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STATE OF ARIZONA

DEPARTMENT OF INSURANCE

DEPT OF INSURANCE BY______

In the Matter of:

EDUCATORS HEALTH PLANS LIFE, ACCIDENT & HEALTH, INC. dba EMI Health (NAIC No. 12515) No. 16A-015-INS

CONSENT ORDER

Respondent.

The State of Arizona Department of Insurance ("Department") received evidence that Educators Health Plans Life, Accident & Health, Inc. dba EMI Health violated provisions of Title 20, Arizona Revised Statutes ("A.R.S."); Title 20, Chapter 6, Arizona Administrative Code ("A.A.C."); applicable provisions of the Patient Protection and Affordable Care Act (P.L. 111-148) as amended by the Health Care and Education Reconciliation Act (P.L. 111-152) ("Affordable Care Act"); and Department of Health and Human Services ("H.H.S.") regulations related to the Affordable Care Act ("45 C.F.R."). Respondent wishes to resolve this matter without formal proceedings. Respondent admits the following Findings of Fact are true, and consents to entry of the following Conclusions of Law and Order.

FINDINGS OF FACT

- 1. Educators Health Plan Life, Accident & Health, Inc. dba EMI Health ("EMI") is a Utah corporation that holds, and at all times material held, a Certificate of Authority in Arizona as a disability insurer. EMI is required to file forms and rates with the Department and receive the Department's approval before using the approved forms and associated rates.
- 2. Since January 1, 2014, EMI has offered Stand Alone Dental Plans ("SADPs") in Utah's individual Marketplace, which is the federally-facilitated marketplace via www.healthcare.gov ("Exchange); and in Utah's small business Marketplace, which is a state-based marketplace available at www.avenueH.com. In order to offer individual/family SADPs on the federally-facilitated marketplace, all SADP issuers must submit an application for certification to the Center for Consumer Information and Insurance Oversight ("CCIIO"), a

division of the Centers for Medicare & Medicaid Services ("CMS"). As part of its application to CMS, EMI submitted its Plan & Benefit Templates ("PBT") which provided details about EMI's SADPs for the federally-facilitated marketplace in Utah and Arizona. However, submission of the PBT to CMS is not a substitution for filing policy forms and rates for review and approval with the Department. EMI filed its policy forms with the Utah Department of Insurance as required.

- 3. On May 16, 2014, the Department informed EMI that it must file with the Department via the System for Electronic Rate & Form Filing ("SERFF") all Individual SADP forms and rates. EMI did not file with the Department or market SADPs in Arizona for Plan Years 2014 and 2015.
- 4. EMI did not file in SERFF or receive the Department's approval for EMI's Plan Year 2016 SADP policy forms, and did not file the rates related to those forms.
- 5. EMI submitted the following SADPs in the federal Health Insurance Oversight System:
 - a. Standard Component ID 53613AZ0010001 (PPO High);
 - b. Standard Component ID 53613AZ0020001 (PPO Low); and
 - c. Standard Component ID 53613AZ0030001 (Advantage Co-Pay).
- 6. Beginning on or about November 1, 2015, EMI participated in the federal health insurance open enrollment period on the Exchange. On the Exchange, EMI marketed and issued—to at least 2,724 policyholders—the unapproved Individual SADPs, which had coverage effective dates on or after January 1, 2016.
- 7. On or about January 14, 2016, it came to light that EMI had marketed and sold unfiled Individual SADP policy forms and corresponding rates. The Department informed EMI that it must file the forms in SERFF for the Department's review and approval, and must also file the rates related to those forms. EMI promptly filed the forms and rates.

CONCLUSIONS OF LAW

1. The Interim Director has jurisdiction over this matter. The Interim

Director shall ensure that this state retains its full authority to regulate policies, certificates, evidences of coverage and contracts of insurance that are issued or delivered by health

insurers taking into consideration the enactment of the Affordable Care Act or any rules adopted pursuant to the acts collectively known as the Affordable Care Act. A.R.S. § 20-238(A).

- 2. A health insurer subject to the Affordable Care Act shall not issue a contract, policy, certificate or evidence of coverage or otherwise transact insurance if the coverage and benefits provided in the contract, policy, certificate or evidence of coverage are inconsistent with the applicable provisions of the Affordable Care Act. A.R.S. § 20-238(B).
- 3. Any insurance policy, rider or endorsement otherwise valid which contains any condition or provision not in compliance with the requirements of Title 20 shall not be rendered invalid but shall be construed and applied in accordance with such conditions and provisions as would have applied had such policy, rider or endorsement been in full compliance with Title 20. A.R.S. § 20-1118.
- 4. Respondent's conduct, as alleged above, constitutes delivering or issuing for delivery at least 2,724 Individual disability policy forms without first filing and receiving Department approval for those forms within the meaning of A.R.S. §§ 20-1110(A), (C).
- 5. Respondent's conduct, as alleged above, constitutes delivering or issuing for delivery at least 2,724 Individual disability policy forms without first filing with the Department the rates that correspond to those forms within the meaning of A.A.C. R20-6-607(B).
- 6. Respondent's conduct, as alleged above, constitutes failing to meet the Qualified Health Plan ("QHP") certification requirements because EMI did not file disability policy forms for review and approval by the Department before delivering or issuing for delivery those forms within the meaning of 45 C.F.R. §§ 155.1065(a)(3), 155.1020(c)(2)-(3), 156.150, and A.R.S. §§ 20-1110(A) and 20-238(B).
- 7. Respondent's conduct, as alleged above, constitutes failing to meet the QHP certification requirements because EMI did not file with the Department the rates that correspond to disability policy forms before delivering or issuing for delivery those forms within the meaning of A.A.C. R20-6-607(B), A.R.S. § 20-238, and 45 CFR §§ 155.1065(a) and 155.1020(c)(1).

- 8. Respondent's conduct, as alleged above, constitutes participation in an Affordable Care Act Exchange without first meeting the minimum certification requirements for participation in an Exchange as a QHP within the meaning of 45 CFR §§ 155.1000(b), (c)(1), 156.200(a)-(b), and A.R.S. § 20-238(B).
- 9. Grounds exist for the Interim Director to take an administrative action pursuant to A.R.S. § 20-220(A), (B).

ORDER

IT IS THEREFORE ORDERED:

- 1. Respondent must continue to administer coverage under the SADP policy forms identified above that it has issued, including the collection of necessary premiums and the adjudication and payment of any claims under the disability policy forms and plans, all in accordance with the terms and conditions of the approved policy forms, as corrected during the filing review and approval process, and applicable law.
- 2. Respondent may continue to market and issue the ADOI approved SADP policy forms described above.
- 3. Respondent must deliver to all policyholders copies of the newly corrected and approved policy forms, along with a cover letter explaining all changes in cost share, benefits, and any other corrections that resulted from the Department's review of the filed forms.
- 4. By April 15, 2016, Respondent must provide the Department, copies of the corrected policyholder materials and cover letter for ADOI approval; and by May 30, 2016, must send the Department via SERFF a report, confirming delivery of these materials to all policyholders.
- 5. Respondent must deliver a letter to all Arizona contracted providers informing the providers that EMI's SADP coverage has been retroactively changed. The letter must provide:

 1) information about accessing updated coverage information on the EMI portal, and 2) information for obtaining further assistance by phone or email.
- 6. By May 30, 2016, Respondent must provide the Department via SERFF a copy of the letter to providers along with a report that confirms delivery of the letter to all Arizona providers.

- 7. Respondent must perform or cause to be performed an audit of all claims submitted prior to the policy forms' being corrected and approved by ADOI. The audit should evaluate whether any claims were denied or paid at an amount that was not in accordance with the corrected provisions in the approved policy forms. By June 30, 2016, Respondent must reprocess all claims that were denied or not paid in accordance with the approved policies; and by that date, Respondent must report to the Department the findings of this audit, including information about claims that were reprocessed and paid differently, and any other resulting actions taken.
- 8. Respondent must absorb the cost of any difference in cost share or benefits that resulted from using forms that were not filed and approved by ADOI.
- 9. Respondent must pay the Department a civil penalty of \$5,000 within 30 days of the filing of this Order.
- 10. This Order shall become effective immediately upon execution and shall remain in full force and effect until otherwise stayed, modified, vacated or set aside.

DATED AND EFFECTIVE this 13 M day of May , 2016.

Leslie R. Hess

Interim Director of Insurance

CONSENT TO ORDER

- 1. Respondent has reviewed the foregoing Findings of Fact, Conclusions of Law, and Order.
- 2. Respondent admits to the jurisdiction of the Interim Director of Insurance, State of Arizona, and admits the foregoing Findings of Fact and consents to the entry of the foregoing Conclusions of Law and Order.
- 3. Respondent is aware of its right to notice and a hearing at which it may be represented by counsel, present evidence, and examine witnesses. Respondent irrevocably

waives its right to such notice and hearing and to any court appeals relating to this Consent Order.

- 4. Respondent states that no promise of any kind or nature whatsoever, except as expressly contained in this Consent Order, was made to it to induce it to enter into this Consent Order and that it has entered into this Consent Order voluntarily.
- 5. Respondent acknowledges that the acceptance of this Consent Order by the Director is solely to settle this matter against it and does not preclude any other agency, officer, or subdivision of this state including the Department from instituting civil or criminal proceedings as may be appropriate now or in the future not related to this matter.
- 6. Respondent acknowledges that this Consent Order does not preclude CMS/CCIIO from taking any further action related to the material facts in this Order, if CMS/CCIIO deems such action necessary or appropriate.
- 7. Respondent acknowledges that this Consent Order is an administrative action that the Department will report to the National Association of Insurance Commissioners ("NAIC"). Respondent further acknowledges that it must report this administrative action to any and all states in which it holds a Certificate of Authority and must disclose this administrative action on any application.
- 8. Steven Morrison represents that he is the CEO/President of Educators Health Plans Life, Accident & Health, Inc. dba EMI Health and, as such, is authorized to enter this Consent Order on its behalf.

Educators Health Plans Life, Accident & Health, Inc. dba EMI Health

Date

by Steven Morrison, CEO/President

1	COPY of the foregoing mailed this
2	18th day of May, 2016, to:
3	11 day of 11 marg, 2010, to.
4	Educators Health Plans Life, Accident & Health, Inc. 852 East Arrowhead Lane
5	Murray, UT, USA 84107 Respondent
6	Educators Health Plans Life, Accident & Health, Inc.
7	c/o Steven Morrison 852 East Arrowhead Lane
8	Murray, UT 84107 Statutory Agent for Respondent
9	Mary E. Kosinski, Exec. Assistant for Reg. Affairs
10	Erin Klug, Rate & Form Division Assistant Director Department of Insurance
11	2910 North 44 th Street, Suite 210 Phoenix, Arizona 85018
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13	Maidene Scheiner
14	Maidene Scheiner
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