

Facts and Conclusions

Licensing

Fortis has been licensed in Oregon as an insurer since 10/1/56. Fortis' Oregon Insurance Division company number is 1705 and its NAIC identification number is 069477. Benjamin M. Cutler II is the President of Fortis. Fortis' mailing address is PO Box 3050, Milwaukee WI 53201 3050.

Use of Impermissible Information to Evaluate an Applicant's Health Status

Fortis violated OAR 836-053-0510(3) in one instance by engaging in the following conduct. On 4/5/00, James Wiedemann (Wiedemann) of Sherwood, Oregon applied to Fortis, application number 0050005101, for individual health insurance insuring Wiedemann and his family. Wiedemann answered "No" to all of the questions on the application pertaining to himself. Nevertheless, on 4/20/00, Fortis requested Wiedemann provide to Fortis a dried blood spot test, a urine specimen, a "Build and Blood Pressure Exam," and the name and address of the doctor that would have the most complete medical history of Wiedemann. On 6/14/00, Fortis refused to provide to Wiedemann the insurance applied for because of unspecified information that Fortis had requested and received from the Medical Information Bureau (MIB) but was not disclosed on the application.

Refusal to Pay Claim Without Conducting a Reasonable Investigation

Fortis violated ORS 746.230(1)(d) in one instance by engaging in the following conduct. On 5/21/98, Fortis issued to Brenda D. Lane (Lane) of Scappoose, Oregon an individual health insurance policy, number 4803299, insuring Lane and her family. Pursuant to the policy, Fortis agreed to pay for covered charges for, *inter alia*, complications of pregnancy including medically necessary caesarian section, and for injury or illness to a newborn child for 60 days from birth. On 4/12/99, while the policy was effective, Lane had an emergency cesarean section due to complications of pregnancy and gave birth to a baby girl. The baby received some unspecified medical care after her birth due to some complications during her birth.

Subsequently, Lane filed with Fortis a claim for payment of some of the cost for the medical care provided to Lane and her baby. However, Fortis initially refused to pay the claim. On 3/24/00, Lane filed a complaint with the Insurance Division. On 4/21/00, after the Insurance Division intervened, Fortis decided to pay the claim.

Issuing Health Insurance Policy Without Providing Maternity Coverage

Fortis violated ORS 743.693 in four instances by issuing after 10/23/99, the effective date of ORS 743.693, four individual health insurance policies to four persons residing in Oregon without providing in such policies payment or reimbursement for expenses for pregnancy care and childbirth as required by ORS 743.693. In each case, the policy specifically excluded maternity care unless included in a Maternity Rider but a Maternity Rider was not attached to the policy or endorsed on the Schedule for the policy. The insured, policy number, application date, and policy effective date relative to each transaction is as follows:

<u>Insured</u>	<u>Policy No.</u>	<u>Application Date</u>	<u>Effective Date</u>
Renee L. Kruger	4959775	11/4/99	12/1/99
Danielle Halvorson	4961921	11/6/99	12/1/99
Nancy L. Storteboom	4973304	12/15/99	12/28/99
Kimberly Bucher	4993783	3/6/00	4/1/00

Failure to Promptly Respond to Director

Fortis violated ORS 731.296 by engaging in the following conduct. On 5/24/00, the Insurance Division mailed by certified mail to Fortis a letter requesting certain information about claims for maternity benefits since 1/1/99 to 5/24/00 and asked Fortis to respond in writing by 6/12/00. On 5/30/00, Fortis received the letter. On 6/14/00, when it did not receive the information requested, the Insurance Division mailed by certified mail to Fortis a follow up letter dated 6/14/00 informing Fortis that the Insurance Division had not received the information requested and asked Fortis to respond by 6/23/00. On 6/19/00, Fortis received the follow up letter. On 6/23/00, 11 days late, the Insurance Division received by fax from Fortis a letter dated 6/23/00 providing some of the information requested and promising to provide

the remaining information later. On 7/14/00, the Insurance Division received by fax from Fortis another letter dated 7/14/00 stating that it had been unable to obtain the remaining information due to “vacations and the unavailability of [necessary] staff” but would obtain the information by 7/17/00. On 7/19/00, 37 days late, the Insurance Division received by fax from Fortis another letter dated 7/18/00 providing the remaining information.

2. Fortis violated OAR 836-080-225(2) by engaging in the following conduct. On 6/7/00, the Insurance Division received from Robert Pichardo of Bend, Oregon a complaint that Fortis refused to pay for incurred expenses for pregnancy care on 11/29/99 and 3/22/00 even though Pichardo had purchased a Maternity Rider with his individual health insurance policy, number 4909201. On 6/22/00, the Insurance Division mailed to Fortis a letter enclosing the complaint and asked Fortis to respond in writing within 21 days. On 7/10/00, the Insurance Division received by mail from Fortis a letter dated 6/29/00 saying that it received the Insurance Division’s inquiry letter on 6/29/00 and that Fortis would respond “in the near future within the time frame specified by the laws ... in your state.” Thus, Fortis was required pursuant to OAR 836-080-0225(2) to respond by 7/20/00. On 8/1/00, when it did not receive the information requested, the Insurance Division mailed by certified mail to Fortis a follow up letter dated 8/1/00 informing Fortis that the Insurance Division had not received the information requested. On 8/4/00, Fortis received the follow up letter. On 9/8/00, 50 days late, the Insurance Division received from Fortis a letter dated 9/1/00 providing the information requested.

Action

Fortis shall pay a civil penalty of \$42,500 pursuant to ORS 731.988. Payment shall be made in the form of a check payable to the "Department of Consumer and Business Services" for the full amount due. Payment shall be delivered or mailed to the Insurance Division at 350 Winter Street NE, Room 440, Salem, OR 97301-3883. Payment shall be received by the Insurance Division by the date of the Final Order.

Dated January 25, 2002

/s/ Frank C. Lettera
[Signature of Representative]

Frank C. Lettera
[Printed Name of Representative]

Vice President & Senior Counsel
[Printed Title of Representative]

Fortis Insurance Company

FINAL ORDER

The director makes the following final decision in this proceeding in accordance with ORS 731.248 and 183.415(5) and related rules.

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

Dated February 4, 2002

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

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