

RE:
John Alden Life Insurance Company

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CONSENT AGREEMENT
Docket No. INS 04-200

This document is a Consent Agreement, authorized by 10 M.R.S.A. § 8003(5)(B), entered into by and among John Alden Life Insurance Company (hereafter also “John Alden”), 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, John Alden’s violation of Title 24-A M.R.S.A. § 2847-A.

I

FACTS

1. The Superintendent is the official charged with administering and enforcing Maine’s insurance laws and regulations.
2. John Alden Life Insurance Company is a licensed Maine health insurer, license # LHF 724. Policyholder was insured through a small group health insurance policy issued by John Alden. John Alden small group health insurance policies issued in Maine are administered by Fortis Insurance Company (Fortis), and John Alden is directly responsible for the actions of Fortis in administering its policies.
3. On May 28, 2003, John Alden provided Policyholder with an Explanation of Benefits regarding hospital confinement on May 7, 2003 through May 8, 2003, stating in part: *“Your certificate of coverage requires certification/referral for these services. This requirement was not met, therefore, your benefits were reduced by \$189.00.”*
4. Policyholder’s policy contained the following provision.

Emergency Admissions: When You are admitted to any Hospital on an emergency basis, the U.R. Office must be notified within 2 business days after admission (or as soon as it is possible after admission) to obtain Certification, including the number of days of the hospital stay. In any event, Certification must be obtained prior to discharge.

5. On June 4, 2003, Policyholder filed a complaint with the Bureau, complaint number 2003-13090, stating in part: *“On May 7th at 9:00 A.M, I went to see [Policyholder's physician] in excruciating pain, at 2:30 P.M. that day I was checked into ...[the] hospital to undergo the surgery.”*

Policyholder enclosed a letter from [Policyholder's] physician dated June 3, 2003, which stated: *“I saw [Policyholder] with a ureteral stone on 05/07/2003. This stone was causing urinary blockage and needed to be removed urgently. This procedure was performed on 05/07/2003.”*

6. Policyholder’s complaint and physician's letter were sent to John Alden for a response. In response to Policyholder’s complaint, John Alden advised the Bureau in writing that the

\$189,000 penalty was imposed for failure to notify John Alden of the emergency hospital admission in accordance with the terms, limits and conditions of Policyholder's policy, and that the penalty would not be waived.

7. Title 24-A M.R.S.A. § 2847-A provides:

"Penalty for failure to notify of hospitalization. An insurance policy may not include a provision permitting the insurer to impose a penalty for the failure of any person to notify the insurer of an insured person's hospitalization for emergency treatment. For purposes of this section, "emergency treatment" has the same meaning as defined in Title 22, section 1829, below."

Title 22, section 1829(1)(B) defines emergency treatment to mean, *"treatment of a case involving accidental bodily injury or the sudden and unexpected onset of a critical condition requiring medical or surgical care for which a person seeks immediate medical attention within 24 hours of the onset."*

Title 24-A Section 1829(2) provides: *"Notification requirement. If a hospital provides emergency treatment to a person who is insured or otherwise covered under a policy or contract that requires review of hospitalization by a medical utilization review entity, the hospital must notify the medical utilization review entity covering that person, unless the person is:*

A. Released from the hospital no more than 48 hours after admission."

III

CONCLUSIONS OF LAW

8. John Alden violated Title 24-A M.R.S.A. § 2847-A by imposing a penalty against Policyholder for failing to provide notification of emergency hospitalization within 48 hours.

IV

COVENANTS

9. John Alden shall pay a civil penalty of \$5,000 for violating Title 24-A M.R.S.A. § 2847-A as described above.
10. John Alden shall submit revised policy provisions conforming to the requirements of Title 24-A M.R.S.A. § 2847-A within thirty (30) days of executing this agreement, and shall document that the new provisions have been mailed to all Maine policyholders within sixty (60) days of executing this agreement.

V

MISCELLANEOUS

- 11. A formal hearing in this matter is waived and no appeal will be made.
- 12. John Alden acknowledges that 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 1 M.R.S.A. § 408, and will be reported to the NAIC RIRS database.
- 13. John Alden has been advised of its right to consult with counsel and has, in fact, consulted with counsel before executing this Agreement.
- 14. The parties to this Agreement understand and agree that nothing herein shall affect any right of interest of any person not a party to 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 John Alden 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

JOHN ALDEN LIFE INSURANCE COMPANY

By: _____

Its: _____

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 OFFICE OF THE ATTORNEY

GENERAL

Thomas C. Sturtevant, Jr.
Assistant Attorney General

MAINE BUREAU OF INSURANCE

Effective
Date: , 2004

Alessandro A. Iuppa, Superintendent