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BEFOE THE INSURANCE COMMISSIONER
OF THE STATE OF WASHNGTON

RECEIVED MAR 24 1998 CARNEY BADLEY SMITH & SPELLMAN

In the matter of	)	
	)	No. D 98-10
PFL Life Insurance Company	)	
	)	CONSENT ORDER
An Authorized Insurer	)	

FACTUAL BACKGROUND

1. PFL Life Insurance Company (PFL) is authorized to transact insurance business in the state of Washington.

2. On and after October 1, 1995, PFL implemented rate increases for its group dental business without filing such rate increases with the Office of the Insurance Commissioner of the State of Washington (OIC), as required by RCW 48.19.010.

3. In 1997, OIC received complaints from certificate holders concerning PFL's rate increases. OIC proceeded to investigate the complaints, and on July 23, 1997, sent PFL correspondence entitled "Violations of Washington State Filing Requirements" requesting information on the rate increases. That correspondence was an official inquiry pursuant to WAC 284-30-650, which requires a written response within fifteen business days.

4. PFL did not submit timely responses to the July 23, 1997, request for information.

5. OIC repeatedly contacted PFL in an effort to secure the requested information.

6. On September 15, 1997, OIC sent PFL by mail and fax a letter headed "Repeated violations of Washington State law and regulations and difficulties communicating with your Texas office," in a further attempt to secure information.

7. On October 14, 1997, a representative of OIC spoke with representatives of PFL about PFL's failure to submit timely responses to the July 23, 1997, requests.

8. On October 21, 1997, OIC sent PFL another letter concerning PFL's failure to respond.

9. On November 6, 1997, PFL finally submitted responses to the July 23, 1997, requests, more than three months after responses were due.

10. PFL accepts the requirements of this Consent Order as a means of resolving this dispute with the OIC and does not acknowledge violation of applicable law.

APPLICABLE LAW

1. RCW 48.19.010 provides that "every insurer shall, as to disability insurance, before using file with the commissioner its manual of classification, manual of rules and rates, and any modifications thereof." Each use of an unapproved rate constituted a violation.

2. WAC 284-30-650 provides that "it is an unfair practice for an insurer ... to fail to respond promptly to any inquiry from the insurance commissioner relative to the business of insurance. A lack of response within fifteen business days from receipt of an inquiry will be considered untimely. A response must be in writing ...." Each failure to respond by PFL constituted a violation.

3. RCW 48.05.140(1), "Certificate of authority - Discretionary refusal, revocation, suspension" provides that the "commissioner may refuse, suspend, or revoke an insurer's certificate of authority ... if the insurer ... fails to comply with any provision of this code ... or fails to comply with any proper order or regulation of the commissioner."

4. RCW 48.05.185, "Fine in addition or in lieu of suspension, revocation or refusal" provides that the Commissioner may impose a fine or monetary penalty in lieu of suspension or revocation of an insurer's certificate of authority.

FINDINGS AND CONCLUSIONS

1. The Commissioner finds that PFL, by and as a result of the conduct described under "Factual Background" above, violated RCW 48.19.010 by charging rates and implementing rate increases that were not filed with or approved by the OIC.

2. The Commissioner finds that PFL, by and as a result of the conduct described under "Factual Background" above, violated WAC 284-30-650 by failing to timely respond to requests for information.

3. The Commissioner finds that RCW 48.05.140 authorizes suspension or revocation of PFL's certificate of authority for these violations.

4. The Commissioner finds that RCW 48.05.185 authorizes, in lieu of revocation or suspension of PFL's certificate of authority, the imposition of a fine on PFL.

5. The Commissioner also finds that leniency is appropriate in light of PFL's undertaking to refund to certificate holders all premiums collected in excess of its filed and approved rates.

CONSENT TO ORDER

PFL voluntarily consents to the entry of the following Order. PFL acknowledges that if the fine is not paid, refunds made, and the terms of the following Order complied with, the Insurance Commissioner may revoke the certificate of authority of PFL, and the fine shall be recoverable in

a civil action brought on behalf of the Insurance Commissioner by the Attorney General, pursuant to RCW 48.05.185. PFL also acknowledges its duty to comply fully with all applicable laws and regulations of the State of Washington.

Signed this 19th day of March, 1998 PFL LIFE INSURANCE COMPANY

By [signature]

Title Vice-President - Compliance
Associate General Counsel

ORDER

IT IS ORDERED that pursuant to RCW 48.05.140 and RCW 48.05.185, and the foregoing Factual Background, Findings and Conclusions, and Consent to Order that:

1. Monetary Fine. On account of the violations of WAC 284-30-650 for failure to timely respond to OIC inquiries, PFL shall pay a fine of Thirty Thousand Dollars ($30,000.00); provided, however, that in the event that PFL fully and timely complies with the terms of this Order, then the amount of this fine shall be reduced to Fifteen Thousand Dollars ($15, 000.00). The sum of Fifteen Thousand Dollars ($15, 000.00) shall be paid by PFL within fifteen (15) days of filing of this Consent Order. The additional Fifteen Thousand Dollars ($15,000.00) will be due and payable, if at all, within fifteen (15) days of written notice from OIC to PFL that it has not fully or timely complied with this Order. Full and timely compliance includes meeting the 60 day and 21 day deadlines of 2(c) and 2(g) below. The fine will be paid to OIC by check made payable to "Insurance Commissioner, State of Washington", and delivered to Ed Fleisher, Deputy Commissioner for Legal Affairs, Insurance Building, 14th & Water Streets, P.O. Box 40255, Olympia, WA 98504-0255.

2. Premium Refunds.

(a). PFL shall refund to certificate holders the amount by which all premiums paid during the period October 1, 1995, through November 30, 1997, exceeded PFL's filed and approved rates during that period, computed as set forth hereafter. No interest is payable on these refunds.

(b). Those entitled to refunds are all persons who were certificate holders at any time during the period October 1, 1995, through November 30, 1997, including persons who had coverage terminated or discontinued during that period for any reason whatsoever.

(c). Within 60 days of signing this Consent Order, PFL shall calculate the amount of refund to each certificate holder, and provide a list of all certificate holders and refund amounts to OIC. OIC shall have the right to verify that refund amounts are calculated in accordance with this Order. Time spent by OIC auditing and verifying refund calculations and reviewing material provided by PFL under 2(d) below does not count against this 60 day period. Time spent by PFL in preparing new calculations and a revised list, if determined to be necessary, will count against this 60 day period if it results from PFL's failure to exercise good faith and reasonable diligence in making the calculations.

(d). OIC will have the right to audit and verify any refund calculations, and PFL shall provide to OIC any and all supporting information requested, including copies of its actual calculations and records used in computing any refund.

(e). Refunds will be computed as follows:

(i). For premiums collected within the 18 months preceding February 1, 1998, or any earlier date from which records are available, the actual, precise amounts by which the premiums actually paid exceeded PFL's filed and approved rates.

(ii). For premiums collected before the 18 months preceding February 1, 1998, or any earlier date from which system records are available, the amount by which the premium paid, based on information contained in the earliest available record, exceeded the rate that would have been paid based on the same information under PFL's filed and approved rates.

(iii). PFL's filed and approved rates during the period October 1, 1995, through November 30, 1997, were the rates set forth in its June, 1995 filing with OIC.

(f). Refunds will be by check.

(g). Refunds will be mailed within 21 days of notice by OIC provided that OIC does not object to PFL's refund calculations and proposed correspondence to certificate holders.

(h). All checks returned to PFL or not cashed by certificate holders will be unclaimed property subject to escheat to the State of Washington.

3. Rate Approval. PFL's rate filing of November 14, 1997, will be approved by OIC, effective December 1, 1997.

4. Rate Freeze. PFL will not file any group dental insurance rate increase to be effective before September 1, 1998. PFL agrees it will not sell or otherwise transfer, directly or indirectly, the group dental book of business that is the subject of this Consent Order unless the buyer or transferee agrees to be bound by this rate freeze.

5. Approval of Communications. All letters and correspondence from PFL to certificate holders concerning the refunds, including letters accompanying refund checks, will be submitted to and approved by OIC prior to use. Time spent by OIC reviewing proposed correspondence will not count against the 60 day period defined in Paragraph 2(c).

6. Press Release. In the event that OIC determines to issue a press release regarding this matter, it will endeavor to afford PFL and its administrator an opportunity to review and comment on the release, if feasible under the circumstance. In the event that OIC determines to issue a press release regarding this matter before the refund checks are mailed, then OIC will include advice to certificate holders that all inquiries to PFL and its administrator be held until refund checks are mailed. PFL recognizes that the public records act may apply to this Consent Order and information concerning it.

SIGNED AND ENTERED THIS 27th day of March, 1998.

By: Edward Fleisher
Edward Fleisher
Deputy Commissioner for Legal Affairs

By: [illegible]
PFL Insurance Company

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