

**STATE OF NEW HAMPSHIRE
INSURANCE DEPARTMENT**

In re: Senior Health Insurance Company of Pennsylvania

Docket No.: INS No. 22-017-EP

CEASE AND DESIST ORDER

The Commissioner of the New Hampshire Insurance Department (“NHID”), pursuant to his authority under RSA 400-A:3, orders Senior Health Insurance Company of Pennsylvania (“SHIP”) to immediately Cease and Desist from engaging in insurance business in this State that is contrary to New Hampshire law and in a manner that is causing or is reasonably expected to cause significant, imminent, and irreparable injuries to New Hampshire policyholders.

In support this Order to Cease & Desist, the NHID states as follows:

FINDINGS OF FACT

1. SHIP is a Pennsylvania domiciled life insurance company that has been authorized to conduct insurance business in New Hampshire in the lines of Life and Accident & Health since approximately January 21, 1998.
2. SHIP specializes in long-term care (“LTC”) coverage, and currently has approximately 39,000 policies in force.
3. Approximately 14 New Hampshire residents have LTC policies through SHIP that are current.
4. SHIP is experiencing financial distress and insolvency, and has an outstanding deficit of approximately \$1.2 billion.
5. On January 29, 2020, upon application of Jessica Altman, then 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.
6. 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; on April 22, 2020, the Rehabilitator filed an Application for Approval of the Plan for the Rehabilitation of SHIP.¹

¹ SHIP’s Special Deputy Rehabilitator has indicated that said plan in “all likelihood will not eliminate” the deficit and it is “not likely we will magically restore SHIP to solvency.”

7. The Rehabilitation Plan was approved by the Pennsylvania Commonwealth Court on August 24, 2021, and amended on November 4, 2021.²
8. Under the Rehabilitation Plan, SHIP has already sent or will send to each NH policyholder a “Coverage Election Package” that notifies the policyholder of new premium rates and instructs them to select among the coverage options that increase current premiums or reduce current benefits under the LTC policies.
9. SHIP has communicated through the NAIC that approximately half of the affected NH consumers have already responded to its “Coverage Election Package.”
10. New Hampshire law requires that a premium rate increase for LTC policy and related LTC forms be filed with the Commissioner for approval before the rates and forms take effect. NH RSA 415-D:11.
11. SHIP’s premium rate plan and its assumptions, methodology, and related forms have not been filed with the NHID Commissioner, and accordingly have not been approved.
12. SHIP’s notice to NH policyholders³, which seeks to change the policy terms without NHID approval, will cause immediate and significant harm to those policyholders. The notice compels NH policyholders to make final and binding premium and coverage elections. Those elections will affect the availability of coverage for LTC services and will affect the policyholders’ ability to recover benefits from NH’s guaranty fund when SHIP is later placed in liquidation, which SHIP admits is likely to occur.

CONCLUSIONS OF LAW

13. The Commissioner regulates the business of insurance in New Hampshire pursuant to RSA 400-A:3.
14. Because SHIP has not complied with NH’s rate filing requirements, SHIP has violated and will continue to violate NH law by notifying NH policyholders of the new rates and instructing them to select among coverage options based on those unfiled and unapproved new rates, all in violation of NH RSA 415-D:11.

² State insurance regulators from Massachusetts, Maine, and Washington intervened and have appealed this determination to the Pennsylvania Supreme Court; approximately 32 state insurance commissioners, including New Hampshire’s, have filed an amicus brief in support of the appeal.

³ The notices also fail to inform consumers that the legality of the plan is disputed and currently under review by the Pennsylvania Supreme Court.

15. Because SHIP has not complied with NH's form filing requirements, SHIP has violated and will continue to violate NH law by sending its "Coverage Election Packages" to NH consumers, which have not been approved by the NHID, also in violation of NH RSA 415-D:11.
16. SHIP's notice to NH consumers has and will continue to violate NH RSA 417:4 I (a), as the "Coverage Election Packages" misrepresent the terms of the policies filed with and approved by the NHID.
17. SHIP's notice to NH consumers has and will continue to violate NH RSA 417:4, XII, as SHIP has and/or will collect improper premium through the Rehabilitation Plan, as those rates are/will be in excess of the rates as filed and approved by the Commissioner.
18. SHIP's notice to NH consumers has and will continue to violate INS 3601.19(b), which requires that an insurer provide notice of a pending premium rate schedule increase to the Commissioner at least 30 days prior to the notice to policyholders, which SHIP has not done.


ORDER

19. Based upon the information and allegations recited above, the New Hampshire Commissioner of Insurance hereby ORDERS that SHIP immediately CEASE AND DESIST from implementing the Rehabilitation Plan in New Hampshire or otherwise interfering with the rights of SHIP's New Hampshire policyholders or violating any insurance law and rule of New Hampshire, including by mailing "Coverage Election Packages" and notifying New Hampshire consumers of proposed rate or benefit modifications SHIP intends to implement, none of which has been authorized by the Commissioner.
20. For the duration of this Order, SHIP shall continue to abide by its current policy terms, benefits, and premium levels for all New Hampshire policyholders in effect prior to the adoption of the Rehabilitation Plan.
21. SHIP is not prohibited from curing any of its form or rate filing deficiencies by the proper notice and filing of such to the Commissioner.
22. Pursuant to RSA 400-A:17, SHIP may request a hearing regarding this Order by filing a written application for hearing with the Commissioner within 30 (thirty) days of the date SHIP either knew or should have known of the issuance of this Order.

SO ORDERED

NEW HAMPSHIRE
INSURANCE DEPARTMENT

Date: 3/18/2022


Christopher Nicolopoulos, Commissioner

CERTIFICATION OF SERVICE

I certify that the a copy of the foregoing Cease and Desist Order has been served upon SHIP by United State first class mail, postage prepaid, at 550 Congressional Blvd, Suite 200, Carmel IN, and 27 N. Front Street, Suite 22, Harrisburg PA, 17101-1606, the mailing and statutory home office addresses for SHIP.

Date: 3/18/22


Joshua Hilliard, Esq.