

IN RE: CONSECO HEALTH
INSURANCE COMPANY

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CONSENT AGREEMENT
Docket No. INS 04-236

This document is a Consent Agreement, authorized by 10 M.R.S.A. § 8003(5)(B), entered into by and among Conseco Health Insurance Company (hereafter “Conseco”), the Superintendent of the Maine Bureau of Insurance (hereafter “the Superintendent”), and the Office of the Attorney General. Its purpose is to resolve, without resort to an adjudicatory proceeding, failure to comply with the requirements of the Maine Insurance Code as set forth below.

FACTS

1. The Superintendent is the official charged with administering and enforcing Maine’s insurance laws and regulations.

2. Conseco Health Insurance Company is licensed in Maine as a foreign life and health insurance company, Maine license number LHF 954 and NAIC number 78174.

3. On June 14, 2004, an insurance applicant filed a written complaint with the Bureau stating that she is 55 and disabled under Social Security, and that she applied for a Medicare supplement policy with Conseco on April 29, 2004. The complaint stated, in part:

“On May 13, 2004 Conseco Health Insurance Company rejected my application because they claim they do not offer under age coverage in Maine. Repeated phone calls to the home office by my agent accomplished nothing. On May 26, 2004 my agent faxed the home office a copy of Title 24-A Chapter 67 [Section] 5010-A on the advice of [the Bureau of Insurance]. Conseco has finally agreed to issue the coverage. This should not have happened in the first place and I hope it is not happening to other under age Maine residents.”

4. Conseco’s May 13, 2004 letter to the applicant stated, in part:

“Based on our evaluation of the information specified below, we cannot issue coverage at this time. We are unable to issue a policy because we do not offer underage coverage in the state of Maine. A refund check for the full amount collected at the time the application was taken has been mailed directly to the applicant.”

5. Title 24-A M.R.S.A. § 5010-A Coverage of the disabled provides:

“An issuer offering coverage under a Medicare supplement policy in this State shall offer coverage under its standardized plans to all individuals, regardless of age, who are entitled to Medicare benefits due to disability. An issuer shall offer such coverage during an individual’s open enrollment period under any of the policies offered by the issuer to persons eligible for Medicare benefits due to age. An issuer shall also offer standardized Medicare Supplement Plan A to persons entitled to Medicare benefits due to disability during the guaranteed issue period as set forth in section 5012. An individual who is entitled to Medicare benefits due to disability

must be provided continuity of coverage in accordance with section 5002-B. Issuers shall give notice of Medicare supplement coverage to individuals enrolled in Medicare in advertising of Medicare supplement policies intended for use in this State. By January 1, 1994, the Superintendent shall establish rules to ensure that the notice of the availability of coverage for the disabled is sufficiently advertised.”

6. On October 16, 2003, the Superintendent sent a letter to all Medicare supplement carriers in Maine, including Conseco, stating in part:

“The Medicare supplement guaranteed issue requirements of 24-A M.R.S.A. § 5002-B have always applied to disabled Medicare enrollees, as well as Medicare enrollees over the age of 65. However, because this section did not expressly reference disabled persons, there has been confusion on the part of some carriers as to whether it applied. This could sometimes result in discrimination against persons under age 65. Unlawful discrimination against persons under age 65 may result in civil penalties of \$10,000 for each wrongfully denied application. Carriers are strongly advised to review their internal protocols to ensure that such discrimination does not occur.”

CONCLUSIONS OF LAW

7. As described in paragraphs 3 - 5 above, Conseco violated 24-A M.R.S.A. Section 5010-A by rejecting the application of a person entitled to Medicare by reason of disability.

COVENANTS

8. A formal hearing in this matter is waived and no appeal will be made.

9. At the time of executing this Agreement, Conseco shall pay to the Bureau of Insurance a penalty in the amount of Ten Thousand Dollars and No Cents (\$10,000.00), payable to the Treasurer of the State of Maine.

10. In consideration of Conseco’s compliance with the terms of this Consent Agreement, the Superintendent agrees to forgo pursuing any disciplinary measures or other civil sanction for the specific failure to comply with the requirements of 24-A M.R.S.A. Section 5010-A described above. The Superintendent also agrees to forgo disciplinary action for failure to comply with the requirements of Maine’s Medicare supplement guaranteed issue laws with respect to the seven applications from other under age 65 applicants entitled to coverage identified to the Bureau prior to executing this agreement.

MISCELLANEOUS

11. This Consent Agreement may only be modified by the written consent of the parties.

12. It is understood by the parties to this Agreement that nothing herein shall affect any rights or interests of any person not a party to this Agreement.

13. Consecos acknowledges that this Consent Agreement is a public record within the meaning of 1 M.R.S.A. § 402, that it will be available for public inspection and copying as provided for by 1 M.R.S.A. § 408, and that it will be reported to the NAIC and included in the RIRS database.

14. Consecos has been advised of its right to consult with counsel and has, in fact, consulted with counsel before executing this Agreement.

15. Nothing herein shall prohibit the Superintendent from seeking an order to enforce this Agreement, or from seeking additional sanctions in the event that Consecos does not comply with the above terms, or from taking further legal action in the event that the Superintendent receives additional evidence not previously a part of this investigation that further legal action is necessary.

SIGNATURE PAGE

Dated: _____, 2004

CONSECO HEALTH INSURANCE COMPANY

By:

Printed Name and Title

Subscribed and sworn to before me
this _____ day of _____, 2004

Notary Public

Printed name

Date of commission expiration

Dated: _____, 2004

MAINE BUREAU OF INSURANCE

Alessandro A. Iuppa
Superintendent of Insurance

Dated: _____, 2004

**MAINE OFFICE OF THE
ATTORNEY GENERAL**

Thomas C. Sturtevant, Jr.
Assistant Attorney General