

July 24, 1998

IN RE:  
METROPOLITAN LIFE  
INSURANCE COMPANY  
DOCKET NO. INS 98-31

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)  
)  
) CONSENT  
) AGREEMENT  
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INTRODUCTION

This document is a consent agreement, authorized by 5 M.R.S.A. § 9053(2) entered into by and among Metropolitan Insurance Company (hereafter also "*MetLife*") and the Superintendent of the Maine Bureau of Insurance (hereafter the "Superintendent"). Its purpose is to resolve, without resort to an adjudicatory proceeding, a violation of the Maine Continuity of Coverage Act by MetLife.

FACTS

The parties to this Consent Agreement stipulate to the following facts:

1. Metropolitan Life Insurance Company has been licensed as a Maine Authorized Life and Health Insurer, Licensee # LHF00000000380 since July 1, 1901.
2. Maine's Continuity of Health Insurance Law (Public Law 1989 Chapter 867) was enacted and signed into law on April 19, 1990. The law went into effect on April 19, 1991.
3. On September 14, 1990, the Bureau issued Continuity Law Bulletin 180, which was distributed to all insurers authorized to do life and health business in Maine. The bulletin reminds insurers writing individual health insurance of the law's restrictions on the use of preexisting condition exclusions, and states that for policies subject to Title 24-A M.R.S.A. § 2850:

**"[n]o preexisting condition exclusion period may exceed six months except in the case of conditions which, as of the effective date of coverage, require ongoing medical observation or treatment, in which case the limit is two years."**

4. On September 9, 1991, the Bureau issued Continuity Law Bulletin 191, which was distributed to all insurers authorized to do life and health business in Maine. The bulletin, which supersedes Bulletin 180, defines "ongoing medical observation or treatment" and restates the Continuity Law's restrictions on the use of preexisting condition exclusions, as follows (emphasis added):

**[a]ny policy renewing on or after December 1, 1990, for which a preexisting condition exclusion or exclusionary rider is still in effect, and which does not comply with the new requirements, must be amended as of the renewal date. This means that all exclusions and**

**waivers of coverage for preexisting conditions on individual policies in force on December 1, 1990 will expire no later than November 30, 1992.**

5. On September 25, 1997, the Bureau received a consumer complaint from Dianne Richardson regarding a permanent exclusionary rider attached to her MetLife policy # 6 230 818- FAH, which has been continuously in force since 1987. The rider in question stated:

*Effective as of its date of issue, the policy described above is hereby amended to provide that, notwithstanding anything therein to the contrary, the insurance thereunder shall not cover, nor shall any payment be made for, loss resulting from hospital confinement or other medical or surgical treatment of Dianne A. Richardson - Injury to or disease of the lumbar spine, or the lumbo sacral or sacroiliac articulations, or the lumbar intervertebral discs, or the para-spinal muscles or ligaments, or radiculitis, or sciatica.*

6. Kanawha Benefit Solutions, Inc., (hereafter also "Kanawha") MetLife administrator for the block of Maine individual policies at issue, cooperated with the Bureau's investigation of Ms. Richardson's complaint. Kanawha contacted Ms. Richardson advising her that her exclusionary rider had been retroactively rescinded effective December 1, 1990, and inviting her to resubmit claims previously denied pursuant to the impermissible exclusionary rider attached to her policy. A total of \$1,871.00 was subsequently paid to Ms. Richardson for reconsidered claims incurred in 1994 and 1995.

7. At the Bureau's request, Kanawha also worked with MetLife to identify other Maine policies with impermissible exclusionary riders in force subsequent to the effective date of the law. A total of thirty-one policies with impermissible riders were identified as having been issued or renewed after the effective date of the law.

8. On May 20, 1998, Kanawha mailed all impacted Maine policyholders a Bureau approved letter advising them of the retroactive removal of their impermissible riders and inviting them to resubmit claims for reconsideration. Letters were mailed both to policyholders whose policies are currently in force and those whose coverage has lapsed.

CONCLUSIONS OF LAW

9. MetLife violated 24-A M.R.S.A. § 2850.

COVENANTS

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

11. At the time of execution of this Agreement, MetLife shall pay a civil monetary penalty in the amount of fifteen thousand dollars (\$15,000.00) payable to the Treasurer of the State of Maine.

12. MetLife shall provide the Bureau with an accounting of all reconsidered claims paid, including policyholder names and addresses and copies of any checks issued for reconsidered claims.

13. In consideration of MetLife's execution of and compliance with the terms of this Consent Agreement, the State of Maine agrees to forgo pursuing any disciplinary measures or other civil sanction for the actions described above other than those agreed to in this Consent Agreement.

MISCELLANEOUS

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

15. MetLife has been advised of its right to consult with counsel and has, in fact, consulted with counsel prior to executing this Consent Agreement.

16. MetLife acknowledges this Consent Agreement is a public record within the meaning of 1 M.R.S.A. § 402 and will be available for public inspection and copying as provided for by Title 1 M.R.S.A. § 408.

**FOR METROPOLITAN LIFE  
INSURANCE COMPANY**

Dated: \_\_\_\_\_, 1998

By: \_\_\_\_\_  
Signature

For: \_\_\_\_\_  
Typed Name

\_\_\_\_\_  
Typed Title

Subscribed and Sworn to before me  
this \_\_\_\_\_ day of \_\_\_\_\_, 1998.

\_\_\_\_\_  
Notary Public

**FOR THE MAINE  
BUREAU OF INSURANCE**

Dated: \_\_\_\_\_, 1998

\_\_\_\_\_  
**ALESSANDRO A. IUPPA**  
**Superintendent of Insurance**

STATE OF MAINE  
KENNEBEC, SS.

Subscribed and sworn to before me  
this \_\_\_\_\_ day of \_\_\_\_\_, 1998

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Notary Public/Attorney-at-Law

**FOR THE MAINE  
ATTORNEY GENERAL**

Dated: \_\_\_\_\_, 1998

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**JUDITH SHAW CHAMBERLAIN  
Assistant Attorney General**