form for adopted children when no  
25 additional premium is required.

1                   ii.     Fails to provide benefits for medically diagnosed congenital  
2 defects of birth abnormalities that are a functional defect.

3                   iii.    Reduce benefits by the amount payable to Medicare, when  
4 the insured is not enrolled in Medicare.

5                   iv.    Disallow claims incurred by the insured during the grace  
6 period.

7                   v.     Prohibits the insured or dependent from bring any legal  
8 action against the Company until after receipt of written proof of loss and the insured or  
9 dependent has exhausted any applicable claim appeal or grievance procedure.

10                  h.     Using application forms that fail to contain a Notice of Insurance  
11 Information Practices.

12                  i.     Using application forms that contain a pre-existing condition  
13 exclusion statement that excludes a person who may have had a condition, but fully  
14 recovered from it, prior to the five-year underwriting information period used by the  
15 Company.

16                  j.     Using a disclosure authorization that fails to state that the  
17 individual or the individual's authorized representative was entitled to receive a copy of  
18 the authorization.

19                  k.     Rescinding a policy for group health insurance based on  
20 misrepresentation by an individual covered under the health benefits plan.

21                  l.     Failing to provide an appeal information packet within five business  
22 days after receipt of the appeal.

23                  m.    Failing to provide a written acknowledgement to the insured and  
24 the insured's provider within five business days after receipt of the appeal.

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1           2.     Within 90 days of the filed date of this Order, United Wisconsin shall  
2 submit to the Arizona Department of Insurance, for approval, evidence that corrections  
3 have been implemented and communicated to the appropriate personnel, regarding the  
4 issues outlined in Paragraph 1 of the Order section of this Consent Order. Evidence of  
5 corrective action and communication thereof includes, but is not limited to, memos,  
6 bulletins, E-mails, correspondence, procedures manuals, print screens, and training  
7 materials.

8           3.     The Department shall be permitted, through authorized representatives,  
9 to verify that United Wisconsin has complied with all provisions of this Order.

10          4.     United Wisconsin shall pay a civil penalty of \$50,000.00 to the Director for  
11 remission to the State Treasurer for deposit in the State General Fund in accordance  
12 with A.R.S. §§ 20-220(B) and 20-456. The civil penalty shall be provided to the Market  
13 Oversight Division of the Department prior to the filing of this Order.

14          5.     The Report of Examination of the Market Conduct Affairs of United  
15 Wisconsin Life Insurance Company as of May 22, 2002, including the letter of objection  
16 to the Report of Examination, shall be filed with the Department upon the filing of this  
17 Order.

18 DATED at Phoenix, AZ this 1<sup>st</sup> day of September, 2004.

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21 \_\_\_\_\_  
Christina Urias  
Director of Insurance

1 **CONSENT TO ORDER**

2 1. United Wisconsin Life Insurance Company has reviewed the foregoing  
3 Order.

4 2. United Wisconsin Life 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. United Wisconsin Life 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. United Wisconsin Life Insurance Company irrevocably waives the  
10 right to such notice and hearing and to any court appeals related to this Order.

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

14 5. United Wisconsin Life 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. Wm. Kip May, who holds the office of  
20 Vice President of Compliance of United Wisconsin Life Insurance Company, is  
21 authorized to enter into this Order for them and on their behalf.

22  
23 8/27/04  
24 Date

22 **UNITED WISCONSIN LIFE INSURANCE COMPANY**  
23 By *William Kip May*  
24

1 COPY of the foregoing mailed/delivered  
2 this 2nd day of September , 2004, to:

- 3 Gerrie Marks  
4 Deputy Director
- 5 Mary Butterfield  
6 Assistant Director  
7 Consumer Affairs Division
- 8 Paul J. Hogan  
9 Market Oversight Administrator  
10 Market Oversight Division
- 11 Deloris E. Williamson  
12 Assistant Director  
13 Rates & Regulations Division
- 14 Steve Ferguson  
15 Assistant Director  
16 Financial Affairs Division
- 17 Alan Griffieth  
18 Chief Financial Examiner
- 19 Alexandra Schafer  
20 Assistant Director  
21 Life and Health Division
- 22 Terry L. Cooper  
23 Fraud Unit Chief

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