

MAY 5 2005

STATE OF ARIZONA
DEPARTMENT OF INSURANCE

DEPT. OF INSURANCE
BY Kath

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

In the Matter of:)	Docket No. 03A-023-INS
)	
JOHN ALDEN LIFE INSURANCE COMPANY,)	CONSENT ORDER
)	
NAIC # 65080)	
)	
Respondent)	

Examiners for the Department of Insurance (the "Department") conducted a market conduct examination of John Alden Life Insurance Company ("John Alden"). The Report of the Examination of the Market Conduct Affairs of John Alden, dated March 21, 2002 alleges that John Alden has violated A.R.S. §§ 20-443, 20-448.01, 20-461, 20-466.03, 20-2104, 20-2106, 20-2110, 20-2301, 20-2304, 20-2307, 20-2309, 20-2310, 20-2311, 20-2322, 20-2510, 20-2533, 20-2535, 20-2536, and A.A.C. R20-6-201, R20-6-1205, and the prior consent order, Docket No. 00A-085-INS, filed May 24, 2000.

John Alden wishes to resolve this matter without formal proceedings, admits that the following Findings of Fact are true, and consents to the entry of the following Conclusions of Law and Order.

FINDINGS OF FACT

1. John Alden is authorized to transact business as a life and disability insurer pursuant to a Certificate of Authority issued by the Director. John Alden was approved as an accountable health plan effective November 19, 1993.

2. The Examiners were authorized by the Director to conduct a market conduct examination of John Alden. The on-site examination covered the time period from January 1, 2001 through December 31, 2001, and was concluded on March 21,

1 2002. Based on the findings the Examiners prepared the "Report of Examination of the
2 Market Conduct Affairs of John Alden Life Insurance Company" dated March 21, 2002.

3 3. Following a market conduct examination of John Alden Life Insurance
4 Company as of September 11, 1997, the Director entered a Consent Order, Docket
5 No. 00A-085-INS, which was filed on May 24, 2000 (the "2000 Order"). Section 1 of
6 the "Order" portion of the 2000 Order stated as follows:

7 "1. John Alden Life Insurance Company shall cease and desist from committing the following
8 practices:

- 9 a. Failing to comply with an Order of the Director. . . .
- 10 c. Obtaining permission of the applicants for HIV-related testing on consent forms
11 other than the form approved by the Director.
- 12 d. Failing to provide a *Notice of Information Practices* in insurance policy applications
13 that contains all of the required information. . . .
- 14 g. Failing to give applicants and insureds: 1) written notice of adverse underwriting
15 decisions, 2) the specific reasons for adverse underwriting or notification that the
16 specific reason could be obtained upon written request, and 3) a *Summaries of*
17 *Rights* to individuals subject to adverse underwriting decisions. . . .
- 18 m. Failing to include in renewal notices an explanation of the extent to which any
19 increase in premium was due to the actual or expected claim experience of the
20 individuals covered by the employer's health plan."

21 4. The Examiners reviewed all forms used by John Alden during the time
22 frame of the examination and found as follows:

23 a. John Alden used one advertising form (JT-1002) that failed to
24 disclose the exceptions, reductions and limitations affecting the basic provisions of the
25 policy.

26 b. John Alden used one application form (JI-1280) that:
27 i. Failed to inform applicants that personal information may be
28 requested from sources other than the individuals proposed for insurance.

29 ii. Failed to specify the length of time that the authorization
30 remains valid.

31 iii. Failed to specify that the individual's authorized
32 representative is entitled to receive a copy of the authorization form.

1 c. John Alden used two application forms (JI-1020, JI-1020 (8/99))
2 that: failed to specify that the individual's authorized representative is entitled to receive
3 a copy of the authorization form.

4 d. John Alden used an adverse underwriting decision letter that failed
5 to include a Summary of Rights.

6 e. John Alden used a short-term major medical form (FORM 598)
7 that failed to provide notice of available benefits for AIDS and ARC in the same manner
8 and to the same extent as benefits provided for all other diseases.

9 f. John Alden used a group disability insurance renewal letter that
10 failed to contain an explanation of the extent to which any increase in premiums is due
11 to actual or expected claims experience of the individuals covered under the
12 employer's health benefits plan contract.

13 g. John Alden used one group health insurance certificate (J-3000
14 AZ 12/98) that:

15 i. Used a definition of "Special Enrollment Periods" that failed
16 to include court-ordered coverage.

17 ii. Used a non-compliant definition of small employer.

18 iii. Established eligibility requirements.

19 iv. Used a non-compliant definition of creditable coverage.

20 v. Provided mental health benefits that were less than the
21 benefits provided for all other health services.

22 h. John Alden used two group health insurance certificates (J-3050
23 AZ 9/97, J-4000) that:

24 i. Used a definition of "Special Enrollment Periods" that failed
25 to include court-ordered coverage.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

ii. Established eligibility requirements.

iii. Provided mental health benefits that were less than the benefits provided for all other health services.

i. John Alden used one EOB form (BEST system) that failed to notify the member of the right to appeal.

j. John Alden used 33 form letters used to request claim information that failed to contain a fraud warning notice.

5. The Examiners reviewed the appeals procedures used by the Company during the time frame of the examination and found that John Alden failed to mail a statement to its members and policyholders at renewal that explained that the member could obtain a replacement packet that explains the appeals process.

6. The Examiners reviewed 14 of 14 pre-certification denials processed by the Company during the time frame of the examination and found that John Alden failed to send a copy of the written denial form to four treating providers.

7. The Examiners reviewed 8 of 8 informal reconsiderations processed by the Company during the time frame of the examination and found as follows:

a. In three files, John Alden:

i. Failed to provide a written acknowledgement to the member and the member's treating provider within five business days.

ii. Failed to notify the member and the member's treating provider of the utilization review agent's decision within 30 days.

b. In one file, John Alden:

i. Failed to notify the member and the member's treating provider of the utilization review agent's decision within 30 days.

1 ii. Failed to provide notice of the option to proceed, after the
2 formal appeals process, to an external independent review.

3 c. In three files, John Alden failed to provide notice of the option to
4 proceed, after the formal appeals process, to an external independent review.

5 8. The Examiners reviewed 28 of 28 formal appeals processed by the
6 Company during the time frame of the examination and found as follows:

7 a. In three files, John Alden:

8 i. Failed to mail a written acknowledgement to the member
9 and the member's treating provider within five business days.

10 ii. Failed to provide a written notification of the decision within
11 60 days that includes the criteria used and the clinical reasons for that decision.

12 iii. Failed to initiate the external independent review process or
13 provide the member with notice of the right to proceed to an external independent
14 review.

15 b. In five files, John Alden:

16 i. Failed to mail a written acknowledgement to the member
17 and the member's treating provider within five business days.

18 ii. Failed to have a physician review the appeal and render a
19 decision.

20 iii. Failed to initiate the external independent review process or
21 provide the member with notice of the right to proceed to an external independent
22 review.

23 c. In ten files, John Alden:

24 i. Failed to mail a written acknowledgement to the member
25 and the member's treating provider within five business days.

1 ii. Failed to initiate the external independent review process or
2 provide the member with notice of the right to proceed to an external independent
3 review.

4 d. In one file, John Alden:

5 i. Failed to mail a written acknowledgement to the member
6 and the member's treating provider within five business days.

7 ii. Failed to have a physician review the appeal and render a
8 decision.

9 e. In four files, John Alden failed to mail a written acknowledgement
10 to the member and the member's treating provider within five business days.

11 f. In five files, John Alden failed to initiate the external independent
12 review process or provide the member with notice of the right to proceed to an external
13 independent review.

14 9. The Examiners reviewed 17 of 17 association group applications where
15 an HIV-related test was performed and found as follows:

16 a. John Alden failed to obtain written consent from 11 applicants on a
17 form that was filed and approved by the Director, prior to conducting the test.

18 b. John Alden failed to obtain written consent from six applicants
19 prior to conducting the test.

20 10. The Examiners reviewed the Company's small group application
21 practices and found that John Alden failed to offer insurance coverage to some eligible
22 small employers. The Company's marketing department indicated to agents by mail or
23 by phone that John Alden's rates were not competitive due to the admitted health
24 history of the group applying for coverage. In these instances, no quote was provided
25 and no coverage was offered.

1 7. John Alden violated A.R.S. § 20-2309(A) and the 2000 Order by failing to
2 include in its group disability insurance renewal letter an explanation of the extent to
3 which any increase in premium is due to actual or expected claim experience of the
4 individuals covered under the employer's health benefits plan contract.

5 8. John Alden violated A.R.S. § 20-2301(A)(15) by failing to include court-
6 ordered coverage in the "Special Enrollment Periods" section of its group health
7 insurance certificates.

8 9. John Alden violated A.R.S. § 20-2301(A)(22) by failing to use a compliant
9 definition of a small employer in one of its group health insurance certificates.

10 10. John Alden violated A.R.S. § 20-2307(A) by using group health insurance
11 certificates that set eligibility requirements at a minimum of 30 hours per week 48
12 weeks per year, which are not eligibility requirements set by the employer.

13 11. John Alden violated A.R.S. § 20-2310(E)(3) by using group health
14 insurance certificates, which stated that waiting periods would not be taken into
15 account in determining aggregate creditable coverage.

16 12. John Alden violated A.R.S. § 20-2322(C) by using a group health
17 insurance certificates that provided mental health benefits that were substantially less
18 than the benefits provided for all other health services.

19 13. John Alden violated A.R.S. § 20-2533(D) by failing to issue an
20 explanation of benefits document that prominently displays in the document a
21 statement about the right to appeal.

22 14. John Alden violated A.R.S. § 20-466.03 by using form letters to request
23 claim information that failed to contain a fraud warning notice.

24 15. John Alden violated A.R.S. §§ 20-2533(C) and 20-461(A)(17) by failing to
25 mail to its members and policyholders at renewal, a statement explaining that the

1 member or policyholder could obtain a replacement packet that explains the appeal
2 process, with such frequency as to constitute a general business practice.

3 16. John Alden violated A.R.S. § 20-2510(B), regarding pre-certification
4 denials, by failing to send a copy of the written denial form to the treating provider.

5 17. John Alden violated A.R.S. § 20-2535(B), regarding informal
6 reconsiderations, by failing to provide a written acknowledgement to the member and
7 the member's treating provider within five business days.

8 18. John Alden violated A.R.S. § 20-2535(D), regarding informal
9 reconsiderations, by failing to notify the member and the member's treating provider of
10 the utilization review agent's decision within 30 days.

11 19. John Alden violated A.R.S. § 20-2535(F), regarding informal
12 reconsiderations, by failing to provide notice of the option to proceed, after the formal
13 appeals process, to an external independent review.

14 20. John Alden violated A.R.S. § 20-2536(B), regarding formal appeals, by
15 failing to provide a written acknowledgement to the member and the member's treating
16 provider within five business days.

17 21. John Alden violated A.R.S. § 20-2536(D), regarding formal appeals, by
18 failing to have a physician review the appeal and render a decision.

19 22. John Alden violated A.R.S. § 20-2536(E)(2), regarding formal appeals, by
20 failing to provide a written notification of the decision within 60 days that includes the
21 criteria used and the clinical reasons for that decision.

22 23. John Alden violated A.R.S. § 20-2536(G), regarding formal appeals, by
23 failing to initiate the external independent review process or provide the member with
24 notice of the right to proceed to an external independent review.

25

1 24. John Alden violated A.R.S. § 20-448.01(B) and the 2000 Order by
2 obtaining written consent for an HIV-related test on a consent form that was not filed
3 nor approved by the Director.

4 25. John Alden violated A.R.S. § 20-448.01(B) by failing to obtain written
5 consent for an HIV-related test prior to conducting the test.

6 26. John Alden violated A.R.S. § 20-2304(A) by failing to offer coverage to
7 some eligible small employers by contacting agents to indicate that the Company's
8 rates would not be competitive due to the admitted health history of the group applying
9 for coverage. No coverage was offered, and no quotation was provided.

10 27. John Alden violated A.R.S. § 20-443(5) by misrepresenting the terms of
11 terms of a policy by not providing 31 days notice prior to cancellation, as stipulated by
12 the policy language.

13 28. Grounds exist for the entry of the following Order in accordance with
14 A.R.S. §§ 20-220, 20-456, 20-2117 and 20-2508.

15 **ORDER**

16 **IT IS HEREBY ORDERED THAT:**

17 1. John Alden Life Insurance Company shall cease and desist from
18 committing the following practices:

- 19 a. Failing to comply with the terms of an existing consent order.
20 b. Using an advertising form that fails to disclose the exceptions,
21 reductions, and limitations affecting the basic provisions of the policy.
22 c. Using an application form that:
23 i. Fails to contain a compliant Notice of Insurance Information
24 Practices.

1 ii. Fails to specify that the individual's authorized
2 representative is entitled to receive a copy of the authorization form.

3 iii. Fails to state the length of time that the authorization
4 remains valid.

5 d. Using application forms that fail to specify that the individual's
6 authorized representative is entitled to receive a copy of the authorization form.

7 e. Using adverse underwriting decision letters that fail to contain a
8 Summary of Rights.

9 f. Using a short-term medical insurance policy form that fails to
10 provide notice of available benefits for HIV, AIDS, and AIDS-related conditions in the
11 same manner and to the same extent as those benefits provided for all other diseases.

12 g. Using a group disability insurance renewal letter that fails to
13 contain an explanation of the extent to which any increase in premium was due to the
14 actual or expected claims experience of the individuals covered under the employer's
15 health benefits plan contract.

16 h. Using a group health insurance certificate that:

17 i. Use a definition of Special Enrollment Periods that fail to
18 include court-ordered coverage.

19 ii. Use a non-compliant definition of small employer.

20 iii. Establish eligibility requirements.

21 iv. Use a non-compliant definition of creditable coverage.

22 v. Provide mental health coverage that is less than the
23 benefits provided for all other health services.

24 i. Using group health insurance certificates that:

25

- 1 i. Use a definition of Special Enrollment Periods that fail to
2 include court-ordered coverage.
- 3 ii. Establish eligibility requirements.
- 4 iii. Provide mental health coverage that is less than the
5 benefits provided for all other health services.
- 6 j. Using an EOB form that fails to notify the member of the right to
7 appeal.
- 8 k. Using claim form letters that do not contain a compliant fraud
9 warning statement.
- 10 l. Failing to mail a statement to its members and policyholders at
11 renewal that explained that the member could obtain a replacement packet that
12 explains the appeals process.
- 13 m. Failing to send a copy of the written pre-certification denial to the
14 treating provider.
- 15 n. Regarding informal reconsiderations:
- 16 i. Failing to provide a written acknowledgement to the
17 member and the member's treating provider within five business days.
- 18 ii. Failing to notify the member and the member's treating
19 provider of the utilization review agent's decision within 30 days.
- 20 iii. Failing to provide notice of the option to proceed, after the
21 formal appeals process, to an external independent review.
- 22 o. Regarding formal appeals:
- 23 i. Failing to mail a written acknowledgement to the member
24 and the member's treating provider within five business days.
- 25

1 ii. Failing to provide a written notification of the decision within
2 60 days that includes the criteria used and the clinical reasons for that decision.

3 iii. Failing to initiate the external independent review process
4 or provide the member with notice of the right to proceed to an external independent
5 review.

6 iv. Failing to have a physician review the appeal and render a
7 decision.

8 p. Failing to obtain written consent for an HIV-related test on a form
9 that was filed and approved by the Director.

10 q. Conducting an HIV-related test prior to obtaining written consent.

11 r. Failing to offer insurance coverage to some eligible small
12 employers.

13 s. Misrepresenting the cancellation terms of its small group policy.

14 2. Within 90 days of filed date of this Order, John Alden shall submit to the
15 Arizona Department of Insurance, for approval, evidence that corrections have been
16 implemented and communicated to the appropriate personnel, regarding all of the
17 items listed above in Paragraph 1 of the Order section of this Consent Order.
18 Evidence of corrective action includes but is not limited to memos, bulletins, E-mails,
19 correspondence, procedures manuals, print screens and training materials.

20 3. Within 90 days of the filed date of this Order, John Alden shall perform a
21 self-audit of mental health claims processed by the Company under small group major
22 medical forms J-3000, J-3050 and J-4000 during the time frame of the examination.
23 Where submitted claims have been denied, or reduced because of inappropriate limits
24 of coverage, John Alden shall pay the claimants the amount of the claim, plus interest

25

1 at the rate of ten percent per annum, calculated from the date of receipt of the original
2 claim to the date of the payment.

3 4. Within 90 days of the filed date of this Order, John Alden shall perform a
4 self-audit of all HIV, AIDS, and AIDS-related claims processed by the Company that
5 were covered under short-term major medical form FORM 598 during the time frame of
6 the examination to confirm that proper benefits were paid. Where submitted claims
7 have been denied, or reduced because of inappropriate limits of coverage, John Alden
8 shall pay the claimants the amount of the claim, plus interest at the rate of ten percent
9 per annum, calculated from the date of receipt of the original claim to the date of the
10 payment.

11 5. Within 90 days of the filed date of this Order, John Alden shall perform a
12 self-audit of all small group claims that were denied due to non-payment of premium
13 during the time frame of the examination. Where submitted claims have been denied
14 or reduced, John Alden shall pay the claimants the amount of the claim, plus interest at
15 the rate of ten percent per annum, calculated from the date of receipt of the original
16 claim, to the date of the payment.

17 6. Within 90 days of the filed date of this Order, John Alden shall notify,
18 either by notice or by policy amendment, all policyholders who were covered under
19 short-term major medical form FORM 598 or small group major medical forms J-3000,
20 J-3050 and J-4000 during the time frame of the examination that had inappropriate
21 limits on mental health and HIV-related benefits. These policyholders shall be given
22 notice that they may now submit claims that would have been disallowed under the
23 terms of the policy. Valid claims shall be processed and paid. Interest shall also be
24 paid at the rate of ten percent per annum, calculated from the date that the claim was
25 incurred, to the date of the payment by the Company.

1 7. Within 90 days of the filed date of this Order, John Alden shall submit to
2 the Department a plan whereby the Company will retain a copy of all requests for
3 coverage from small groups with documentation that a quote for coverage was
4 provided to all small groups who submitted a request. These documents shall be
5 made available to the Department for examination.

6 8. Each payment made in accordance with Items 3,4,5, and 6 above shall
7 be accompanied by a letter to the insured in a form previously approved by the
8 Director. A list of payments, giving the name and address of each party paid, the
9 amount of the payment, the amount of interest paid, and the date of payment, shall be
10 provided to the Department within 90 days of the filed date of this Order.

11 9. The Department shall be permitted, through authorized representatives,
12 to verify that John Alden has complied with all provisions of this Order.

13 10. John Alden shall pay a civil penalty of \$120,000.00 made payable to the
14 Director for deposit in the State General Fund in accordance with A.R.S. § 20-220(B).
15 The civil penalty shall be provided to the Market Conduct Examinations Section of the
16 Department prior to the filing of this Order.

17 11. The Report of Examination of the Market Conduct Affairs of John Alden
18 as of March 21, 2002, including the December 18, 2002 letter submitted in response to
19 the Report of Examination, shall be filed with the Department upon the filing of this
20 Order.

21 DATED at Phoenix, Arizona this 30th day of January, 2003.

22
23 

24 Charles R. Cohen
25 Director of Insurance

1 **CONSENT TO ORDER**

2 1. John Alden Life Insurance Company has reviewed the foregoing Order.

3 2. John Alden Life Insurance Company admits the jurisdiction of the Director
4 of Insurance, State of Arizona, admits the foregoing Findings of Fact, and consents to
5 the entry of the Conclusions of Law and Order.

6 3. John Alden Life Insurance Company is aware of the right to a hearing, at
7 which it may be represented by counsel, present evidence and cross-examine
8 witnesses. John Alden Life Insurance Company irrevocably waives the right to such
9 notice and hearing and to any court appeals related to this Order.

10 4. John Alden Life Insurance Company states that no promise of any kind or
11 nature whatsoever was made to it to induce it to enter into this Consent Order and that
12 it has entered into this Consent Order voluntarily.

13 5. John Alden Life Insurance Company acknowledges that the acceptance
14 of this Order by the Director of the Arizona Department of Insurance is solely for the
15 purpose of settling this matter and does not preclude any other agency or officer of this
16 state or its subdivisions or any other person from instituting proceedings, whether civil,
17 criminal, or administrative, as may be appropriate now or in the future.

18 6. Ann Mayberry-French, who holds the office of
19 Sr. Vice Pres, & Gen. Counsel of John Alden Life Insurance Company, is authorized
20 to enter into this Order for it and on its behalf.

21
22 **JOHN ALDEN LIFE INSURANCE COMPANY**

23 1/28/03
24 Date

By A. Mayberry

1 COPY of the foregoing mailed/delivered
2 this 5th day of February, 2003, to:

3
4 Sara Begley
5 Deputy Director
6 Mary Butterfield
7 Assistant Director
8 Consumer Affairs Division
9 Paul J. Hogan
10 Chief Market Conduct Examiner
11 Deloris E. Williamson
12 Assistant Director
13 Rates & Regulations Division
14 Steve Ferguson
15 Assistant Director
16 Financial Affairs Division
17 Alan Griffieth
18 Chief Financial Examiner
19 Alexandra Shafer
20 Assistant Director
21 Life & Health Division
22 Terry L Cooper
23 Fraud Unit Chief

24
25 DEPARTMENT OF INSURANCE
2910 North 44th Street, Suite 210
Phoenix, AZ 85018

Steven E. Johnson, Market Conduct Analyst
John Alden Life Insurance Company
P.O. Box 3050
Milwaukee, WI 53201-3050


