

BEFORE THE UTAH INSURANCE COMMISSIONER

Utah Insurance Department,

Complainant,

vs.

Jessica K. Altman and her successors in
office as Rehabilitator of Senior Health
Insurance Company of Pennsylvania,

Patrick H. Cantilo, as Special Deputy
Rehabilitator of Senior Health Insurance
Company of Pennsylvania,

and Senior Health Insurance Company of
Pennsylvania in Rehabilitation,

Respondents.

EMERGENCY ORDER

Case No. 2022-4377

Pursuant to Utah Code §§ 31A-2-201(4)(a) and 63G-4-502(1), Utah Insurance Commissioner Jonathan T. Pike (“Commissioner”) hereby issues this emergency order against Jessica K. Altman and her successors in office as Rehabilitator of Senior Health Insurance Company of Pennsylvania (“Rehabilitator”), Patrick H. Cantilo, as Special Deputy Rehabilitator of Senior Health Insurance Company of Pennsylvania, and Senior Health Insurance Company of Pennsylvania in Rehabilitation (“SHIP”), (together referred to as “Respondents”), after determining based on knowledge and belief that Respondents are engaging or are about to engage in conduct prohibited by the Utah Insurance Code, Utah Code Title 31A, and any administrative rule promulgated thereunder, and that immediate action is in the public interest.

In support of this Order, the Commissioner makes the following findings of fact and conclusions of law:

FINDINGS OF FACT

1. SHIP is a Pennsylvania-domiciled life insurance company that became authorized to issue long-term care insurance (“LTCI”) policies in the state of Utah as a foreign insurer beginning April 23, 1986 (NAIC Company Code 76325).

2. Between 1994 and 2011, the Commissioner approved multiple rate increases that averaged 127% per policy form. In addition, in 2017 the Commissioner approved a 40% rate increase for policies with 5% compound inflation. SHIP has not requested a rate increase since 2017.

3. In recent years, SHIP experienced financial distress and faced the possibility of insolvency.

4. On January 29, 2020, upon the application of Jessica Altman, the Commissioner of Insurance for the Commonwealth of Pennsylvania, the Commonwealth Court of Pennsylvania entered an Order of Rehabilitation placing SHIP into rehabilitation in accordance with Pennsylvania law.

5. The Order of Rehabilitation appointed Commissioner Altman and her successors in office as statutory rehabilitator of SHIP and required the Rehabilitator to prepare a plan of rehabilitation. Commissioner Altman appointed Patrick Cantilo as Special Deputy Rehabilitator, with the power to act on the Rehabilitator’s behalf.

6. SHIP currently has 298 policies issued in Utah and subject to Utah law, with the average age of Utah policyholders being 84 years old.

7. On April 22, 2020, the Rehabilitator filed her Application for Approval of the Plan of Rehabilitation for SHIP with a Rehabilitation Plan.

8. The Rehabilitation Plan was approved in a Memorandum Opinion and Order of the

Pennsylvania Commonwealth Court on August 24, 2021, as amended on November 4, 2021.

9. State insurance regulators from Massachusetts, Maine and Washington intervened in rehabilitation proceedings and appealed the Order approving Rehabilitation Plan to the Pennsylvania Supreme Court (Middle District), No. 71 MAP 201. Approximately, 32 state insurance regulators, including the Commissioner, have requested leave to support the intervening regulators as amici curie. The appeal remains pending before the Pennsylvania Supreme Court.

10. Under the Rehabilitation Plan:

- a. SHIP unilaterally, and without a factual or legal basis, determined that the Commissioner has agreed to SHIP's proposed premium rate plan for Utah.
- b. The proposed premium rate increases average 75%.
- c. The Rehabilitator will send or has sent to each Utah policyholder a "Coverage Election Package" that notifies them of the new premium rates and instructs them to select among coverage options that increase or reduce premium and reduce or maintain benefits under their policies.

11. Under Utah law, a premium rate for a LTCI policy and its related forms must be filed with the Commissioner before the rates and forms take effect. Utah Code §§ 31A-2-201.1, 31A-21-201, and 31A-22-1404; Utah Admin Code, Rules R 590-85, R590-148, and R590-220.

12. Utah law gives the Commissioner authority to disapprove a filed rate or form. Utah Code §§ 31A-21-201 and 31A-22-602.

13. SHIP's premium rate plan and its assumptions, methodology and related forms have not been filed with the Commissioner.

14. Because SHIP has not complied with Utah's rate and form filing requirements,

SHIP has violated or will violate Utah law by notifying Utah policyholders of the new rates and instructing them to select among coverage options based on those rates.

15. SHIP's notice to Utah policyholders is or will be deceptive because it constitutes a false representation that its rates and forms have met legal filing requirements. Utah Code §§ 31A-21-201(3) and 31A-23a-402.

16. SHIP's notice to Utah policyholders will cause immediate and significant danger to them. After receiving the notice, Utah policyholders will be compelled to make final and binding premium and coverage elections. Those elections will affect the availability of coverage for long-term care services in the future. Additionally, the elections will affect the policyholders' benefits from Utah's guaranty association if SHIP is later placed in liquidation, a likely occurrence due to SHIP's plans for future rate increases and benefit reductions.

17. Other jurisdictions, including Louisiana, Maine, South Carolina, North Dakota, Ohio, Maryland, and the District of Columbia, have enjoined SHIP's similar conduct in their states.

18. Based on the foregoing, there is substantial cause to believe that an immediate and significant danger to the public health, safety and welfare of Utah policyholders requires immediate action.

CONCLUSIONS OF LAW

19. The Commissioner regulates the business of insurance in Utah pursuant to Title 31A of the Utah Code.

20. Pursuant to Utah Code § 31A-2-201(4)(a), the Commissioner is authorized to issue prohibitory orders to secure compliance with Title 31A.

21. Pursuant to Utah Code § 63G-4-502, the Commissioner is authorized to issue an

order on an emergency basis if the facts known by or presented to the Commissioner show that an immediate and significant danger to the public health, safety, or welfare exists that requires the Commissioner's immediate action.

22. Pursuant to Utah Code §§ 31A-2-201.1, 31A-21-201, and 31A-22-1404 and Utah Admin. Code Rules R590-85, R590-148 and R590-220, every LTCI insurer shall file with the Commissioner the classification of risks and their related premium rates and policy forms. Respondents violated this provision of law by not filing proposed rates and forms with the Commissioner.

23. Pursuant to Utah Code § 31A-23a-402, no person shall engage in an unfair or deceptive act or practice in the business of insurance in Utah. Respondents violated or will violate this law by falsely notifying Utah policyholders that their rates have been legally and appropriately changed.

ORDER

Based upon the Findings of Fact, Conclusions of Law, it is ordered that:

1. Respondents and any of their principals, agents, employees, successors, and assigns shall cease and desist from implementing the Rehabilitation Plan in Utah or otherwise interfering with the rights of SHIP's Utah policyholders or violating the insurance laws and regulations of Utah, including by mailing "Coverage Election Packages" and notifying Utah policyholders of proposed rate or benefit modifications SHIP intends use in place of the policyholders' existing rates and benefits, none of which has been authorized by the Commissioner.

2. For the duration of this emergency order, SHIP shall continue to abide by the current policy terms, benefits, and premium levels for Utah policyholders in effect prior to the adoption of the Rehabilitation Plan.

3. SHIP is not prohibited from curing any of its form or rate filing deficiencies or from filing their form and rate filings, including resolution of any objections issued by the Commissioner.

4. Pursuant to Utah Code § 63G-4-502 this Emergency Order is effective immediately and the Utah Insurance Department shall commence a formal adjudicative proceeding.

DATED this 22nd day of February, 2022.



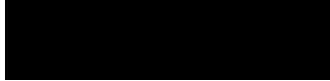
JONATHAN T. PIKE
Utah Insurance Commissioner
Utah Insurance Department
4315 S. 2700 W., Suite 2300
Taylorsville, UT 84129
Telephone: 801-957-9321
Email: uidadmincases@utah.gov

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing Emergency

Order was mailed to:

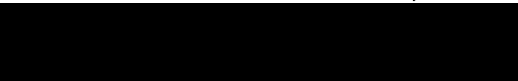
Jessica K. Altman, and her successors in office
Rehabilitator
Pennsylvania Insurance Department




Patrick H. Cantilo
Cantilo & Bennett, L.L.P.
Special Deputy Rehabilitator



Senior Health Insurance Company of
Pennsylvania (In Rehabilitation)



DATED this 23rd day of February, 2022.



Jeanine Couser
Utah Insurance Department
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