

STATE OF OREGON
DEPARTMENT OF CONSUMER AND BUSINESS SERVICES
INSURANCE DIVISION

In the Matter of **Fortis Benefits Insurance Company.**) **STIPULATION** and
) **FINAL ORDER**
) Case No. INS 00-04-009
) File No. 2076 IV

STIPULATION

The Director of the Department of Consumer and Business Services (Director) has commenced the above entitled administrative proceeding, pursuant to Oregon Revised Statutes (ORS) 731.256(1), to take action against Fortis Benefits Insurance Company (Fortis Benefits) for violating, not complying with or otherwise being subject to, certain provisions of the Oregon Insurance Code or related administrative rules.

Fortis Benefits enters into this stipulation to conclude this proceeding without further administrative or judicial proceedings pursuant to ORS 183.415(5).

Fortis Benefits waives the right to receive a notice of proposed action, notice of rights and notice of judicial review, to have a hearing and to be represented by an attorney at the hearing, and to judicial review of the final order.

Fortis Benefits admits and agrees to the following:

Facts

Licensing

Fortis Benefits is a Minnesota corporation. Its president is Robert B. Pollock. Fortis Benefits' main administrative office is PO Box 62471, St. Paul, MN 55164. Fortis Benefits has been licensed in Oregon as a foreign insurer since 1/18/63. Fortis Benefits' Insurance Division company number is 1741 and its National Association of Insurance Commissioners' (NAIC) identification number is 070408.

Unfair Claim Settlement Practices - Reed Claim

In connection with a claim by Thomas E. Reed (Reed) of Salem, Oregon, Fortis Benefits received on 7/24/98 a written communication from Reed's doctor that indicated that Reed would be disabled for more than 90 days thereby entitling him

to receive long term disability insurance (LTD) benefits from Fortis Benefits, under policy number 67629/0/0. However, Fortis Benefits did not advise Reed that he was entitled to these benefits and did not pay Reed the initial benefits of \$725.13 for the period from 7/27/98 to 9/26/98, until on or about 9/29/98, 67 days later.

Also in connection with Reed's claim, Fortis Benefits requested on or about 8/20/98 and received on or about 9/3/98 a written communication from Reed's doctor that indicated that Reed may have received insurance benefits from other insurers which would reduce the amount of LTD benefits from Fortis Benefits. However, Fortis Benefits did not request from Reed any information about these other insurers until on or about 10/23/98, 50 days later. Fortis Benefits' failure to act promptly on this communication contributed to Fortis Benefits delaying until 12/3/98 paying to Reed the balance of the benefits due of \$2988.70.

Also in connection with Reed's claim, Fortis Benefits requested on or about 10/23/98 and received on or about 11/2/98 a written communication from Reed informing Fortis Benefits of the name and addresses of other insurers that may have paid insurance benefits to Reed. However, Fortis Benefits failed to initiate any communication with such insurers until on or about 11/18/98, 16 days later, when Reed called Fortis Benefits to inquire about the status of his claim. Fortis Benefits' failure to act promptly on this communication further contributed to Fortis Benefits delaying until 12/3/98 paying to Reed the balance of the benefits due of \$2988.70.

Unfair Claim Settlement Practices - Barfknecht Claim

In connection with a claim by Jo-Anne Barfknecht (Barfknecht) of Salem, Oregon, Fortis Benefits denied Barfknecht's claim for LTD benefits, under policy number 72364/0/0/8, on four occasions from 11/1/96 to 4/1/98 because Fortis Benefits determined that Barfknecht could perform the material duties of her job as a Crisis Intervention Worker for another employer within her occupation. However, Fortis Benefits did not determine whether there were any other such employers in Barfknecht's geographical area but instead merely assumed that there were such employers. After Barfknecht complained to the Oregon Insurance

Division, Fortis Benefits conducted a labor market survey. On 1/8/99, Fortis Benefits reversed its decision to deny Barfknecht's LTD claim because the labor market survey "concluded that, in fact, there very few employers within her region that have positions available within her occupation at this time." Fortis Benefits paid Barfknecht an initial LTD benefit payment of \$2,400.00 on 1/11/99 but did not pay the final payment of \$22,500.25 until on or about 8/9/99.

Ultimate Facts

In connection with the Reed claim, Fortis Benefits failed to advise a first party claimant of the acceptance or denial of a claim within 30 days after receiving a properly executed proof of loss. See OAR 836-080-0235(1).

Also in connection with the Reed claim, Fortis Benefits failed to acknowledge and act promptly upon a communication relating to a claim in two instances. See ORS 746.230(1)(b).

In connection with Barfknecht's claim, Fortis Benefits refused to pay a claim without conducting a reasonable investigation based on all available information in one instance. See ORS 746.230(1)(d).

Conclusions

Fortis Benefits violated Oregon Administrative Rules (OAR) 836-080-0235(1) in one instance, ORS 746.230(1)(b) in two instances and ORS 746.230(1)(d) in one instance.

Action

Fortis Benefits shall pay a civil penalty of \$20,000 pursuant to ORS 731.988 on or before the date of the Final Order.

Dated May 30, 2000.

/s/ Robert B. Pollock
Robert B. Pollock
President
Fortis Benefits Insurance Company

FINAL ORDER

The Director adopts, and incorporates herein by this reference, the Facts, Ultimate Facts, Conclusions and Action in the above Stipulation as the Findings of Fact, Ultimate Findings of Fact, Conclusions of Law and Order, respectively, of this Final Order.

Dated June 8, 2000.

/s/ Mary C. Neidig
Mary C. Neidig
Director
Department of Consumer and Business Services

CERTIFICATE OF SERVICE

I certify that on June 8, 2000 I served the above Stipulation and Final Order by mailing a copy thereof in a sealed envelope, with first class postage prepaid, to the party named therein.

/s/ Mitchel D. Curzon
Mitchel D. Curzon
Administrative Law Specialist
Insurance Division