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BEFORE THE UTAH INSURANCE COMMISSIONER

UTAH INSURANCE DEPARTMENT, Complainant, vs. ACE AMERICAN INSURANCE COMPANY, Respondent.	FINDINGS OF FACT CONCLUSIONS OF LAW AND ORDER Docket No. 2021-4317 Donald H. Hansen Presiding Officer
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Complainant, Utah Insurance Department (“Department”) and Respondent, Ace American Insurance Company, have stipulated to the entry of the following Findings of Fact, Conclusions of Law and Order. Based upon that stipulation, and good cause appearing, the Presiding Officer makes and enters the following:

FINDINGS OF FACT

1. Respondent is a property and casualty insurer domiciled in the State of Pennsylvania and authorized to do business in Utah under license number 26.
2. Respondent’s mailing address is 436 Walnut Street, Philadelphia, Pennsylvania, 19106-3703.
3. Select Benefits Group, d/b/a Dental Select (hereinafter “Dental Select”) is a Utah

licensed resident producer organization and a Utah resident third-party administrator.

4. Since 2007, Respondent has contracted with Dental Select as a producer and third-party administrator for group and individual dental plans in Utah.

5. In January 2019, the Department received a consumer complaint (“Insured #1”) that Respondent was not paying a claim for preventative dental care procedures that were covered procedures in Insured #1’s policy. Specifically, Insured #1 asserted that Respondent refused to pay the claim because the preventative dental care procedure, x-rays, were taken by a periodontist, a specialist, rather than a general practitioner dentist.

6. In February 2020, the Department received a similar consumer complaint. The consumer (“Insured #2”) informed the Department that Respondent was not paying a claim for preventative dental care procedures covered under Insured #2’s policy. Respondent informed the Department that Respondent informed Insured #2 that x-rays taken by a specialist would be eligible for a 20% discount under Insured #2’s policy. Respondent informed Insured #2 that the same x-rays taken by a general practitioner dentist would be covered 100% under the policy.

7. The consumer complaints initiated an investigation by the Department.

8. The Department’s investigation concluded that Respondent had violated Utah Code § 31A-22-618 (“Section 618”), Nondiscrimination among healthcare professionals, by denying claims for covered services based on the class of healthcare provider who performed the service.

9. The Department’s investigation uncovered additional Section 618 violations.

Specifically:

- a. 83 Section 618 violations in 2020;
- b. 82 Section 618 violations in 2019; and
- c. 82 Section 618 violations in 2018.

CONCLUSIONS OF LAW

1. The Utah Insurance Commissioner (“Commissioner”) has jurisdiction over the parties and this adjudicative proceeding pursuant to Utah Code §§ 31A-1-105 and 31A-2-201.

2. The Commissioner has legal authority to impose penalties on the Department’s licensees who violate the Utah Insurance Code. *See* Utah Code § 31A-2-308.

3. Respondent’s conduct set forth above in the Findings of Fact, violates the following Utah insurance law:

a. Utah Code § 31A-22-618, denying coverage for a service covered under the terms of an insurance policy due to the class of healthcare provider who provided the service, although the service provided was within the scope of the healthcare provider’s license.

4. The recommended forfeiture amount of \$41,500.00 (Forty-One Thousand and Five Hundred Dollars) is appropriate under the circumstances.

ORDER

Based on the foregoing Findings of Fact and Conclusions of Law, it is hereby Ordered that:

1. Respondent is ordered not to commit the violations described in the Findings of Fact and Conclusions of Law in the future.

2. Respondent shall pay a forfeiture in the amount of \$41,500.00 (Forty-One Thousand and Five Hundred Dollars).

3. Respondent shall readjudicate claims for 2018, 2019, and 2020 in compliance with Utah Code § 31A-22-618.

4. Respondent shall adjudicate all future claims in compliance with Utah Code § 31A-22-618.

DATED this 7 day of April, 2021.

JONATHAN T. PIKE
Utah Insurance Commissioner



Donald H Hansen
Presiding Officer
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NOTICE REGARDING ENFORCEMENT OF THIS ORDER

Failure to obey this Order may subject you to further penalties that include a forfeiture of up to \$5,000 per violation, with each day of the violation constituting a separate violation. Other penalties for failing to obey this Order may include license suspension, probation, refusal to renew, or revocation. Failure to obey this Order may also result in an action taken against you in a court of competent jurisdiction where forfeitures of up to \$10,000 for each day the failure to comply continues until judgment is rendered. If you are licensed in other jurisdictions, you may be required to report this proceeding to those jurisdictions.