

STATE OF MAINE
BUREAU OF INSURANCE

IN RE:

AMERICAN FAMILY LIFE ASSURANCE
COMPANY OF COLUMBUS

Maine License No.: LHF645
NAIC Code: 60380

CONSENT AGREEMENT

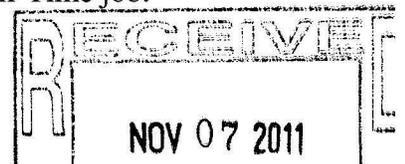
Docket No. INS-11-~~236~~

This document is a consent agreement authorized by Title 10 M.R.S. A § 8003(5)(B), entered into among American Family Life Assurance Company of Columbus (“AFLAC”), the Superintendent of the Maine Bureau of Insurance, and the Maine Office of the Attorney General. Its purpose is to resolve, in lieu of an adjudicatory proceeding, violations and alleged violations of Chapter 755 of the Bureau of Insurance Rules for which the Superintendent may impose discipline pursuant to Title 24-A M.R.S.A. § 12-A and Title 10 M.R.S.A. § 8003(5)(A-1).

The Superintendent of Insurance is the official charged with administering and enforcing Maine’s insurance laws and regulations, and the Bureau of Insurance is the administrative agency with such jurisdiction. The Superintendent has jurisdiction over this matter pursuant to the Insurance Code generally, Title 24-A Maine Revised Statutes, in particular, 24-A M.R.S. §§ 12-A, 211, and 229, as well as other provisions.

STATEMENT OF FACTS

1. AFLAC is a Georgia domiciled insurance company that is authorized to transact insurance in Maine under Maine License No. LHF645.
2. AFLAC submitted to the Maine Bureau of Insurance for approval a short-term disability policy Form A-57400-ME (“Disability Policy”) on January 21, 2003. The Bureau approved the policy form for sale in Maine on February 18, 2003.
3. Part 4(A) of the Disability Policy provided, in part, that if the insured was working full-time, benefits would be paid if the insured became totally disabled.
4. Part 1(G) of the Disability Policy defined “full-time job” as a job at which the insured worked 30 or more hours per week.
5. Part 1(O) of the Disability Policy defined “totally disabled” as the “...continuing inability to perform the material and substantial duties of your Full-Time job.”



6. Part 4(B) of the Disability Policy provided, in part, that if the insured was not working full-time, benefits would be paid if the insured was "...unable to perform two or more ADLs within 90 days of your last treatment resulting from a covered Sickness or covered Off-the-Job Injury, as certified by a Physician, and you require Direct Personal Assistance to perform such ADLs."
7. Part 1(A) of the Disability Policy defined ADLs as follows: ACTIVITIES OF DAILY LIVINGS (ADLs): activities used in measuring levels of personal functioning capacity. Normally, these activities are performed without Direct Personal Assistance, allowing personal independence in everyday living. The ADLs are: (1) Continence: Maintaining control of urination and bowel movements, including your ability to use ostomy supplies or other devices such as catheters; (2) Transferring: Moving between a bed and a chair, or a bed and a wheelchair; (3) Dressing: Putting on and taking off all necessary items of clothing, and/or medically necessary braces and artificial limbs usually worn; (4) Toileting: Getting to and from a toilet, getting on and off a toilet, and performing associated personal hygiene; (5) Eating: Performing all major tasks of getting food into the body.
8. Title 24-A M.R.S.A. § 2694 provides that the Superintendent shall adopt rules to establish minimum standards for benefits under individual and group health insurance including individual disability income protection coverage. The purpose of Rule Chapter 755, titled Health Insurance Classifications, Disclosure and Minimum Standards, is to implement this law.
9. Rule 755, Sec. 4 provides that an individual health insurance policy or group health insurance policy or certificate delivered or issued for delivery to any person in this state and to which this rule applies shall contain definitions that comply with the requirements of this section.
10. Rule 755, Sec. 4(N) provides that a general definition of "total disability" shall not be more restrictive than one requiring that the insured, as a result of the covered sickness or accident, is unable to engage in any employment or occupation for which he or she is or becomes qualified by reason of education, training, or experience, and is not, in fact, engaged in any employment or occupation for wage or profit.
11. Rule 755 became effective June 11, 2004. Section 10 of Rule 755 provides that the requirements of the rule apply to any form approved prior to the effective date of the rule that the carrier intends to offer in Maine on or after January 1, 2005. The Section further provides that previously approved forms that the carrier intends to continue offering and that did not comply with the rule must be submitted by the carrier with amendments needed to bring the forms into compliance on or before October 1, 2004, for approval by the Superintendent.
12. The Disability Policy did not comply with Rule 755 because the Policy effectively applies a more restrictive definition of "total disability" to policyholders not working full-time than the definition permitted by the rule.

13. AFLAC did not amend the Disability Policy to comply with Rule 755 by October 1, 2004. Instead, it continued to issue the Disability Policy to Maine consumers after January 1, 2005, when Rule 755 became effective.
14. On December 4, 2009, AFLAC submitted for review and approval Endorsement Form A92388 to amend the Disability Policy. The endorsement removed all references to ADLs and Direct Personal Assistance in regard to disability to comply with Rule 755. The Bureau approved the endorsement on December 9, 2009.
15. From January 1, 2005, until the approval of Endorsement Form A92388, AFLAC issued the Disability Policy to 7,070 Maine consumers.
16. AFLAC denied the claims of eight Maine consumers pursuant to the ADL standard of total disability who filed claims under the Disability Policy.
17. One of the Maine consumers filed a complaint with the Bureau.
18. After an investigation by the Maine Bureau of Insurance, AFLAC subsequently paid the eight denied claims, including interest where applicable, for a total of \$9,853.39.

CONCLUSIONS OF LAW

19. AFLAC violated Rule 755, Section 10 by issuing 7,070 short term disability policies to Maine consumers after January 1, 2005, that effectively defined "total disability" for those insured not working full-time in a more restrictive manner than permitted by Rule 755, and by denying eight Maine consumer claims on that basis.

COVENANTS

20. This Consent Agreement is entered into in accordance with 10 M.R.S. § 8003(5)(B). This Consent Agreement is enforceable by an action in the Superior Court.
21. This Consent Agreement is not subject to appeal. AFLAC waives any further hearings or appeals regarding the matters that are the subject of this Consent Agreement.
22. AFLAC accepts as disciplinary action the imposition of a civil penalty in the amount of \$20,000. AFLAC shall remit payment of this civil penalty within thirty (30) days after signing this Consent Agreement. Payment shall be by certified check or money order payable to "Treasurer, State of Maine" and delivered to the Bureau.
23. This Agreement will constitute a public record within the meaning of 1 M.R.S. § 402, and will be available for public inspection and copying as provided for by 1 M.R.S. § 408, and will be reported to the Regulatory Information Retrieval System database at the National Association of Insurance Commissioners.

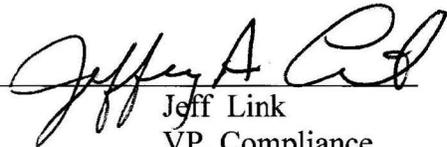
24. In consideration of AFLAC's execution of and compliance with the terms of this Consent Agreement, the Superintendent of Insurance, BOI, and Office of the Attorney General agree to forgo pursuing against AFLAC any further disciplinary measures or other civil or administrative sanctions available under the Maine Insurance Code concerning the specific conduct described in this Consent Agreement, other than those agreed to herein.
25. In the case of a violation of this Agreement, the parties may pursue any available legal remedy to enforce the Agreement in a court of competent jurisdiction.
26. Nothing in this Agreement shall affect the rights or interests of any person who is not a party to this Agreement.
27. This Consent Agreement may be modified only by a written agreement executed by all of the parties hereto. Any decision to modify, continue, or terminate any provision of this Consent Agreement rests in the discretion of the Superintendent and the Attorney General.

AMERICAN FAMILY LIFE ASSURANCE COMPANY OF COLUMBUS

Dated: Oct 31, 2011

AMERICAN FAMILY LIFE
ASSURANCE COMPANY OF
COLUMBUS

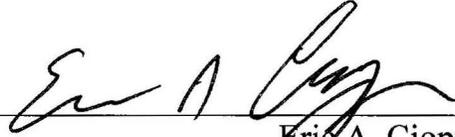
By:



Jeff Link
VP, Compliance

THE MAINE SUPERINTENDENT OF INSURANCE

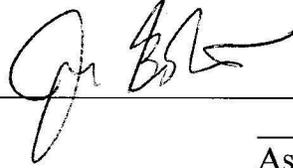
Dated: Nov 30, 2011



Eric A. Cioppa
Superintendent

FOR THE OFFICE OF THE ATTORNEY GENERAL

Dated: 11/29, 11



Jonathan R. Bolton
Assistant Attorney General