

STATE OF NEW JERSEY
DEPARTMENT OF BANKING AND INSURANCE

IN THE MATTER OF:

Proceedings by the Commissioner of Banking)	
and Insurance, State of New Jersey, to fine)	CONSENT
Liberty Insurance Underwriters, Inc.)	ORDER
NAIC CoCode 19917)	

To: Liberty Insurance Underwriters, Inc.
175 Berkeley Street
Boston, MA 02116

This matter, having been opened by the Commissioner of Banking and Insurance (“Commissioner”), State of New Jersey, upon information that Liberty Insurance Underwriters, Inc. (“Respondent”), may have violated various provisions of the insurance laws of the State of New Jersey; and

WHEREAS, Respondent is a foreign insurance company admitted to transact the business of insurance since April 7, 2010 pursuant to N.J.S.A. 17B:23-1 to -11; and

WHEREAS, N.J.S.A. 17B:27A-2 defines an “individual health benefits plan” to include: a certificate issued to an eligible person which evidences coverage under a policy or contract issued to a trust or association, regardless of the situs of delivery of the policy or contract, if the eligible person pays the premium and is not being covered under the policy or contract pursuant to continuation or benefits provisions applicable under federal or State Law; and

WHEREAS, N.J.S.A. 17B:27A-2 defines “health benefits plan” to exclude hospital confinement indemnity coverage if the benefits are provided under a separate policy, certificate or contract of insurance, there is no coordination between the provision of the benefits and any exclusion of benefits under any group health benefits plan maintained by the same plan sponsor,

and those benefits are paid with respect to an event without regard to whether benefits are provided with respect to such an event under any group health plan maintained by the same plan sponsor; and

WHEREAS, N.J.A.C. 11:20-1.2 defines “hospital confinement indemnity coverage” as coverage that is provided on a stand-alone basis, contains no elimination period greater than three days, provides coverage for no less than 31 days during one period of confinement for each person covered under the policy, and provides no less than \$40.00 but not more than \$250.00 in daily benefits except that the benefit for the first day of hospital confinement may exceed \$250.00 as long as the following formula is satisfied:

$$\frac{1^{\text{st}} \text{ day benefit} - 2^{\text{nd}} \text{ day benefit}}{5} + 2^{\text{nd}} \text{ day benefit} < \$250.00;$$

and

WHEREAS, an individual health benefits plan is required to comply with various provisions of the Individual Health Coverage Act (“IHC Act”), N.J.S.A. 17B:27A-2 to -18.2, including but not limited to the requirement that the plan be one of the standard plans established by the Board of Directors of the Individual Health Coverage Program pursuant to N.J.S.A. 17B:27-7; and

IT APPEARING, the Respondent issued group policies to out of state associations with New Jersey members which policies provided coverage that satisfies the definition of individual health benefits plans but does not comply with the IHC Act; and

IT FURTHER APPEARING, the coverage provided by these policies does not satisfy the definition of hospital confinement indemnity coverage at N.J.A.C. 11:20-1.2; and

IT FURTHER APPEARING, Respondent issued such noncompliant individual health benefits plans from 2020 to 2022; and

IT FURTHER APPEARING, that the Respondent:

- 1) Has admitted responsibility for the aforementioned violations; and
- 2) Has cooperated with the investigation conducted by the New Jersey Department of Banking and Insurance (“Department”); and
- 3) Has asserted that the violations cited in this Consent Order were not willful; and
- 4) Has ceased the sale of non-compliant health plans to New Jersey residents; and

WHEREAS, the Respondent has waived its right to a hearing on the aforementioned violations and consents to the payment of a fine in the amount of one million seven hundred seventy-eight thousand dollars (\$1,778,000.00);

WHEREAS this matter should be resolved upon the consent of the parties without resort to a formal hearing; and

NOW, THEREFORE, IT IS on this 23 day of September, 2022

ORDERED AND AGREED, that Respondent will pay a penalty of one million seven hundred seventy-eight thousand dollars (\$1,778,000.00), to the Department; and

IT IS FURTHER ORDERED AND AGREED, said penalty shall be paid by a certified check, attorney trust account check, money order or electronic funds transfer made payable to the “State of New Jersey General Treasury;” and

IT IS FURTHER ORDERED AND AGREED, that the signed Consent Order together with the payment of \$1,778,000.00 shall be remitted to:

New Jersey Department of Banking and Insurance
Attention: Virgil Downtin, Chief of Investigation
9th Floor, Consumer Protection Services, Enforcement Unit
P. O. Box 329
Trenton, New Jersey 08625-0329

and

IT IS FURTHER ORDERED AND AGREED, that the provisions of this Consent Order represent a final agency decision and constitute a final resolution of the violations contained herein.



Marlene Caride
Commissioner

Consented to as to Form, Content and Entry:



Michael Flaherty, Manager, Specialty Product
Liberty Insurance Underwriters, Inc.

September 8, 2022

Date