

# State of New Hampshire Insurance Department

**In Re: Assurant Health**

**Docket No: Ins No. 08-016-EP**

## **Consent Order**

This matter was commenced by entry of an Order to Show Cause on March 20, 2008 (the "Order to Show Cause") by the New Hampshire Department of Insurance (the "Department") alleging that Respondents, John Alden Life Insurance Company ("JALIC") and Time Insurance Company f/k/a Fortis Insurance Company ("TIC") (collectively the "Insurers"), may have violated certain provisions of the insurance laws of the state of New Hampshire.

WHEREAS, the Department alleges in the Order to Show Cause and otherwise that the Insurers issued policies of individual health insurance which included special exception riders or condition specific deductibles, and committed other violations of the insurance laws of the state of New Hampshire, including (1) issuing ridered policies at times when riders supposedly were prohibited; (2) renewing ridered policies following a certain November 16, 2006 Bulletin of the Department, (3) failing to file special exception riders and associated premium rates for approval with the Department; (4) issuing condition specific deductibles without approval of the Department; and (5) utilizing extended rate guarantee options without approval of the Department (collectively, the "Claims"); and

WHEREAS, the Department alleges that issuance of such special exception riders violated RSA 420-G:5, IV, which precludes issuance of riders "in order to avoid the purpose of this chapter"; and

WHEREAS, the Insurers dispute that the riders in question were issued "in order to avoid the purposes of" any chapter of the insurance laws of the state of New Hampshire or that they committed any violations of New Hampshire statutes, rules, regulations or orders of the Commissioner; and

WHEREAS, the Insurers expressly deny any wrongdoing alleged by the Department relating to the Claims or any other violation of New Hampshire statutes, rules, regulations or orders of the Commissioner, and do not admit or concede any actual or potential violation, fault, wrongdoing, or liability in connection with any facts or the Claims which have been or could have been alleged against them by the Department in the Order to Show Cause or otherwise; and

WHEREAS, the Department and the Insurers wish to enter into this Consent Order to resolve all issues related to all matters referenced in the Order to Show Cause;

NOW, THEREFORE, upon consent of the Department and the Insurers, it is hereby agreed and ordered:

1. The foregoing recitals are hereby adopted, incorporated into and made a part of this Consent Order.

2. For the purpose of resolving all alleged violations set forth in the Order to Show Cause with specific regard to the Insurers' allegedly improper issuance/renewal of individual health insurance policies with unapproved riders during the period starting in 2002 and ending as of the date of this Consent Order;

(a) JALIC and TIC shall each pay to the Department the amount of \$100,000.00 for reimbursement of expenses incurred by the Department in the investigation leading to the Order to Show Cause. JALIC and TIC further agree that each entity will make a cash payment to the Department in the amount of \$350,000.00 in final settlement of the claims described in this Consent Order. Payment in full of such amounts shall be made no later than fifteen (15) days following the effective date of this Consent Order.

(b) Based upon the information available in the Insurers' files, Insurers agree to make restitution to the affected insureds on all individual policies issued with special exception riders in the form of readjudication of claims previously denied based on the existence of the riders. With respect to those policies still in force, the Insurers shall immediately after the effective date of this Consent Order remove all special exception riders from those policies and pay all future claims for those policyholders as though such riders were void and of no further force and effect.

3. This Consent Order shall be final and non-appealable. Within forty five (45) days of the effective date of this Order, the Insurers shall notify each policyholder of any policy issued in New Hampshire since 2002 with a special exception rider(s) that such riders are being removed because of a regulatory action. In addition, the Insurers shall advise policyholders that any claims previously denied based upon the existence of a rider, or claims not previously submitted because of the expectation that they would be denied on that basis, should be submitted for immediate review within the next sixty (60) days.

(a) The Insurers shall within fifteen (15) days after the effective date of this Consent Order submit a draft of the policyholder letter referenced in this Paragraph 3 for Department approval, and subsequent to mailing an approved letter, shall provide an affidavit assuring that a mailing of the approved letter has been made to each affected policyholder.

(b) The Insurers shall make such operational arrangements as are necessary to assure that policyholders whose policies were issued with special exception riders, and/or who have questions relating to the communication regarding riders, are properly serviced, and that based upon available information claims that would have been paid but for a ridered condition are properly processed and paid consistent with all other terms and conditions of the policy.

(c) The Insurers shall provide an accounting to the Department regarding the processing of claims relating to this Order which shall include numbers of claims filed, numbers

processed for payment, number of denials and amounts paid. The Insurers shall also provide an Excel spreadsheet for all policies with special exception riders that list by policy the policyholder number, the claim amount submitted subject to a special exception rider, the amount paid or denied as a result of the existence of a special exception rider and the denial code (as appropriate) for the following: (1) total claims reprocessed and paid or denied as a result of the existence of a special exception rider since 2002; and (2) total claims paid or denied due to the member notice to policyholders who were subject to a special exception rider since 2002 to the present.

(d) The Insurers shall commence implementation of a Corrective Action Plan attached as Exhibit A to this Consent Order (the "Corrective Action Plan") within thirty (30) days after the date of this Consent Order shall become final and non-appealable. The Department shall assess performance and compliance with the Corrective Action Plan pursuant to the standards contained therein.

4. By entering into this Consent Order, the Department intends to resolve all matters raised in the Order to Show Cause, including all of the Claims, and any other claim of violation, or potential violation, made or which could have been made by the Department prior to the effective date of this Consent Order, and the Department will not impose a monetary assessment, fine, injunction or any other remedy on the Insurers for any of the potential violations relating to matters raised in the Order to Show Cause, the Claims or and any other claim of violation, or potential violation, made or which could have been made by the Department prior to the effective date of this Consent Order. By entering into this Consent Order, the Department and Insurers intend to resolve all issues relating to the matters raised in the Order to Show Cause, the Claims and any other claim of violation, or potential violation, made or which could have been made by the Department prior to the effective date of this Consent Order, including any alleged violations of laws, rules regulations or orders of the Commissioner, and this Consent Order shall be deemed a complete settlement and full and final resolution, and is in lieu of any disciplinary, legal, regulatory or enforcement action(s) that could have been taken by the Department relating to all matters raised in the Order to Show Cause, the Claims and any other claim of violation, or potential violation, made or which could have been made by the Department prior to the effective date of this Consent Order. Provided however, notwithstanding the foregoing, the Department may take any and all appropriate actions should the Insurers in the future violate any provision of the insurance laws and regulations of New Hampshire.

5. Except in a proceeding to enforce the terms hereof, neither this Consent Order nor any related negotiations, statements, reports or court proceedings shall be offered by the Insurers or the Department as evidence of or an admission, denial or concession of any liability or wrongdoing whatsoever on the part of any person or entity, including but not limited to the Insurers, or as a waiver by the Insurers of any applicable defense, including without limitation any applicable statute of limitations or statute of frauds.

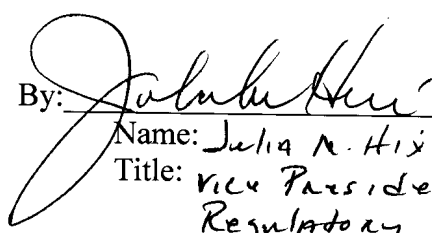
6. This Agreement may be signed in multiple counterparts, each of which shall constitute a duplicate original, but which taken together shall constitute but one and the same instrument.

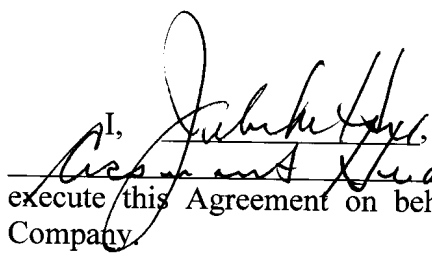
7. This Consent Order shall be binding on the Department and the Insurers, and their legal representatives, successors and assigns. Nothing in this Consent Order shall confer rights upon any persons or entities other than the Department and the Insurers. This Consent Order sets forth the entire agreement among the parties with respect to its subject matter and supersedes all prior agreements, arrangements, understandings (whether in written or oral form) between the Department and the Insurers. No modification or amendment of this Consent Order shall be of any force or effect unless in writing executed by both the Department and the Insurers.

8. Should the Department desire to make a statement to the press or public concerning the resolution of the matters raised in the Order to Show Cause, the regulatory settlement contemplated in this Consent Order, and/or the negotiation and execution of this Consent Order, the Department shall provide the statement to the Insurers for review and comment in advance of releasing such statement.

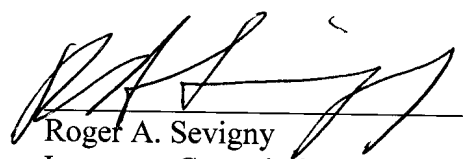
IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of this 25<sup>th</sup> day of November, 2008.

JOHN ALDEN INSURANCE COMPANY  
TIME INSURANCE COMPANY

By:   
Name: Julia N. Hix  
Title: Vice President  
Regulatory Compliance

, hereby affirm that I am the VP Reg Compliance of Department Health and have the authority to execute this Agreement on behalf of John Alden Insurance Company and Time Insurance Company.

AGREED AND ORDERED this 1<sup>st</sup> day of December, 2008.

  
Roger A. Sevigny  
Insurance Commissioner

## CORRECTIVE ACTION PLAN

Corrective Action	Standard to be Met	Compliance Requirements//Measurements
<p><b>1. Insurers<sup>1</sup> shall make restitution to affected policyholders in the form of readjustment of claims previously denied based on the existence of exclusionary riders in individual health insurance policies issued with such riders since 2002.</b></p>	<p>1. Within fifteen (15) days after the date of the final non-appealable Consent Order, the Insurers shall immediately submit a draft of the policyholder letter referenced in subsection 2 below for Department approval, and subsequent to mailing an approved letter, shall provide an affidavit assuring that a mailing of the approved letter has been made to each affected policyholder.</p>	<p>1. The Insurers shall make such operational arrangements as are necessary to assure that policyholders who submit claims relating to this action and/or who have questions relating to the communication regarding riders are properly serviced, including preparation of talking points for relevant personnel, and that claims that would have been paid but for a ridered condition are properly processed and paid consistent with all other terms and conditions of the policy.</p>
	<p>2. Within forty five (45) days after the date of the final non-appealable Consent Order, the Insurers shall notify each affected policyholders by mail who has a rider(s) that the riders are being removed because of a regulatory action. The Insurers shall utilize the U.S. Postal Service Certificate of Mailing procedures and forms to evidence such mailing.</p>	<p>2. Within ninety (90) days after the ninety (90) day deadline for resubmission of claims by ridered policyholders set forth in the communication from the Insurers referenced in Standard 1, Insurers are required to adjudicate all submitted claims.</p>

<sup>1</sup> Insurers is the collective reference for John Alden Insurance Company, and Time Insurance Company f/k/a Fortis Insurance Company.

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		<p>3. Insurers shall certify to the Department that all such identified claims have been adjudicated according to the terms and conditions of the policy as if the policy has no exception rider attached.</p>
	<p>3. In the notice described in Standard 1, subsection 1 above, the Insurers shall advise policyholders that any claims previously denied based upon the existence of a rider, or claims not previously submitted because of the expectation that they would be denied on that basis, should be submitted for immediate review to the Insurers within the next ninety (90) days after the date of that notice.</p>	<p>4. Within ninety (90) days after the ninety (90) day deadline for resubmission of claims by ridered policyholders set forth in the communication from the Insurers referenced in Standard 1, subsection 1, the Insurers shall provide an Excel spreadsheet for all policies with special exception riders that list by policy the policyholder number, the claim amount submitted subject to a special exception rider, the amount paid or denied as a result of the existence of a special exception rider, the denial code (as appropriate) for the following: (1) total claims reviewed and paid or denied as a result of the existence of a special exception rider since 2002; and (2) total claims paid or denied due to the member notice to policyholders who were subject to a special exception rider since 2002 to the present.</p>
<p><b>2. Insurers shall adjust all future claims for individual health insurance policies still in force with riders, to the extent those policies are still in effect, as though such</b></p>		

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<p>riders were void and of no further force and effect.</p>	<p>1. Insurers shall process all future claims for individual health insurance policies still in force with riders as though such riders were void and of no further force and effect.</p>	<p>1. Insurers shall sample and review future claim decisions on the individual health insurance policies still in force with riders. All such claims will be subjected to a 3-5% sample audit, on a quarterly basis, for 3 years. Insurers will submit a certification to the Department that such audits were completed.</p> <p>2. Acceptable performance is an error rate of 5% or less as identified by audit.</p>
<p><b>3. Insurers shall maintain procedures to ensure compliance with the requirements of New Hampshire Laws and regulations.</b></p>		
	<p>1. Insurers shall continuously monitor New Hampshire new regulatory requirements (statutes, rules and regulations) via the AHIP compliance I-Track system, communicate all such regulatory developments via the ClearQuest database and forward the analysis of such regulatory developments to Implementation Managers, who will schedule formal implementation.</p>	<p>1. When new laws or regulations that apply to Insurers or Insurers' products are enacted or promulgated, Insurers' Implementation Team will ensure that notification for all impacted areas occurs no later than 60 days after publication of the relevant law or regulation, or 30 days before the effective date of the new law or regulation, and that all underwriting guidelines and other written materials are updated to reflect any necessary changes resulting from the new laws/regulations including claims workflows and manuals, sales brochures, applications and policies.</p> <p>2. To ensure implementation accuracy,</p>

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		<p>accountability and consistency, the Insurers' Implementation Team shall be represented by all operational areas within the Insurers, including:*</p> <ol style="list-style-type: none"> <li>1. Actuarial</li> <li>2. Benefit Coding BSI (Benefit Systems support)</li> <li>3. Claims</li> <li>4. CMC</li> <li>5. Direct Sales</li> <li>6. Documentation</li> <li>7. Document Support/Output</li> <li>8. Financial Reporting</li> <li>9. Health Services</li> <li>10. Health Management</li> <li>11. Legal Contracts</li> <li>12. Pharmacy Services</li> <li>13. Premium Services</li> <li>14. Product Project Coordinators/Leaders, (Includes Marketing Communications and rating software programmers)</li> <li>15. Renewal</li> <li>16. Specialty Products</li> <li>17. Systems (IT)</li> <li>18. Training</li> <li>19. Underwriting</li> <li>20. Voluntary Products</li> </ol> <p>*Each area listed above may be divided by Insurer.</p> <p>Upon receiving completed regulatory</p>

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Corrective Action	Standard to be Met	Compliance Requirements/Measurements
		<p>analyses, Implementation Managers shall:</p> <ul style="list-style-type: none"> <li>• Prioritize regulated requirements by effective date and by topics</li> <li>• Determine and document implementation requirements, identifying areas impacted and high-level tasks</li> <li>• Schedule implementation items for next weekly meeting with Implementation Team</li> <li>• Create meeting agendas, using ClearQuest reporting functions, and distribute to Implementation Team</li> <li>• Facilitate Implementation Meetings, identifying tasks and target dates</li> <li>• Create and distribute meeting notes, using ClearQuest data warehousing to track accountabilities and target dates</li> <li>• Track tasks and receive Status Reports from Implementation Team, updating database as information is received</li> </ul>

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		<ul style="list-style-type: none"> <li>• Audit completed tasks for accuracy and consistency, using ClearQuest reporting functions</li> </ul> <p>3. In accordance with such processes and procedures, Insurers shall conduct training for relevant personnel on any new regulatory requirements in New Hampshire no later than 60 days after publication of the relevant law or regulation, or 30 days before the effective date of the new law or regulation.</p> <p>4. The Insurers shall implement a Quality Assurance Review process to ensure continued compliance.</p>

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