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STATE OF ARIZONA  
DEPARTMENT OF INSURANCE DEPT. OF INSURANCE  
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In the Matter of: ) Docket No. 97A-008  
)  
FHP LIFE INSURANCE COMPANY ) CONSENT ORDER  
NAIC #84506 )  
Respondent. )

Examiners for the Arizona Department of Insurance ("the Department") have conducted a market conduct examination of FHP Life Insurance Company ("FHPLIC"), also referred to as "Respondent", covering the time period from August 1, 1991 to July 31, 1994. Based upon the examination results, it is alleged that FHPLIC has violated the provisions of A.R.S. §§ 20-297, 20-461, 20-462, 20-1402 and 20-1408 and A.A.C. R20-6-209 and R20-6-801. FHPLIC wishes to resolve this matter without formal adjudicative proceedings and hereby agrees to a Consent Order.

The Director of Insurance of the State of Arizona ("the Director") enters the following Findings of Fact, and Conclusions of Law, which are neither admitted nor denied by FHPLIC, and the following Order. Respondent maintains that the group benefit policies appearing in the Report of Examination of Market Conduct Affairs ("Reports") are subject to the Employee Retirement Income Security Act ("ERISA"). For purposes of organization, the Findings of Fact are divided into three parts: "General", "Group Benefit Policies Alleged To Be Subject To ERISA" and "Policies Not Subject to ERISA". Likewise, the Conclusions of Law are divided into three parts: "General",

. . . . .

1 "Group Benefit Policies Alleged to be Subject To ERISA" and  
2 "Policies Not Subject to ERISA".

3 FINDINGS OF FACT

4 A. General

5 1. FHPLIC is authorized to transact life and disability  
6 insurance as an insurer pursuant to a Certificate of Authority  
7 issued by the Director.

8 2. The Examiners were authorized by the Director to  
9 conduct a market conduct examination of FHPLIC. The on-site  
10 portion of the examination was completed January 7, 1995.

11 3. FHPLIC failed to timely file its list of agents by  
12 line of business for the years 1992, 1993 and 1994.

13 4. The Examiners reviewed 22 of 22 (100%) for the  
14 complaints received by the Department for the time period of the  
15 examination. In this review the examiners found that in two  
16 complaints involving three claims FHPLIC either denied  
17 reimbursement or paid the benefit at a reduced rate, on the  
18 basis that the provider was not a contracted provider.

19 5. The Examiners reviewed 300 of 300 (100%) appeals  
20 received by FHPLIC. One hundred sixty (53.3%) governmental plan  
21 appeals were not responded to within ten working days.

22 B. Group Benefit Policies Alleged To Be Subject To ERISA

23 1. The Examiners reviewed issued group health policies.  
24 Of these:

25 a. the policies failed to include a definition of a  
26 complication of pregnancy nor was there a provision to provide  
27 coverage for complications of pregnancy on the same basis as any  
28 other sickness.

1           b. the policies failed to provide coverage for  
2 reconstructive surgery for a child due to a birth defect when  
3 either parent is insured.

4           c. the policies provide for a three month waiting  
5 period before an insured would be eligible for conversion.

6           2. The Examiners reviewed 35 of 35 (100%) life paid death  
7 claims. Of these:

8           a. FHPLIC failed to acknowledge six claims (17.1%)  
9 within ten working days of receipt of the claim by the Company.

10           b. FHPLIC failed to accept one paid death claim  
11 within 15 working days of receipt of an acceptable proof of loss.

12           3. The Examiners reviewed six of six (100%) denied life  
13 claims. In this review the Examiners found that FHPLIC failed  
14 to acknowledge the receipt within ten working days and failed to  
15 deny within 15 working days one (16.7%) life death claim.

16           **C. Policies Not Subject To ERISA**

17           1. The Examiners reviewed 830 of 266,625 Medicare  
18 Supplement paid claims. Of these:

19           a. FHPLIC failed to acknowledge 199 (24%) claims  
20 within ten working days of the receipt of the claim.

21           b. FHPLIC failed to accept or deny 41 (4.9%) claims  
22 within 15 working days.

23           2. The Examiners reviewed 826 of 53,450 denied Medicare  
24 Supplement claims. Of these:

25           a. FHPLIC failed to acknowledge 153 (18.5%) claims  
26 within ten working days of the receipt of the claim.

27           b. FHPLIC failed to accept or deny 18 (2.2%) claims  
28 within 15 working days.

1 c. FHPLIC denied one claim pursuant to a clause in  
2 FHPLIC's Medicare Supplement Certificate which stated that  
3 claims will not be accepted more than one year after the date of  
4 service. However the claim was filed on October 30, 1991 for  
5 services rendered on December 14, 1990, less than one year  
6 before the date of filing.

7 3. The Examiners reviewed 715 of 89,734 noncontract paid  
8 health claims. of these:

9 a. FHPLIC failed to acknowledge 278 claims (38.8%)  
10 within ten working days of receipt of the claim by the Company.

11 b. FHPLIC failed to accept or deny 26 claims (3.6%)  
12 within 15 working days of receipt of properly executed proofs of  
13 loss.

14 c. FHPLIC failed to pay interest on 12 claims (1.7%)  
15 which were not paid within 30 calendar days after properly  
16 executed proofs of loss were received by SHIC.

17 4. The Examiners reviewed 96 of 1,076 non-contract denied  
18 health claims. Of these:

19 a. FHPLIC failed to acknowledge 17 claims (17.7%)  
20 within ten working days of receipt of the claim by the Company.

21 b. FHPLIC failed to accept or deny 2 claims (2%)  
22 within 15 working days of receipt of properly executed proofs of  
23 loss.

#### 24 CONCLUSIONS OF LAW

##### 25 A. General

26 1. By failing to timely file its lists of agents for the  
27 years 1992, 1993 and 1994, FHPLIC violated A.R.S. § 20-297.  
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**B. Group Benefit Policies Alleged To Be Subject To ERISA**

1. By failing to provide in its group contract a definition of pregnancy or a provision to provide coverage for complications of pregnancy on the same basis as any other illness, FHPLIC violated A.A.C. R20-6-209(F)(6).

2. By failing to provide coverage in its group contract for reconstructive surgery when due to a birth defect of a child when either parent is insured, FHPLIC violated A.R.S. § 20-1402.

3. By requiring that an insured be covered for three months prior to exercising a conversion privilege, FHPLIC violated A.R.S. § 20-1408.

4. For purposes of settlement, the Director elects to not exercise his jurisdiction as to the claims alleged by Respondent to be governed by ERISA. However, the absence of an assertion of jurisdiction does not indicate that the Director has conceded his authority relative to these claims matters as addressed in the Report.

**C. Policies Not Subject To ERISA**

1. By failing to pay claims in accordance with policy provisions, FHPLIC violated A.R.S. § 20-461(A)(8).

2. By failing to respond to an appeal received directly from a consumer within ten working days of receipt, FHPLIC violated A.A.C. R20-6-801(E)(3) and A.R.S. § 20-461(A)(2).

3. By failing to acknowledge the receipt of notification of claims within ten (10) working days, FHPLIC violated A.A.C. R20-6-801(E)(1) and A.R.S. § 20-461(A)(2).

. . . . .  
. . . . .

1 4. By failing to accept or deny claims within fifteen  
2 working days of properly executed proofs of loss, FHPLIC  
3 violated A.A.C. R20-6-801(G)(1)(a) and A.R.S. § 20-461(A)(5).

4 5. By failing to process a Medicare Supplement claim  
5 filed within one year, FHPLIC violated A.A.C. R.20-6-801(D)(1).

6 6. By failing to pay interest on claims which were not  
7 paid within 30 days after receipt of acceptable proofs of loss  
8 which contained all information necessary for claim  
9 adjudication, FHPLIC violated A.R.S. § 20-462(A).

10 7. Grounds exist for the entry of all provisions of the  
11 following Order.

12 ORDER

13 FHPLIC having admitted the jurisdiction of the Director to  
14 enter this Order, having waived the Notice of Hearing and the  
15 hearing, having waived any and all rights to appeal this Order,  
16 and having consented to the entry of this Order, and there being  
17 no just reason for delay:

18 IT IS ORDERED THAT:

19 1. FHPLIC shall not:

20 a. fail to timely file its list of agents;

21 b. fail to provide in its group contract a  
22 definition of pregnancy or a provision to provide coverage for  
23 complications of pregnancy on the same basis as any other  
24 illness;

25 c. fail to provide coverage in its group contract  
26 for reconstructive surgery when due to a birth defect of a child  
27 when either parent is insured;

28 . . . . .

1           d.    require that an insured be covered for three  
2 months prior to exercising a conversion privilege;

3           e.    fail to pay claims in accordance with policy  
4 provisions;

5           f.    fail to respond to appeals received from  
6 consumers within ten working days of receipt;

7           g.    fail to acknowledge all claims within ten days of  
8 receipt of notice of claim;

9           h.    fail to notify first party claimants of the  
10 acceptance or denial of claims within 15 working days after the  
11 receipt of properly executed proofs of loss;

12          i.    fail to process Medicare Supplement claims in  
13 accordance with policy provisions;

14          j.    fail to pay interest to insureds on claims not  
15 paid within 30 days after the receipt of an acceptable proof of  
16 loss which contains all information necessary for claim payment;

17          2.    Within 90 days of the filed date of this Order, FHPLIC  
18 shall submit written action plans to the Director to monitor  
19 Arizona issued policies to ensure that its personnel transact  
20 the business of insurance and adjust and pay claims in  
21 accordance with Arizona laws and rules; specifically, as to the  
22 issues listed in Items 1a through 1j above.

23          3.    FHPLIC shall pay interest to the claimants listed in  
24 Exhibit 13, attached hereto and made a part hereof, of the  
25 Report of Examination. Interest shall be calculated at the rate  
26 of ten percent per annum, from the date that each claim was  
27 received by FHPLIC until the date of payment by FHPLIC. All  
28 interest payments shall be accompanied by a letter acceptable to

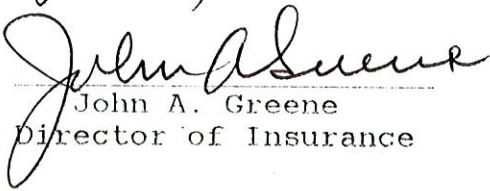
1 the Director. A list of payments, giving the name and address  
2 of each party paid, the claim amount on which the interest was  
3 calculated, the amount of interest paid, and the date of  
4 payment, shall be furnished to the Market Conduct Examination  
5 Division of the Department within 90 days of the filed date of  
6 this Order.

7 4. The Department shall be permitted, through an  
8 authorized representative, to verify that FHPLIC has complied  
9 with all provisions of this Order. The Director may separately  
10 order FHPLIC to comply with this Order.

11 5. FHPLIC shall pay a Civil Penalty of FORTY-FIVE  
12 THOUSAND DOLLARS (\$45,000.00) to the Director for remission to  
13 the State Treasurer for deposit in the State General Fund in  
14 accordance with A.R.S. § 20-220(B). Said amount shall be  
15 provided to the Market Conduct Examinations Division of the  
16 Department on or before the entry of this Order.

17 6. The Report of Market Conduct Examination as of January  
18 7, 1995, and any objections to the Report submitted by FHPLIC,  
19 shall be filed with the Department upon acceptance by the  
20 Director of this Consent Order.

21 DATED at Phoenix, Arizona this 16 day of January, 1997.

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24 John A. Greene  
25 Director of Insurance  
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CONSENT TO ORDER

1  
2 1. Respondent FHP Life Insurance Company has reviewed the  
3 attached Consent Order.

4 2. Respondent is aware of its right to a hearing at which  
5 hearing it may be represented by counsel, present evidence and  
6 cross-examine witnesses. Respondent has irrevocably waived its  
7 right both to demand a public hearing and to seek judicial  
8 review of this Order.

9 3. Respondent admits the jurisdiction of the Director of  
10 Insurance, State of Arizona, and consents to the entry of this  
11 Consent Order.

12 4. Respondent states that no promise of any kind or  
13 nature whatsoever was made to it to induce it to enter into this  
14 Order and that it has entered into this Order voluntarily.

15 5. Respondent acknowledges that the acceptance of this  
16 Order by the Director of Insurance, State of Arizona, is solely  
17 to settle this matter against it and does not preclude any other  
18 agency or officer of this state or subdivision thereof from  
19 instituting other civil or criminal proceedings as may be  
20 appropriate now or in the future.

21 6. Burke Gumbiner, who holds the office  
22 of President of FHP Life Insurance Company, is  
23 authorized to enter into this Order for and on its behalf.

24  
25  
26 FHP LIFE INSURANCE COMPANY

27 1/14/97  
28 (Date)

By Burke Gumbiner

1 COPY of the foregoing mailed/delivered  
2 this 16th day of January, 1997, to:

3 Charles R. Cohen  
4 Deputy Director  
5 Gregory Y. Harris  
6 Executive Assistant Director  
7 Erin H. Klug  
8 Chief Market Conduct Examiner  
9 Market Conduct Examinations Division  
10 Mary Butterfield  
11 Assistant Director  
12 Life & Health Division  
13 Deloris E. Williamson  
14 Assistant Director  
15 Rates & Regulations Division  
16 Gary Torticill  
17 Assistant Director and Chief Financial Examiner  
18 Corporate & Financial Affairs Division  
19 Cathy O'Neil  
20 Assistant Director  
21 Consumer Services Division  
22 John Gagne  
23 Assistant Director  
24 Investigations Division  
25 Terry Cooper  
26 Fraud Unit Chief

27 DEPARTMENT OF INSURANCE  
28 2910 North 44th Street, Suite 210  
Phoenix, AZ 85018

Burke Gumbiner, President  
FHP Life Insurance Company  
c/o Kathy A. Steadman, Esq.  
Low & Childers  
Attorneys at Law  
2999 North 44th Street  
Suite 250  
Phoenix, AZ 85018

*Curey Burton*

FHP LIFE INSURANCE COMPANY  
 INSPECTED HEALTH INDEMNITY PAID CLAIMS  
 NOT PAID WITHIN THIRTY DAYS AND ON WHICH  
 REQUIRED INTEREST NOT ADDED  
 (A.R.S. § 20-462)

<u>Claim Number</u>	<u>Date Proofs Received</u>	<u>Payment Date</u>	<u>Number of Working Days</u>
92077959-01	08/04/92	10/02/92	59
92065821-01	06/26/92	07/27/92	32
94155120-01	03/17/94	05/09/94	53
94144706-01	03/14/94	04/15/94	32
92093325-02	11/20/92	01/13/93	54
93038324-05	03/22/93	07/06/93	106
92118045-02	12/17/92	02/05/93	50
93066113-01	05/18/93	06/22/93	35
92005091-01	02/25/92	04/12/92	47
92040070-01	03/26/92	05/07/92	42
92000703-01	12/05/91	01/08/92	35
94000479-01	12/01/93	01/06/94	36