

THE STATE OF SOUTH CAROLINA  
In the Supreme Court

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QUESTIONS OF LAW CERTIFIED FROM  
DISTRICT OF SOUTH CAROLINA

By Order of The Honorable Margaret B. Seymour,  
District Court Judge for the District of South Carolina

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Appellate Case No: 2013-000273

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**RECEIVED**  
JUN 06 2013  
S.C. SUPREME COURT

Diane Kirven, on behalf of herself and all others similarly situated, ..... Plaintiff,

v.

Central States Health & Life Company of Omaha and Philadelphia  
American Life Insurance Company ..... Defendants.

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**APPENDIX OF EXHIBITS**

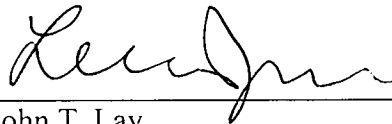
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- Exhibit 1: Complaint, filed August 15, 2011 .
- Exhibit 2: Cancer and Specified Disease Policy (DEF 0001 - DEF 0042)
- Exhibit 3: Susen Bookwalter Depo. p. 17; Depo. Ex. 2 (DEF 0547); Depo. Ex. 3 (DEF 0743)
- Exhibit 4: South Carolina Department of Insurance Bulletin Number 2008-15, dated August 28, 2008 (DEF 0473-0475)
- Exhibit 5: Notice From Philadelphia American Life Insurance Company to Diane Kirven, dated August 21, 2008 (DEF 0245-0246)
- Exhibit 6: Correspondence From Philadelphia American Life Insurance Company to Diane Kirven Requesting Explanation of Benefits Statements, Dated March 24, 2010, April 23, 2010, June 28, 2010, July 15, 2010, August 16, 2010 (DEF 0052-0056)

The undersigned counsel hereby certifies that the matters contained herein comply with the August 13, 2007 Order of the South Carolina Supreme Court.

Respectfully submitted,

June 6, 2013

By: 

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John T. Lay  
Laura W. Jordan  
GALLIVAN, WHITE & BOYD, P.A.  
Post Office Box 7368  
Columbia, South Carolina 29202  
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ATTORNEYS FOR DEFENDANTS

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA  
COLUMBIA DIVISION

Diane Kirven, on behalf of herself and )  
all others similarly situated, )  
 )  
Plaintiff, )  
 )  
vs. )  
 )  
Central States Health & Life Co. of Omaha, )  
and Philadelphia American Life Insurance )  
Company, )  
 )  
Defendants )  
\_\_\_\_\_ )

Case No.: 3:11-cv-02149-JFA

**COMPLAINT**  
(Class Action)  
(Jury Trial Demanded)

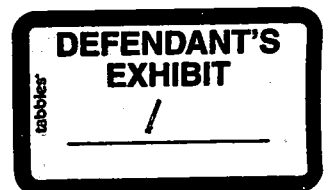
The Plaintiff, on behalf of herself and all others similarly situated, complaining of the Defendants herein, would respectfully show unto the Court as follows:

**PARTIES**

1. Plaintiff Diane Kirven is a citizen and resident of Greenville County, South Carolina.
2. Defendant Central States Health & Life Co. of Omaha ("Central States") is a corporation existing pursuant to the laws of the State of Nebraska having its principal place of business in Omaha, Nebraska.
3. Defendant Philadelphia American Life Insurance Company ("Philadelphia American") is a corporation existing pursuant to the laws of the State of Texas having its principal place of business in Houston, Texas.

**JURISDICTION AND VENUE**

4. This court has jurisdiction under 28 U.S.C. §1331 as complete diversity exists between the Plaintiff and the Defendants.



5. Venue is proper in United States District Court for the District of South Carolina, Columbia Division pursuant to Local Civil Rule 3.01(A)(1) as one or more of the corporate defendants to this suit do business relating to the events of this suit in the Columbia Division.

**CLASS ALLEGATIONS**

6. Plaintiff asserts the allegations raised herein on behalf of herself and, pursuant to Rule 23 of the Federal Rules of Civil Procedure, as representative of a class of persons similarly situated. The class is defined as follows:

All persons insured at any time from August 21, 2008 to the present by Defendant Central States Health & Life Co. of Omaha "cancer and specified disease" policies executed in the State of South Carolina and who have filed a claim for benefits relative to the "actual charges" provisions contained within these policies that has been paid or should be paid by Defendant Philadelphia American Life Insurance Company.

Excluded from the class are the officers, directors, and employees of the Defendants.

7. The size of the class is so numerous that joinder of all members of the Plaintiff class is impractical.

8. Plaintiff Kirven has no interest antagonistic to or in conflict with the interests of the class. Plaintiff's attorneys are experienced lawyers that have litigated class action lawsuits involving similar issues.

9. There exist questions of law and fact common to Plaintiff Kirven and to all members of the Plaintiff Class that predominate over any individual questions of law and/or fact. Among the questions of law and fact common to Plaintiff Kirven and the class she represents are:

- a. Whether the definition of the term "actual charges" in the hereinafter mentioned policies is governed by the opinion of the Fourth Circuit Court of Appeals in

*Ward v. Dixie National Life Ins. Co., et al.*, 257 Fed.Appx. 620 (4th Cir. 2007)  
(unpublished);

- b. Whether Defendants Central States and Philadelphia American have breached contracts with class members by disbursing benefits or insisting upon disbursing benefits in a manner inconsistent with the Fourth Circuit's *Ward* opinion.

10. Plaintiff Kirven's claims are typical of the claims of the members of the proposed class in that Plaintiff and all class members seek declaratory relief pertaining to the contracts executed between themselves and Defendant Central States. Plaintiff Kirven's claims are further typical of the claims of the members of the proposed class in that she seeks contractual damages against both Defendants as a result of Defendant Philadelphia American's refusal to award insurance contract benefits consistent with the Fourth Circuit's *Ward* opinion.

11. Class action treatment of the matters at issue in this controversy is superior to the alternatives, if any, for the fair and efficient adjudication of such issues, because such treatment will permit a larger number of similarly situated persons to prosecute their common claims in a single forum simultaneously, efficiently, and without the unnecessary duplication of evidence, effort, and expense that numerous individual actions would entail. Class action treatment in this case will have the added virtue of permitting the adjudication of what may be relatively small claims by certain members of the proposed class, for whom it would otherwise not be financially feasible to litigate their claims as individual actions against the Defendants.

12. Plaintiff Kirven is aware of no difficulty in the management of this action that would preclude it from being maintained as a class action.

**FACTUAL BASIS COMMON TO ALL CLASS MEMBERS**

13. From at least 1999 until 2005, Defendant Central States marketed and sold a number of “cancer and specified disease” insurance policies in South Carolina. As written, these policies promised to pay to the insured benefits regardless of any other insurance coverage carried by the insured. The policies promised to pay to the insured a defined benefit in an amount equal to the “actual charges” (or a percentage thereof) for certain medical and pharmaceutical treatments. The policies did not, however, define the term “actual charges.”

14. Throughout the entirety of this time period, Central States paid benefits under the policies to its insureds calculated on the “actual charges” billed to the insureds by their medical providers and/or pharmacies.

15. On December 31, 2005, Defendant Central States ceded and/or assigned all of its South Carolina policies to Defendant Philadelphia American. (See **Exhibit A**—Philadelphia American Assumption Certificate) Plaintiff did not, however, release or waive any rights she had under her Central States policy.

16. Between January 1, 2006 and approximately August 21, 2008, Defendant Philadelphia American continued to pay insurance benefits to Central States policyholders just as Central States had previously: based upon the “actual charges” billed to the insureds by their medical providers.

17. On June 4, 2008, the South Carolina General Assembly enacted Section 38-71-242, which purported to define the term “actual charges” within certain insurance policies to mean

the amount that the health care provider or other designated person or entity:

(a) agreed to accept, pursuant to a network or other agreement with a health insurer, third-party administrator, or other third-party

payor, as payment in full for the goods or services provided to the insured;

(b) agreed or is obligated by operation of law to accept as payment in full for the goods or services provided to the insured pursuant to a provider, participation agreement, or supplier agreement under Medicare, Medicaid, or any other government administered health care program, where the insured is covered or reimbursed by such program; or

(c) if both subitems (a) and (b) of this subsection apply, the lowest amount determined under these two subitems; and

(2) must include any applicable deductibles, coinsurance requirements, or co-pay requirements applicable to the insured under any government administered health care program or any private primary health insurance coverage for the health care provider's goods or services provided to the insured.

18. On or about August 21, 2008, Defendant Philadelphia American ceased paying benefits calculated on the basis of amounts billed to patients by their medical providers. Instead, Philadelphia American informed all Central States policyholders that “[g]oing forward, any claims submitted for expenses incurred on or after June 4, 2008 will be paid in accordance with [Section 38-71-242].” (See **Exhibit B**—August 21, 2008 Letter)

19. On or about August 21, 2008, Philadelphia American began requesting from Central States policyholders any explanation of benefits provided to each policyholder by his or her primary insurance company and/or pharmacy receipts and print-outs. With these documents in hand, Philadelphia American calculated benefits paid based upon the substantially discounted rate of compensation agreed upon between the policyholders’ healthcare providers and primary insurance companies.

20. Defendant Philadelphia American’s change in the payment of “actual charges” benefits calculation resulted in a substantial reduction in benefits paid to Central States policy holders.

**FACTS SPECIFIC TO PLAINTIFF DIANE KIRVEN**

21. Plaintiff Diane Kirven entered into a contract with Defendant Central States on November 22, 1999 for the “cancer and specified disease” insurance coverage referenced above. (See **Exhibit C**—Central States Insurance Policy)

22. In February of 2003, Plaintiff Kirven was diagnosed with cancer and was required to undergo chemotherapy and radiation.

23. In May of 2003, Plaintiff Kirven filed a claim with Defendant Central States for benefits under her “cancer and specified disease” insurance policy. In so doing, Plaintiff Kirven completed the information on the Central States claim form and provided itemized hospital and physician bills in support of her claim.

24. In July and September of 2005, Defendant Central States paid to Plaintiff Kirven policy benefits for the radiation and chemotherapy she received based upon a percentage of the “actual charges” of these procedures represented on her medical provider bills.

25. Defendant Central States continued to pay Plaintiff Kirven policy benefits based upon the “actual charges” of medical procedures represented on her medical provider bills until Plaintiff Kirven’s cancer fell into remission.

26. In 2009, Plaintiff Kirven’s cancer recurred. After undergoing chemotherapy, Plaintiff Kirven filed a claim with Defendant Philadelphia American for benefits under her “cancer and specified disease” insurance policy originally written by Defendant Central States.

27. Defendant Philadelphia American declined to adjust Plaintiff Kirven’s insurance claim with medical bills alone. Instead, Defendant Philadelphia American demanded copies of Explanation of Benefits (EOB) statements from Kirven’s primary insurance carrier in order to

adjust Kirven's claim based upon the definition of "actual charges" set forth within S.C. Code Ann. § 38-71-242.

**FOR A FIRST CAUSE OF ACTION:**  
*DECLARATORY JUDGMENT AS TO ALL DEFENDANTS*

28. The Plaintiff incorporates the allegations contained in paragraphs one through twenty-seven as if fully restated herein.

29. This cause of action seeks a declaratory judgment for the purposes of determining questions of actual controversy between the parties.

30. Plaintiff Kirven, on behalf of herself and all others similarly situated, seeks a determination of rights and legal relations with the Defendants under the Central States/Philadelphia American "cancer and specified disease" insurance policies under the language of those policies and S.C. Code Ann. § 38-71-242.

31. The issues raised by the disputes over this contract and statute are of such wide concern and public interest that this declaratory judgment action should be decided for future guidance to ensure that the public is protected.

32. Plaintiff Kirven, on behalf of herself and all others similarly situated, seeks a determination of the following questions:

- a. Whether the term "actual charges" as set forth within the subject insurance policies should be interpreted to mean the charges set forth on medical provider bills, as established by the Fourth Circuit's *Ward* ruling, or the amounts paid to satisfy those charges by the class members' primary health insurers, as established by S.C. Code Ann. § 38-71-242; and

b. Whether S.C. Code Ann. § 38-71-242 may be lawfully applied to Central States/Philadelphia American policies issued to the class members prior to June 4, 2008.

33. Plaintiff Kirven, on behalf of herself and all others similarly situated, prays for a declaratory judgment that:

- a. The parties to the Central States/Philadelphia American “cancer and specified disease” insurance policies are bound by the Fourth Circuit’s *Ward* opinion and its definition of the term “actual charges”;
- b. S.C. Code Ann. § 38-71-242 does not apply to insurance policies entered between the Defendant insurance companies and policyholders prior to June 4, 2008.

**FOR A SECOND CAUSE OF ACTION:**  
*BREACH OF CONTRACT AS TO ALL DEFENDANTS*

34. The Plaintiff incorporates the allegations contained in paragraphs one through twenty-seven as if fully restated herein.

35. Plaintiff Kirven and each member of the Plaintiff Class entered into a binding contract—the insurance policies—supported by valuable consideration, with Defendant Central States. Defendant Philadelphia American assumed all contractual obligations and liabilities pertaining to these policies pursuant to their December 31, 2005 assumption of such policies. The policies provided that policy benefits would be calculated based on the “actual charges” billed to the insureds by their medical providers.

36. Defendants Central States and Philadelphia American breached this contract by failing to pay policy benefits to Plaintiff Kirven and members of the Plaintiff Class consistent with the terms contained within the contracts entered between Defendant Central States and

members of the Plaintiff Class. Specifically, Defendants Central States and Philadelphia American failed to pay policy benefits to Plaintiff Kirven and members of the Plaintiff Class consistent with the definition of “actual charges” established in *Ward v. Dixie National Life Ins. Co., et al.*, 257 Fed.Appx. 620 (4th Cir. 2007) (unpublished).

37. As a direct and proximate result of the Defendant insurance companies’ breaches of contract, the Plaintiff and the Plaintiff Class have suffered monetary damages. Thus the Plaintiff and the Plaintiff Class are entitled to damages in an amount sufficient to compensate them for their loss.

**PRAYER FOR RELIEF**

**WHEREFORE**, based upon these allegations, the Plaintiff and the Plaintiff Class pray for an Order for the following:

1. Certification of a class of plaintiffs;
2. A Declaratory Judgment finding the Defendants Central States and Philadelphia American must calculate policy benefits on the basis of the “actual charges” billed to the insureds by their medical providers and/or pharmacies consistent with the Fourth Circuit’s *Ward* opinion;
3. A Declaratory Judgment finding S.C. Code Ann. § 38-71-242 does not apply to contracts formed prior to the statute’s effective date;
4. Compensatory damages against Defendants Central States and Philadelphia American in an amount sufficient to compensate the Plaintiff and the Plaintiff Class;
5. Interest consistent with the terms of the policies or, if no interest rate be contained within the policy, consistent with the provisions of applicable law;
6. All costs recoverable under common law, rule and/or statute; and

7. Any other relief that the Court deems proper.

Respectfully Submitted,

s/ Richard A. Harpootlian

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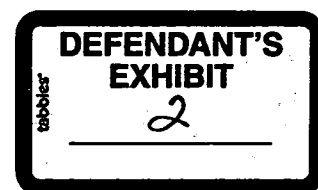
Facsimile (803) 252-4810

August 10, 2011  
Columbia, South Carolina

ATTORNEYS FOR THE PLAINTIFF  
AND THE PLAINTIFF CLASS

**Kirven**

**Policy**



DEF 0001



### DUPLICATE POLICY

This contract is a duplicate policy providing the same benefits, terms, privileges and conditions, and bearing the same effective date as original Policy Number 6515069329. The documents included in this duplicate policy accurately reflect the coverage currently provided under this policy number. As such, this duplicate policy may vary slightly from the original policy packet.

The insured, by accepting this policy surrenders and relinquishes all rights, title and interest in said original policy of the Central States Health and Life Co. of Omaha, Nebraska and all advantage to be derived there from, said policy having been lost or mislaid.

Diane A Kirven

Simpsonville SC 29681



PO Box 34952 Omaha, NE 68134

September 21, 2005

DIANE KIRVEN

New Policy # 6515069329

Old Policy #: 0250069329

SIMPSONVILLE, SC 29681

Dear Ms. DIANE KIRVEN,

Welcome to the family of Philadelphia American Life Insurance Company. Philadelphia American Life Insurance Company (PALIC) is a wholly-owned subsidiary of New Era Life Insurance Company. The New Era Group (New Era) aspires to be a model company for future America and we hope to demonstrate that by our superior service and dedication to our customers and policyowners. Through a reinsurance agreement between New Era Life Insurance Company and its subsidiaries and Central States Health Life Co. of Omaha (CSO), PALIC has assumed the contractual responsibilities of your CSO insurance policy. This means that PALIC will be responsible for paying the benefits of your policy as well as collecting the premiums. Within the next few months, a "Certificate of Assumption" will be mailed to you.

New Era Life was organized in Texas in 1924 and is currently licensed in 18 states. New Era Life has two wholly owned subsidiary companies, New Era Life Insurance Company of the Midwest, domiciled in Indiana and licensed in 14 states, and PALIC, domiciled in Texas and licensed in 46 states (all states except for Michigan, New York, Rhode Island and Wyoming).

New Era has extensive experience in acquisitions as evidenced by approximately 40 acquisitions since April, 1990. We currently service over 125,000 insureds that generate approximately \$125,000,000 of annualized premium and our staff is very knowledgeable and experienced in conversions. New Era Life has been given a rating of "B+" by A.M. Best.

I received my Ph.D. in statistics from Purdue University in 1970 and became a fellow of Society of Actuaries (FSA) in 1978. I was also named Honorable Citizen of Alabama, Texas and Regional Entrepreneur of the Year in 1994 by Ernst and Young, Inc. Magazine, and Merrill Lynch.

As Mr. Kizer indicated in his letter, we would like to explain what you can expect with regards to premium billing and service. First, let me assure you that our excellent service will continue on your behalf. We are very pleased to have staffed our Omaha office with many of CSO's experienced employees and because of this, I am confident that we will have a smooth transfer of administration from CSO to New Era.

Beginning October 1, 2005, please direct your requests or inquiries to us at the address or toll-free phone number shown below:

Philadelphia American Life Insurance Company  
P.O. Box 34952  
Omaha, NE 68134  
Toll-free Number: 1-800-554-0092

Requests or inquiries prior to October 1, 2005 should be directed to CSO at 1-800-541-2363.

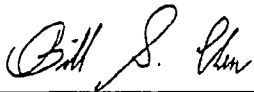
We have assigned you a new policy number (shown at the top of this letter) to help us better recognize you within our system and so we can continue to provide excellent service on your behalf. Please use your new policy number whenever calling us or writing us about your policy.

You can rest assured knowing that your coverage and benefits under this policy remain the same.

If you are currently being billed on a direct basis, we will continue to send your regular premium notices prior to each due date. Your new remittance envelopes will specify PALIC's billing address. In the event your premium is paid through payroll deduction, electronic funds transfer or preauthorized check, we will continue to process the same way that CSO is currently doing.

Again, we welcome you to Philadelphia American Life. Please keep this letter with your policy so it will be handy if you should find a need for assistance. We appreciate your business and look forward to providing you with superior service.

Sincerely,



---

Bill Chen, F.S.A., Ph.D.  
President & C.E.O.



Central States Health & Life Co. of Omaha

September 21, 2005

Dear Valued Customer:

Central States Health & Life Co. of Omaha (CSO) recently made a strategic decision to discontinue marketing supplemental health insurance products, including cancer insurance, through its Agency Division. In recent months, we have been seeking a carrier to provide you with the special services and attention you require and deserve. CSO is pleased to inform you that through a new reinsurance agreement, New Era Life Insurance Company (New Era) and its subsidiaries, New Era Life Insurance Company of the Midwest, and Philadelphia American Life Insurance Company (PALIC) of Houston, Texas, are proud to assume this responsibility.

We have chosen this company because they are distinguished in the area of supplemental insurance and because of their excellent reputation for claims servicing and processing. In addition, I have personally worked with their President and Chief Executive Officer, Dr. Bill S. Chen, FSA and he is extremely knowledgeable and dependable in the life and health insurance industry.

New Era has agreed to accept all liabilities under your original CSO policy, so there is no need for you to take any action or exchange your policy. New Era is establishing an operation in Omaha, staffed with many of CSO's experienced employees and supported by CSO's systems and technology, to provide you with the same exceptional service on your business that you have come to know and expect from CSO. We have enclosed a letter from Bill S. Chen welcoming you to the company. The letter also explains what you can expect in billings and services.

We know your insurance coverage provides valuable protection for you. Please feel free to contact us or New Era Life Insurance Company, if you have any questions.

Sincerely,  
*Dick Kizer*

Dick Kizer, Chairman

NE2 2005 0921 23591

DEF 0006



PO BOX 34952 Omaha, NE 68134

January 13, 2006

Diane Kirven

Simpsonville SC 29681

Policy#: 6515069329

Dear Policyholder:

You currently own an insurance policy issued by Central States Health and Life Co. of Omaha (CSO). For strategic reasons, CSO has discontinued the sale of new cancer and certain health insurance policies, and Philadelphia American Life Insurance Company has assumed the contractual liability for existing policies effective December 31, 2005.

Attached is the Assumption Certificate documenting the transfer of your policy from Central States Health & Life Co. of Omaha to Philadelphia American Life Insurance Company.

- Please review this document carefully. It details your rights under this transfer.
- This document should be kept with your original CSO policy.

Philadelphia American Life Insurance Company, a subsidiary company of New Era Life Insurance Company, specializes in accident and health insurance and has previously acquired many insurance policies such as yours. Please note that all current billing, remittance and claim procedures remain in place.

We want to take this opportunity to welcome you to the Philadelphia American Life Insurance Company family. We appreciate your business and we look forward to consistently providing you with the superior service that you deserve. If you have any questions regarding the assumption of your policy, please call us toll-free at (888) 748-3035. A recorded message regarding Frequently Asked Questions is available 24 hours a day. Client Services Representatives are also available during standard business hours.

With best regards,

Mark F. Thiele  
Policyholder Service

Attachment

**PHILADELPHIA AMERICAN LIFE INSURANCE COMPANY**

**ASSUMPTION CERTIFICATE**

*Diane Kirven*

*Policy Number: 6515069329*

Simpsonville SC 29681

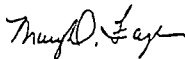
*Insured: Diane Kirven*

THIS IS TO CERTIFY that PHILADELPHIA AMERICAN LIFE INSURANCE COMPANY, a life insurance company organized and existing under the laws of the State of Texas with offices in Houston, Texas, hereby assumes all contractual obligations and liabilities of CENTRAL STATES HEALTH & LIFE CO. OF OMAHA, Omaha, Nebraska, under the policy identified above and agrees to carry out the obligations existing under said policy issued by CENTRAL STATES HEALTH & LIFE CO. OF OMAHA in accordance with the terms and conditions thereof and amendments thereto, if any, the same as if such policy had been originally issued with all of its terms, covenants, conditions, stipulations and provisions, by PHILADELPHIA AMERICAN LIFE INSURANCE COMPANY. Please be advised that your payment of premiums to PHILADELPHIA AMERICAN LIFE INSURANCE COMPANY as described below shall be considered proof of your consent to the transfer of your policy to PHILADELPHIA AMERICAN LIFE INSURANCE COMPANY and your agreement to release CENTRAL STATES HEALTH & LIFE CO. OF OMAHA from any further liability under the policy. Please also note that you have the option of canceling your policy in accordance with the terms of the policy.


Future payments of benefits and claims will be made by PHILADELPHIA AMERICAN LIFE INSURANCE COMPANY, and all premium payments, claims and correspondence relating to the policy should be sent to:

PHILADELPHIA AMERICAN LIFE INSURANCE COMPANY  
P. O. Box 34952  
Omaha, Nebraska 68134-9832  
1-800-554-0092 (Toll Free)

In Witness Whereof, PHILADELPHIA AMERICAN LIFE INSURANCE COMPANY has issued this Assumption Certificate effective as of December 31, 2005. Signed at the home office of PHILADELPHIA AMERICAN LIFE INSURANCE COMPANY in Houston, Texas.



Mary D. Frazier, Secretary



Bill S. Chen, President

Effective Date: December 31, 2005

**IMPORTANT:**

**THIS ASSUMPTION CERTIFICATE SHOULD BE ATTACHED TO AND MADE A PART OF YOUR POLICY.**

# Central States Health & Life Co. of Omaha

Home Office: Located at: 96th & Western, P. O. Box 34350, Omaha, NE 68134-0350  
A MUTUAL LEGAL RESERVE COMPANY

## CANCER AND SPECIFIED DISEASE POLICY GUARANTEED RENEWABLE FOR LIFE

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#### WHERE TO FIND IT

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The premium you paid and the application you completed put this policy in force as of the Policy Date. The Policy Date is shown in the Policy Schedule. A copy of your application is attached.

#### **PART A** IMPORTANT PLEASE READ

Your application is a part of the policy. PLEASE READ the copy of your application. If anything in it is not correct you should tell us. Your policy was issued on the basis that all information in the application is correct and complete.

#### **PART B** 30-DAY RIGHT TO EXAMINE POLICY

It is important to us that you are satisfied with this policy and that it meets your insurance goals. If you are not satisfied, send it back to us within 30 days after you have received it. We'll send back your money. Then, the policy was never in force.

#### **PART C** RENEWAL AGREEMENT

We will renew your policy each time you send us the premium. It must be paid on or before the date it is due or during the 31 days that follow. Your policy stays in force during this time.

THIS IS A CANCER AND SPECIFIED DISEASE POLICY WHICH ONLY PROVIDES BENEFITS FOR A LOSS DUE TO CANCER AND SPECIFIED DISEASE. IT DOES NOT PROVIDE BENEFITS FOR ANY OTHER SICKNESS OR CONDITION.

#### **PART D** PREMIUM CHANGE

We may change the premium rates for this policy. The change will be based on a new table of rates. We can only change the premium if we change it for all policies like yours in your state.

**THIS POLICY IS NOT A MEDICARE SUPPLEMENT POLICY.** If you're eligible for Medicare, review the Medicare Supplement Buyers Guide available from the Company.

Any change in premium will be explained to you in writing 31 days or more before the change is effective. We will write you at the address on our records. Please notify us of any change in address so our records are updated.

## **PART E** **DEFINITIONS**

When we use the following words, this is what we mean:

"Adult Companion" means anyone 18 years of age or older.

"Calendar Year" means the period of time that begins on January 1 and ends on December 31, of the same year.

"Cancer" means a disease which is manifested by the presence of a malignancy characterized by the uncontrolled and abnormal growth and spread of malignant cells in any part of the body. This includes Hodgkin's Disease, leukemia, lymphoma, carcinoma, sarcoma, malignant tumor or melanoma. It does not include other conditions which may be considered precancerous, such as leukoplakia, carcinoid, hyperplasia, polycythemia, nonmalignant melanoma, moles, or similar diseases or lesions.

"Chemotherapist" means one who is licensed to administer chemotherapy or immunotherapy and who is certified by either the American Board of Internal Medicine, Radiology, or Hematology.

"Common Carrier" means a commercial airline, passenger train, or inter-city busline.

"Confined" or "Confinement" means the needed confinement as a resident inpatient because of a covered cancer or specified disease. A physician must recommend and supervise the confinement.

"Experimental Treatment" means any expense or charge for services or supplies which are not provided in accord with generally accepted professional medical standards; investigative type of care or service which is not proven safe and effective.

"Extended Care Facility" means a licensed nursing facility which: (a) operates under the direction of a physician; (b) provides continuous skilled or intermediate care under the supervision of a graduate registered nurse; (c) maintains daily medical records of each patient; and (d) is licensed by the state in which it is located.

"Home Health Care Agency" means an agency that specializes in giving nursing and other medical services in the home. It must be approved by the state in which it is located to provide such services.

"Hospice" means a facility which is staffed and equipped to: (a) provide care for persons who are terminally ill and do not require the full services of a hospital or skilled nursing facility; (b) offer medical services under the direction of a physician and a 24 hour professional nursing staff; (c) provide, directly or by arrangement, social, psychological or spiritual services; and (d) is licensed, certified or registered if such is required by the state in which the facility is located.

"Hospital" means a primary care hospital operated pursuant to law. It has organized facilities to provide first level treatment of sick and injured persons on an inpatient basis for which a charge is made. Organized facilities include emergency services, admissions services, clinical laboratory, diagnostic X-ray and surgical services.

Treatment facilities for emergency, medical and surgical services must be provided within the hospital. The hospital must provide 24 hour nursing services by or under the supervision of an R.N. (graduate registered nurse) on duty or call, and be supervised by a staff of one or more physicians.

Not included is a hospital or institution or part of such hospital or institution which is licensed or used principally: (a) for the treatment or care of drug addicts or alcoholics; or (b) as a continued or extended care hospital, convalescent home, rest home, skilled nursing facility or home for the aged.

**Policy Schedule**

This page shows specific information about this policy and is referred to throughout this policy.

Policy Number: 0250069329

Policy Date: January 1, 2000

Insured: DIANE A. KIAVEN

Type of coverage (Individual )

	Maximum Daily Benefit Selected
Daily Hospital Confinement :	\$150.00
Extended Care Facility:	\$ 60
Private Duty Nursing:	\$ 60
Home Health Care:	
Home Health Care Visits:	\$ 30
Private Duty Nursing:	\$ 60

Benefit Riders

8159 Benefit Adjustment

Premium Information

Annual premium for policy form C02 with rider 8159 \$150.09

Total Annual Premium \$150.09

Total Premium on Other Frequencies is as Follows

Semi-annual	Quarterly	Monthly
\$75.05	\$37.52	\$12.50

Premium Frequency Selected by You: Monthly



"Immediate Family" means the spouse, father, mother, sons, daughters, brothers or sisters of any insured person.

"Insured Person(s)" means persons, in addition to you, insured for the benefits of this policy.

There are three types of coverage under this policy: (a) "Individual" coverage; (b) "Single-Parent Family" coverage; or (c) "Family" coverage.

If this policy is issued as an "Individual" policy, it means that we insure only you.

If this policy is issued as a "Single-Parent Family" policy it means that we insure you and all dependent children who are eligible for coverage as stated in the Dependent provisions of this policy.

If this policy is issued as a "Family" policy, it means that we insure you, your spouse and all dependent children (of yours or your spouse) who are eligible for coverage as stated in the Dependent provisions of this policy.

"Internal Cancer" means any type of cancer, including malignant melanoma, except skin cancer.

"Non-local" means a round trip in excess of 50 miles from your residence to the facility in which any insured person is to be admitted or receive a covered treatment.

"Nurse" means any of the following who is not a member of your immediate family: (a) licensed practical nurse (L.P.N.); (b) licensed vocational nurse (L.V.N.); or (c) graduate registered nurse (R.N.).

"Pathologist" means a legally licensed Doctor of Medicine certified by the American Board of Pathology to practice Pathologic Anatomy.

"Physician" means a practitioner of the healing arts, duly licensed and legally qualified to treat sickness and injury. Such person must not be an immediate relative and must be providing services within the scope of his or her license.

"Positive Diagnosis" (of cancer) means a diagnosis by a legally licensed doctor of medicine. Diagnosis must be based on a microscopic examination of fixed tissue, or preparations from the hemic system (except in the case of skin cancer). Clinical diagnosis of cancer will be accepted as evidence that cancer exists in an insured person when a positive diagnosis cannot be made provided such medical evidence documents the diagnosis.

"Positive Diagnosis" (of specified disease) means a diagnosis by a qualified physician based on generally accepted diagnosis procedures and criteria.

"Radiologist" means one who is licensed to administer X-ray, radium, or radio-active isotopes therapy and is certified by the American Board of Radiology.

"Specified Disease" means any of the following:

Addison's Disease	Malaria	Rheumatic Fever
Amyotrophic Lateral Sclerosis	Meningitis	Rocky Mountain Spotted Fever
Botulism	Multiple Sclerosis	Sickle Cell Anemia
Cystic Fibrosis	Muscular Dystrophy	Tetanus
Diphtheria	Myasthenia Gravis	Toxic Shock Syndrome
Encephalitis	Osteomyelitis	Trichinosis
Histoplasmosis	Poliomyelitis	Tuberculosis
Legionnaire's Disease	Q Fever	Tularemia
Lupus Erythematosus	Rabies	Typhoid Fever
Lyme Disease	Reye's Syndrome	Undulant Fever

"Usual and Normal" means the usual and normal charges in the geographic area involved for any service or supply rendered.

"We" or "Us" means Central States Health & Life Co. of Omaha.

"You" or "Your" means the person named as the Insured on Page 3. You are insured for the benefits of the policy as of the Policy Date.

#### **PART F EXCEPTIONS AND LIMITATIONS**

**PRE-EXISTING CONDITIONS-LIMITATIONS FOR CERTAIN CONDITIONS:** The benefits of this policy will not be payable for loss caused by pre-existing conditions during the first two years this policy is in force. After this two year period, however, loss due to such conditions will be payable unless specifically excluded from coverage. This two year period is measured from the effective date of coverage for each insured person. A pre-existing condition means a cancer or specified disease misrepresented or not revealed in the application and for which symptoms existed prior to the Policy Date that would cause an ordinarily prudent person to seek diagnosis, care or treatment or for which medical advice or treatment was recommended by or received from a physician. Conditions which are: (a) fully disclosed to us on the application; and (b) not excluded or limited by us are not considered pre-existing conditions.

**EXCEPTIONS - WHAT WE WILL NOT PAY FOR:** This policy pays only for loss resulting from cancer or specified diseases, as defined in this policy.

It DOES NOT cover:

- (1) injuries;
- (2) care and treatment received outside the United States;
- (3) treatment not approved by a physician as medically necessary;
- (4) experimental treatment by any program that does not qualify as experimental treatment as defined in this policy; or
- (5) hospital confinement or expenses that are incurred prior to the effective date of coverage regardless of the date of positive diagnosis.

#### **PART G BENEFITS**

The benefits of this policy are payable for loss that begins more than 30 days after this policy has been in force. The loss must result from cancer or specified disease, or for any other condition(s) or disease(s) directly caused or aggravated by the specified disease(s) or the treatment of the specified disease(s) as they are defined in this policy. All benefits are subject to the terms of this policy.

If cancer or a specified disease is diagnosed while you or any insured person is in the hospital, benefits will begin on the day of admission or 10 days prior to the date of diagnosis if this is more favorable to you.

If a positive diagnosis is made for cancer or a specified disease within 12 months after a tentative diagnosis, benefits will be paid from the date of the tentative diagnosis if the tentative diagnosis is made on or after the Policy Date. If the positive diagnosis of cancer or a specified disease can only be confirmed post-mortem, then we will pay benefits beginning on the first day of confinement for the terminal admission for up to 45 days.

#### **SCHEDULE OF BENEFITS**

We will pay the following benefits for the necessary diagnosis and/or treatment of cancer or a specified disease.

**HOSPITAL CONFINEMENT:** We will pay the daily hospital confinement benefit shown on the Policy Schedule (Page 3), for each of the first 70 days of each period of confinement. Periods of confinement separated by 30 days or less, will be considered the same period of confinement. If outpatient surgery is required, we will pay a one day benefit shown on the Policy Schedule (Page 3). This benefit however is not available for skin cancer. This benefit does not apply to a government or charity hospital.

**PRESCRIBED DRUGS AND MEDICINES:** We will pay the actual charges, up to 20% of the hospital confinement benefit shown on the Policy Schedule (Page 3), per day for the hospital charges for the prescribed drugs and medicines taken during hospital confinement. This benefit is limited to the first 70 days for each period of confinement.

**SURGICAL BENEFIT:** We will pay up to \$3,000 for the actual charges made by a surgeon for surgery in or out of a hospital as outlined in the following Surgical Benefits Schedule. For operations not listed, a comparable reasonable benefit will be paid. Surgical procedures performed through the same incision or in the same body opening will be considered one operation.

**SURGICAL BENEFITS SCHEDULE**

	Maximum Amount		Maximum Amount
<b>ABDOMEN</b>		<b>BREAST</b>	
Resection of Small Bowel	\$528	Radical Mastectomy	\$440
Combined abdominal perineal resection for cancer or sigmoid	\$760	<b>CHEST</b>	
Colostomy or ileostomy	\$528	Intra cardiac tumor, with bypass	\$3,000
Resection of Esophagus	\$1,200	Lobectomy	\$780
<b>AMPUTATIONS</b>		<b>GENITO-URINARY TRACT</b>	
Thigh	\$620	Removal of Kidney	\$780
Arm, forearm, entire arm	\$440	Removal of Prostate, complete	\$780
Leg, or entire foot	\$440	Removal of Uterus, Tubes & Ovaries	\$780
<b>BRAIN</b>		<b>THROAT</b>	
Complete removal of brain cancer	\$1,200	Thyroidectomy	\$780

**SECOND AND THIRD SURGICAL OPINION:** We will pay up to \$150 for the actual charges incurred for a second, if necessary, surgical opinion. Second surgical opinion means an evaluation of the need for surgery by a second physician. We will pay up to \$150 for the actual charges incurred for a third, if necessary, surgical opinion. Third surgical opinion means the evaluation by a third physician if the opinions of the first two physicians are in conflict.

**ANESTHESIA:** We will pay up to 25% of the amount payable under the Surgical Benefit for the administration of an anesthetic. This amount does not apply to skin cancer operations. We will pay the actual charges up to \$50 per skin cancer operation.

**PHYSICIAN'S ATTENDANCE:** We will pay the actual charges up to \$30 per day for in-hospital physician's visits, other than surgeon.

**SKIN CANCER:** We will pay up to \$100 for the actual charges for the removal of skin cancer when the diagnosis is made by a physician other than a legally qualified pathologist. If more than one skin cancer is removed at the same time, we will pay up to \$50 per skin cancer removed after the first. If diagnosis is made by a legally qualified pathologist, then we will pay benefits as provided in the other policy provisions.

**BLOOD AND BLOOD PLASMA:** We will pay the actual charges for blood and blood plasma. We will not pay for blood which is donated or replaced.

**BREAST PROSTHESIS:** We will pay the actual charges incurred up to \$1,000 for each:

- (1) prosthesis to restore body contour lost due to breast cancer; and
- (2) implantation of the prosthesis.

**ARTIFICIAL LIMB AND PROSTHESIS:** When an amputation is performed we will pay the actual charges incurred up to \$1,000 for each:

- (1) artificial limb or prosthesis; and
- (2) procedure to affix or implant it.

**POSITIVE DIAGNOSIS TEST:** We will pay up to \$250 for the actual charges incurred for the diagnostic test to detect, support or confirm a positive diagnosis within 90 days of such test. We will pay up to \$30 per diagnosis for skin cancer diagnostic tests. This benefit is not payable if the same cancer or specified disease recurs.

**RADIATION, RADIO-ACTIVE ISOTOPES THERAPY, CHEMOTHERAPY, OR IMMUNOTHERAPY:** We will pay the actual charges incurred for the following treatment techniques provided they are used for the purpose of modification or destruction of cancerous tissue:

- (1) teleradio therapy using either natural or artificial propagated radiation;
- (2) interstitial or intracavity application of radium or radioisotopes in sealed or non-sealed sources;
- (3) chemical substances and their administration including hormonal therapy;
- (4) antigenic preparations of immunosuppressive techniques.

We will pay the actual charges related to the above benefit up to \$250 per calendar year:

- (1) physical examinations;
- (2) checkups;
- (3) laboratory tests;
- (4) diagnostic X-rays;
- (5) treatment consultation and planning related to this benefit; or
- (6) prescribed analgesics for side effects.

Hospital confinement is not necessary to be eligible for this benefit. However, the treatment must be administered by a Radiologist or Chemo-therapist.

**PRIVATE DUTY NURSING SERVICE:** We will pay the daily benefit shown on the Policy Schedule (Page 3), for private duty nursing care and attendance by a nurse. The daily benefit is payable during any one 24 hour period, while an insured person is confined to a hospital. Such care must be required and authorized by the attending physician. The maximum number of days of care payable will be equal to the number of days of covered hospital confinement.

**NEW OR EXPERIMENTAL TREATMENT:** We will pay the actual charges incurred up to \$5,000 per Calendar Year for new or experimental treatment if:

- (1) such treatment is judged necessary by the attending physician; and
- (2) no other treatment will produce superior results in the opinion of the attending physician.

Treatment must be received in the United States or its territories.

**AMBULANCE BENEFIT:** We will pay the actual charges per trip to transfer an insured person to the hospital for confinement as an inpatient. We will also pay the actual charges for the trip home from the hospital upon discharge. The ambulance service must be performed by a licensed or professional ambulance service.

**TRANSPORTATION AND LODGING:** For non-local treatment prescribed by the attending physician as medically necessary, which is not available locally, we will pay:

- (1) If hospital confinement is required:
  - (a) the actual charges for round trip coach fare on a common carrier to the nearest hospital that provides the prescribed treatment. This benefit is double in the event that the insured person receiving treatment is a dependent child; or
  - (b) 40¢ per mile for personal automobile expense, not to exceed 700 miles round trip. Mileage will be measured from your residence to the hospital where the treatment is administered.

This benefit will not be paid for visits to the person requiring treatment or periodic checkups. This benefit is payable once for each period of continuous confinement.

(2) If hospital confinement is not required:

- (a) 40¢ per mile for personal automobile expenses not to exceed 700 miles round trip; and
- (b) The actual charges of a single room in a motel, hotel or other accommodations acceptable to us, up to a maximum of \$40 per day.

This benefit will not be paid for periodic checkups.

**ADULT COMPANION LODGING AND TRANSPORTATION:** We will pay the following expenses for one adult companion to be near you or any insured person when you or such person has been confined in a non-local hospital for specialized treatment:

- (1) the actual charges of a single room in a motel, hotel, or other accommodations acceptable to us, up to a maximum of \$40 per day. This benefit is limited to the number of days of the confined person's hospitalization. Maximum benefit for any one period of confinement is \$2,400; and
- (2) the actual charges of round trip coach fare on a common carrier or a personal automobile allowance of 40¢ per mile measured from the visiting adult companion's residence to the hospital in which the hospitalized person is confined and is in excess of 50 miles. We will not pay the personal automobile allowance in excess of 700 miles round trip. This benefit will be payable to an adult companion residing in the continental United States.

**TRANSPORTATION AND LODGING FOR BONE MARROW DONORS:** We will pay the following expenses for the transportation and lodging of a bone marrow donor when the donor is either: (a) an insured person; or (b) someone donating to an insured person:

- (1) the actual charges up to \$1,000 for medical expenses, including hospital charges directly relating to the transplant;
- (2) the actual charges for round trip coach fare on a common carrier to the city where the transplant is performed; and
- (3) the actual charges up to \$75 per day for lodging and meal expenses when the donor is asked to remain near the hospital for possible donation of additional blood components.

When an insured person is the donor, this benefit is payable in lieu of any other benefit payable under this policy.

**EXTENDED CARE FACILITY:** We will pay the daily benefit shown on the Policy Schedule (Page 3) for confinement in an Extended Care Facility. Such confinement must:

- (1) be at the recommendation of the attending physician; and
- (2) begin within 14 days of a covered hospital confinement.

Extended Care Facility benefits will be limited to the number of days of the prior hospital confinement.

**FREE STANDING HOSPICE CARE:** We will pay the actual charges up to \$50 per day for confinement in a free standing hospice care center if the insured person has been diagnosed as terminally ill and the attending physician has approved such confinement. This benefit is payable only if such confinement begins within 14 days after a covered hospital confinement and is limited to a lifetime maximum of 180 days. Benefits will be payable for confinement in hospice care centers that are in designated areas of a hospital the same as paid for Free Standing Hospice Care.

**HOME HEALTH CARE SERVICES:** We will pay the following expenses when an insured person is provided services by a licensed Home Health Care Agency. Such care must be prescribed by a physician and cannot be provided by a relative:

- (1) the daily benefit shown on the Policy Schedule (Page 3) for services provided at home not to exceed a maximum of 180 days per calendar year;
- (2) the daily benefit shown on the Policy Schedule (Page 3) for Private Duty Nursing not to exceed a maximum of 15 days per calendar year;
- (3) the actual charges for physician's visits up to \$40 per day not to exceed 15 days per calendar year; and
- (4) the actual charges for prescriptions up to \$25 per prescription not to exceed a maximum of \$450 per calendar year.

**EXTENDED BENEFITS:** If any insured person is continuously confined in a hospital for the diagnosis and/or treatment of cancer or a specified disease for more than 70 consecutive days, we will pay up to \$1,000 per day for the usual and normal charges beginning on the 71st day for:

- (1) hospital room and board;
- (2) medicines;
- (3) laboratory tests; and
- (4) any other medically necessary hospital charges.

This benefit is payable in lieu of all other benefits payable under this policy for the same time period. Periods of confinement separated by less than 30 days shall not be considered consecutive days for the purpose of eligibility under this Extended Benefits provision.

**HAIRPIECE BENEFIT:** We will pay up to a lifetime maximum of \$75 per insured person for a hairpiece when hair loss is the result of cancer treatment.

**RENTAL OR PURCHASE OF DURABLE MEDICAL EQUIPMENT:** We will pay the actual charges not to exceed \$1,000 per calendar year for the rental or purchase of the following pieces of durable medical equipment:

- (1) a respirator or similar mechanical device;
- (2) brace;
- (3) crutches;
- (4) hospital bed; or
- (5) wheel chair.

**PHYSICAL OR SPEECH THERAPY:** We will pay the actual charges up to \$25 per session not to exceed a lifetime maximum of \$1,000.

#### **PART H WAIVER OF PREMIUM**

If, while this policy is in force, you become disabled due to cancer or a specified disease, and are receiving treatment for such cancer or specified disease for which benefits are payable under this policy, and remain disabled for 90 consecutive days, we will waive premiums starting with the first policy renewal date following the 90 day period of disability. We will waive premium for as long as you remain disabled. Premiums waived will be in accordance with the mode of payment in effect when treatment began. "Disabled" means that you are: (a) unable to work at any job for which you are qualified by education, training or experience; (b) not working at any job for pay or benefits; and (c) under the care of a physician for the treatment of internal cancer.

#### **PART I DEPENDENT PROVISIONS**

##### **ELIGIBLE DEPENDENTS:**

**IF THIS IS AN "INDIVIDUAL" PLAN THE FOLLOWING APPLIES:** If this is an "Individual" plan, it means that we insure only you. However, your dependents may become eligible for coverage. Dependents eligible for coverage include: (a) your spouse; (b) unmarried dependent children under the age of 21; and (c) newborn children and adopted children (provided as follows).

Eligible dependents not insured on the Policy Date may become insured persons, subject to acceptance by us of your written application and the payment of any required premium. This would only apply to the addition of the first dependent. After such addition, the policy becomes either a "Single-Parent Family" or "Family" plan and the "Single-Parent Family" or "Family" plan provision would apply.

**NEWBORN AND ADOPTED CHILDREN:** If this is an "Individual" plan, any child of yours born while this policy is in force will be immediately covered as an insured person from the moment of birth for as long as the later of these dates: (a) 90 days from the moment of birth; or (b) the next renewal date following birth.

In order for coverage to continue beyond such date, we must receive: (a) written notice of the birth of the newborn; and (b) the required premium within 31 days of our notifying you of the amount.

Any child adopted while this policy is in force will be covered as follows: (a) coverage will be retroactive from the moment of birth for a child when you have entered a decree of adoption within 31 days of the date of the child's birth; (b) coverage must be provided from the moment of birth if adoption proceedings have been instituted by you within 31 days after the date of the child's birth and you have temporary custody; (c) for children other than newborns, coverage would begin upon temporary custody for a year and may be extended by the court.

Coverage for the child will be provided as long as you have custody of the child pursuant to decree of the court and the required premiums are paid to us.

Please include the child's name, date of birth and sex with your notice. This notice must be received by us before the later of these dates: (a) 90 days from the date of birth; or (b) the next renewal date following birth.

If the required notice is not received by us during this period, a newborn or adopted child may be covered after this date only if the following conditions are met: (a) your written application for coverage is approved by us; and (b) the payment of any required premium is made. Additional premium, if any, will begin on the first renewal date following the date of birth or adoption or placement for adoption.

Coverage for such newborn or adopted child will be the same as we provide for you. Such coverage will be payable for cancer or specified disease related injury, sickness, medically diagnosed birth defects (congenital defects), birth abnormalities or premature birth. We will not pay benefits for well baby care (routine hospital and nursing care) following birth.

**IF THIS IS A "SINGLE-PARENT FAMILY" or "FAMILY" PLAN THE FOLLOWING APPLIES:** If this is a "Family" policy, it means that we insure you, your spouse and all dependent children (of yours or your spouse) or a "Single-Parent Family" policy which means we insure you, and all dependent children who are: (a) unmarried; and (b) under 21 years of age.

Any family member specifically excluded from coverage by endorsement to this policy is not included in the family definition. Any person who becomes a family member after the effective date of this policy (except newborn or adopted children who are automatically covered from the moment of birth or adoption or placement for adoption) must be added by endorsement. Persons added as family members by endorsement will be covered for cancer or specified disease first diagnosed after the effective date of such endorsement. It is not necessary to notify us of a child's birth or adoption and no additional premium will be required for coverage of newborn or adopted children or persons added as family members by endorsement.

**TERMINATION OF COVERAGE:** Coverage for dependent persons may terminate as explained in the following paragraphs. Coverage for each dependent child will terminate on the renewal date following the earlier of: (a) his or her 21st birthday; or (b) marriage.

If we accept a premium applicable to any such dependent after his or her 21st birthday, or termination of dependency, or after receiving notice of his or her marriage, coverage for such dependent will continue until the end of the period for which premium has been accepted.

If a child reaches the termination date stated above and continues to be both: (a) incapable of self-sustaining employment by reason of mental incapacity or physical handicap; and (b) chiefly dependent upon you for support and maintenance, and you notify us about this, coverage for such child will continue while the policy is in force and so long as such incapacity continues and the applicable premium is paid. Satisfactory proof must be submitted to us within 31 days of such termination date. We may request this proof once a year after the two year period following a child's attainment of the limiting age.

Coverage for a spouse, if an insured person, will terminate on the first renewal date following the date a final decree of dissolution of marriage (divorce) is entered by a court of jurisdiction.

**CONVERSION PRIVILEGE:** In the event an insured person applies not more than 60 days after the date coverage terminates under this provision and pays the required premium, we will issue, without requiring insurability, a policy then available and which is most comparable to this policy. The new policy will be one with benefits not exceeding those provided for such insured person and excluding any conditions not covered by this policy. Any waiting or probationary periods set fourth in the new policy shall be considered as being met to the extent coverage was in force under this policy.

**CONTINUATION OF COVERAGE:** If you die while your spouse is an insured person under this policy, we agree thereafter to renew this policy each term, with your spouse as the new Insured as long as such spouse lives and pays the required premium before the end of the grace period.

**PART J HOW TO FILE A CLAIM**

**NOTICE OF CLAIM:** Written notice of claim must be given to us within 20 days after loss covered by this policy occurs or starts. If notice is not given within that time, it must be given as soon as reasonably possible. Notice must be given to us at Omaha, Nebraska or to any of our authorized agents. It should include your name and policy number as shown in the Policy Schedule.

**CLAIM FORMS:** When we receive the notice of claim, we will send the claimant forms for filing proof of loss. If these forms are not sent to the claimant within 15 days, the claimant will meet the proof of loss requirement by giving us a written statement of the nature and extent of the loss within the time limit stated in the Proofs of Loss provision.

**PROOFS OF LOSS:** Written proof of loss must be given to us within 90 days after such loss. If it was not reasonably possible to give written proof in the time required, we will not reduce or deny the claim for this reason if the proof is filed as soon as reasonably possible. In any event, the proof required must be given no later than one year from the time specified unless the claimant was legally incapacitated.

**PART K TIME OF PAYMENT OF CLAIMS**

Benefits for any loss covered by this policy will be paid as soon as we receive proper written proof.

**PART L PAYMENT OF CLAIMS**

All benefits will be payable to you, your beneficiary, or your estate. If benefits are payable to your estate or to a beneficiary who cannot execute a valid release, we may pay up to \$1,000 to someone related by you by blood or marriage whom we find to be entitled to the benefits. Any payment made in good faith will fully discharge us to the extent of the payment.

**PART M GENERAL INFORMATION**

**ENTIRE CONTRACT CHANGES:** This policy is a legal contract between you and us. The entire contract consists of the policy, which includes the application, and any attached papers. No change in this policy will be effective until approved by one of our officers. This approval must be noted on or attached to this policy. No agent has authority to change this policy or to waive any of its provisions.

**TIME LIMIT ON CERTAIN DEFENSES:** After two years from the date a person becomes covered under this policy we can't use misstatements, except fraudulent misstatements, in your application to void coverage or deny a claim for loss that happens after the two year period.

No claim for loss incurred after two years from the date a person becomes covered under this policy shall be reduced or denied on the ground that a disease or physical condition not excluded from coverage by name or specific description existed prior to the effective date of such person's coverage.

The above provisions also apply to riders attached to this policy. In applying them the word "rider" will be used for the word "policy".

**LEGAL ACTIONS:** You can't bring a legal action to recover under your policy for at least 60 days after you have given us written proof of loss. You can't start such an action more than six years after the date proof of loss is required.

**GRACE PERIOD:** Your premium must be paid on or before the date it is due or during the 31 day grace period that follows. The policy stays in force during your grace period.

**REINSTATEMENT:** If the renewal premium is not paid before the grace period ends, the policy will lapse. If we or any agent later accept a payment without requiring an application, that payment will reinstate the policy. If we do require an application, you will be given a conditional receipt for the premium. If we do not approve the application, the policy will be reinstated on the 45th day after the date of the conditional receipt unless we have previously notified you in writing of its disapproval. The reinstated policy only covers loss that results from an injury after the date of reinstatement or sickness that starts more than 10 days after the date of reinstatement.

In all other respects your rights and our rights remain the same, subject to any provisions noted on or attached to the reinstated policy. Any premiums accepted for reinstatement will be applied to a period for which premiums have not been paid. No premiums will be applied to any period more than sixty days before the reinstatement date.

**PHYSICAL EXAMINATION AND AUTOPSY:** We, at our own expense, may have a covered person examined as often as reasonably necessary while a claim is pending. In the case of the death of the insured, we may, at our own expense, have an autopsy performed during the period of contestability unless prohibited by law. The autopsy must be performed in South Carolina.

**TERM OF COVERAGE:** Coverage starts on the Policy Date at 12:01 a.m., Standard Time where you live. It ends at 12:01 a.m. on the same Standard Time on the renewal date, subject to the grace period. This policy may be renewed only as stated in the Renewal Agreement. Each time this policy is renewed, the new term begins when the old term ends.

**CHANGE OF BENEFICIARY:** You can change the beneficiary at any time by giving us written notice. The beneficiary's consent is not required for this or any other change in the policy, unless the designation of the beneficiary is irrevocable.

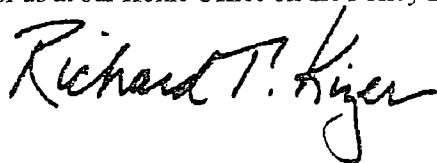
**CHARTER AND BY-LAWS:** No provisions of our charter and by-laws not included in this policy shall void this policy or be used in defense of any legal proceedings with regard to it.

**CONFORMITY WITH STATE STATUTES:** The provisions of this policy conform with the law of the state in which you reside on the policy effective date. If any do not, they are hereby amended so that they do conform.

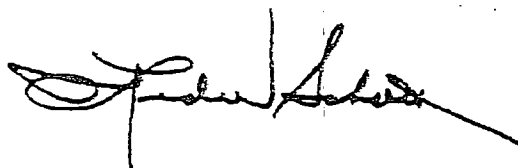
**NOTICE OF ANNUAL MEETING:** You are welcome to come to our Annual Meeting. It is held at 10:00 a.m. on the second Tuesday in January at our Home Office in Omaha, Nebraska. You are entitled to one vote during the Annual Meeting.

**POLICY SCHEDULE:** The Schedule and information it shows is a part of the policy as if it preceded the execution clause.

Signed for us at our Home Office on the Policy Date.



Chairman & Chief Executive Officer



Senior Vice President



# Central States Health & Life Co. of Omaha

Home Office: Located at 96th & Western, P.O. Box 34350, Omaha, Nebraska 68134-0350  
A MUTUAL LEGAL RESERVE COMPANY

## BENEFIT ADJUSTMENT RIDER

Central States Health & Life Co. of Omaha (herein called we, our or us) has issued this rider as a part of the policy to which it is attached.

The premium you paid in advance and the application you completed have put this rider in force as of the Rider Effective Date. A copy of your application is attached. This rider is a part of the policy. All provisions of the policy not in conflict with the provisions of this rider apply to this rider.

RIDER EFFECTIVE DATE (Same as Policy Effective Date, if no date shown): \_\_\_\_\_

RIDER PREMIUM (included in the policy premium, if no amount shown): \$ \_\_\_\_\_

## AMENDMENT

The following **CANCER SCREENING TEST(s)** provision is added to the policy:

**CANCER SCREENING TEST(s):** We will pay the amount charged up to a maximum of \$50.00 per calendar year for each insured person who has one or more of the following cancer screening tests performed more than 30 days after this rider has been in force:

- (1) Flexible sigmoidoscopy;
- (2) Pap Smear (test only);
- (3) Chest X-ray;
- (4) Hemocult stool specimen;
- (5) Colonoscopy;
- (6) Thermography;
- (7) CA125 (blood test for ovarian cancer);
- (8) CEA (blood test for colon cancer);
- (9) PSA (blood test for prostate cancer);
- (10) Serum Protein Electrophoresis.
- (11) Low-dose mammography for the presence of occult breast cancer. "Low-dose mammography" means the X-ray examination of the breast using equipment dedicated specifically for mammography, including but not limited to X-ray tube, filter, compression device, screens, films and cassettes, with an average radiation exposure delivery of less than one rad mid-breast with two views of each breast.

The "Radiation, Radio-Active Isotopes therapy, Chemotherapy, or Immunotherapy" provision in your policy is amended to read:

**RADIATION, RADIO-ACTIVE ISOTOPES THERAPY, CHEMOTHERAPY, OR IMMUNOTHERAPY:** We will pay 50% of the actual charges. The maximum benefit will be \$50,000 per calendar year with no lifetime maximum for the following treatment techniques provided they are used for the purpose of modification or destruction of cancerous tissue.

- (1) teloradio therapy using either natural or artificial propagated radiation. This includes actual charges for Radiation Treatment Delivery only. It does not include charges for Clinical Treatment Planning, Clinical Treatment Management, Medical Radiation Physics, Dosimetry, Treatment Devices or special services;
- (2) interstitial or intracavity application of radium or radioisotopes in sealed or non-sealed sources;

- (3) chemical substances and their administration including hormonal therapy. This includes the actual charges for only those chemical substances which modify or destroy cancerous tissue and does not include other drugs or medicines given in conjunction with this treatment;
- (4) antigenic preparations of immunosuppressive techniques.

We will not pay for:

- (1) physical examinations;
- (2) checkups;
- (3) laboratory tests;
- (4) diagnostic X-rays;
- (5) treatment consultation related to this benefit;
- (6) pre-planning procedures;
- (7) immunoglobulin checkups; or
- (8) medication other than chemotherapy drugs.

Hospital confinement is not necessary to be eligible for this benefit. However, the treatment must be administered by a Radiologist or Chemotherapist.

The "New or Experimental Treatment" provision in your policy is amended to read:

**NEW OR EXPERIMENTAL TREATMENT:** We will pay the actual charges incurred up to \$25,000 per Calendar Year for new or experimental treatment if: such treatment is judged necessary by the attending physician; and no other treatment will produce superior results in the opinion of the attending physician.

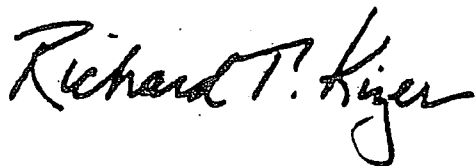
Treatment must be received in the United States or its territories.

This rider contains no lifetime maximum for benefits.

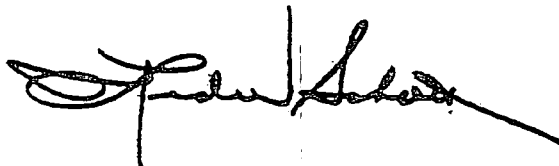
Any benefits payable under the provisions of this rider will not duplicate any like benefits payable under the policy to which this rider is attached.

Nothing herein contained shall be held to vary, alter, waive or extend any of the terms, conditions, agreements or limitations of the policy other than as stated above.

Signed for us at our Home Office on the Policy Effective Date.



Chairman & Chief Executive Officer



Senior Vice President

---

Countersignature of Licensed Resident Agent  
(Where Required by Law)

# Central States Health & Life Co. of Omaha

Home Office: Located at 96th & Western, P.O. Box 34350, Omaha, Nebraska 68134  
A MUTUAL LEGAL RESERVE COMPANY

## AMENDMENT RIDER

Central States Health & Life Co. of Omaha (herein called we, our, or us) has issued this rider as a part of the policy to which it is attached. All provisions of the policy not in conflict with the provisions of this rider apply to this rider.

RIDER EFFECTIVE DATE: (same as Policy Date, if no date is shown): \_\_\_\_\_

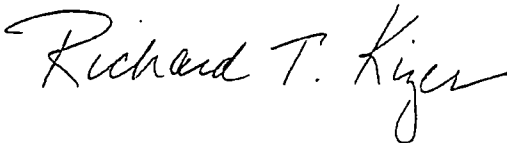
## AMENDMENT

PART G, BENEFITS is amended as follows:

The 30-day waiting period for benefits does not apply.

Nothing herein contained shall be held to vary, alter, waive or extend any of the terms, conditions, agreements, or limitations of the policy other than as stated above.

CENTRAL STATES HEALTH & LIFE CO. OF OMAHA



Chairman



# Central States Health & Life Co. of Omaha

Home Office: Located at 96th & Western, P.O. Box 34350, Omaha, Nebraska 68134-0350  
A MUTUAL LEGAL RESERVE COMPANY

## AMENDMENT RIDER

Central States Health & Life Co. of Omaha (herein called we, our, or us) has issued this rider as a part of the policy to which it is attached.

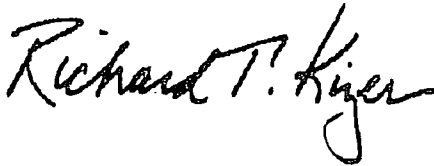
RIDER EFFECTIVE DATE: August 1, 1995, or Policy Effective Date if later.

## AMENDMENT

All references to "age 21" under the Dependent Provisions are hereby changed to "age 25".

Nothing herein contained shall be held to vary, alter, waive or extend any of the terms, conditions, agreements or limitations of the policy other than stated above.

CENTRAL STATES HEALTH & LIFE CO. OF OMAHA



Chairman

# Central States Health & Life Co. of Omaha

Home Office: Located at 96th & Western, P.O. Box 34350, Omaha, Nebraska 68134-0350  
A MUTUAL LEGAL RESERVE COMPANY

## AMENDMENT RIDER

Central States Health & Life Co. of Omaha (herein called we, our or us) has issued this rider as a part of the policy to which it is attached.

RIDER EFFECTIVE DATE: September 26, 1996, or Policy Effective Date, whichever is later.

## AMENDMENT

If the policy to which this rider is attached provides benefits for prescription drugs, it is amended to include benefits for the following:

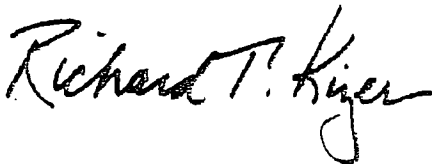
Drugs and medicines which are approved by the FDA for the treatment of cancer but which are prescribed for treatment of a specific type of cancer for which the drug has not been approved by the FDA if the drug has been recognized as safe and effective for treatment of that specific type of cancer in any of the following standard reference compendia: (i) The American Medical Association drug evaluations; (ii) The American Hospital Formulary Service drug information; (iii) The United States Pharmacopoeia dispensing information; or the drug has been recognized as safe and effective, based on scientific or medical criteria, for treatment of that specific type of cancer in two articles from major peer-review professional medical journals that have not had their recognition of the drug's safety and effectiveness for that specific type of cancer contradicted by clear and convincing evidence based on scientific or medical criteria presented in another article from a major peer-reviewed professional medical journal.

This does not include coverage for: (a) any experimental or investigational drugs not otherwise approved for any indication by the FDA; or (b) any drug which the FDA has determined its use to be contraindicated.

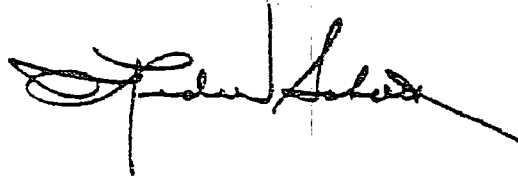
The same dollar limits, deductibles, co-insurance and limitations apply as they apply to other prescription drug benefits.

Nothing herein contained shall be held to vary, alter, waive or extend any of the terms, conditions, agreements, or limitations of the policy other than as stated above.

CENTRAL STATES HEALTH & LIFE CO. OF OMAHA



Chairman & Chief Executive Officer



Senior Vice President

# Central States Health & Life Co. of Omaha

Home Office: Located at 96th & Western, P.O. Box 34350, Omaha, Nebraska 68134-0350  
A MUTUAL LEGAL RESERVE COMPANY

## AMENDMENT RIDER

Central States Health & Life Co. of Omaha (herein called we, our or us) has issued this rider as a part of the policy to which it is attached.

RIDER EFFECTIVE DATE: (Same as Policy Effective Date if no date shown): \_\_\_\_\_

## AMENDMENT

The **PART E, DEFINITIONS** provision is amended to include the following definition. If the policy to which this rider is attached already has a definition of "Experimental Treatment", it is amended to read as follows:

"Experimental Treatment" means a drug, device, medical treatment or procedure that meets one or more of the following criteria:

- (1) if the drug or device cannot be lawfully marketed without approval of the U.S. Food and Drug Administration, and approval of marketing has not been given at the time the drug or device is furnished; or
- (2) if the drug, device, medical treatment or procedure, or the patient informed consent document utilized with the drug, device, medical treatment or procedure, was reviewed and approved by the treating facility's Institutional Review Board or other body serving a similar function, or if federal law requires such review and approval; or
- (3) if Reliable Evidence shows that the drug, device or medical treatment or procedure is the subject of on-going phase I or phase II clinical trials, is the research, experimental study or investigational arm of on-going phase III clinical trials, or is otherwise under study to determine its maximum tolerated dose, its toxicity, its safety or its efficacy as compared with a standard means of treatment or diagnosis; or
- (4) if Reliable Evidence shows that the prevailing opinion among experts regarding the drug, device or medical treatment or procedure is that further studies or clinical trials are necessary to determine its maximum tolerated dose, its toxicity, its safety, its efficacy or its efficacy as compared with a standard means of treatment or diagnosis.

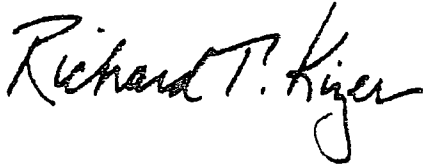
"Reliable Evidence" means only published reports and articles in the authoritative medical and scientific literature; the written protocol or protocols used by the treating facility or the protocol(s) of another facility studying substantially the same drug, device or medical treatment or procedure; or the written informed consent used by the treating facility or by another facility studying substantially the same drug, device or medical treatment or procedure.

The **EXCEPTIONS - WHAT WE WILL NOT PAY FOR** section of **PART F, EXCEPTIONS AND LIMITATIONS**, is amended to include the following:

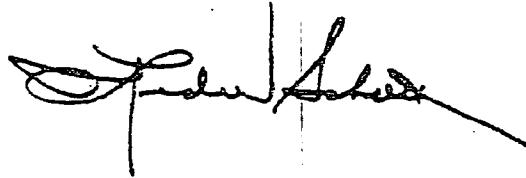
The policy to which this rider is attached does not cover experimental treatment, except as specifically provided in the Experimental Treatment Benefit provision. Benefits are limited to \$5,000 per calendar year and no other benefits of the policy are payable for such treatment.

Nothing herein contained shall be held to vary, alter, waive or extend any of the terms, conditions, agreements or limitations of the policy other than as stated above.

CENTRAL STATES HEALTH & LIFE CO. OF OMAHA



Chairman & Chief Executive Officer



Senior Vice President

Application to: **CENTRAL STATES HEALTH & LIFE CO. OF OMAHA**  
 Western at 96th • Box 34550 • Omaha, Nebraska 68134-0550

H.O. USE ONLY

1. List all individuals to be covered under this plan. Use box on back of application for additional children.

Name (Please Print)	First/Middle/Last	Relationship	Date of Birth			Age	Sex	Soc. Sec. #
			Month	Day	Year			
1. Diane A. Kivien		APPLICANT				54	F	
2.								
3.								

Address of Applicant: \_\_\_\_\_ Simpsonville \_\_\_\_\_ S.C. 29681  
 STREET CITY STATE ZIP

Occupation: \_\_\_\_\_ Phone: \_\_\_\_\_

2. I hereby apply for the following coverages:

Cancer and Specified Disease Policy Form C02 SC  
 Individual  Single-Parent Family  Family  
 Hospital Confinement Benefit (Check one):  
 \$250 per day (Option A)  \$150 per day (Option B)

Optional Riders:  
 Rider Form 8159 - Benefit Adjustment Rider

Total monthly premium for Policy Form C02 SC and optional riders \$ 12.50. If other than monthly, \_\_\_\_\_  
 and premium \$ \_\_\_\_\_ MOOE \_\_\_\_\_

Total Premium paid with this application: \$ \_\_\_\_\_ Make all checks payable to Central States Health & Life Co. of Omaha.

Billing Type:  Worksite Payroll  Worksite Nonpayroll  Individual

3. REPRESENTATION AND AGREEMENT OF POLICYHOLDER:

I hereby represent that to the best of my knowledge, information and belief, all persons to be insured:  
 Cancer and Specified Disease Policy Form C02 SC  
 A. Specified Disease — are not now nor ever have been treated nor diagnosed for the following diseases: Addison's Disease, Amyotrophic Lateral Sclerosis, Botulism, Cystic Fibrosis, Diphtheria, Encephalitis, Histoplasmosis, Legionnaire's Disease, Lupus Erythematosus, Lyme Disease, Malaria, Meningitis, Multiple Sclerosis, Muscular Dystrophy, Myasthenia Gravis, Osteomyelitis, Pollomyelitis, Q Fever, Rabies, Reye's Syndrome, Rheumatic Fever, Rocky Mountain Spotted Fever, Sickle Cell Anemia, Tetanus, Toxic Shock Syndrome, Tuberculosis, Typhemia, Typhoid Fever, Undulant Fever except [enter name(s)] (IF NONE, STATE "NONE") None  
 (The person named above will be excluded in part from coverage by an Elimination Rider to be signed by the applicant prior to policy issuance.)  
 B. Cancer — are not now nor ever have been treated nor diagnosed for the following forms of cancer within the last 12 months: Basal Cell Carcinom, Bowen's Disease, Epithelioma, Malignant, Keratoacanthoma, Prickle Cell Epithelioma, Squamobasal Cell Carcinoma, Squamous Cell Carcinoma (epidermoid) except [enter name(s)] (IF NONE, STATE "NONE") None  
 (The person named above will be excluded in part from coverage by an Elimination Rider to be signed by the applicant prior to policy issuance.)  
 C. Internal Cancer and Other Skin Cancers — are not now nor ever have been treated nor diagnosed for any other Internal Cancer or Skin Cancers not mentioned in B above except [enter name(s)] (IF NONE, STATE "NONE") None

4. Has any person to be insured now or ever been diagnosed or treated as a victim of a heart attack, heart condition, heart trouble, any abnormality of the heart, Acquired Immune Deficiency Syndrome (AIDS), AIDS Related Complex (ARC) or Antibodies to Human T-lymphotropic Virus Type III (HTLV-III) prior to this date?  Yes  No If "Yes", enter name(s) \_\_\_\_\_

5. Present insurance - list any type of medical insurance you have or have applied for (if NONE, so state):

INSURED	COMPANY & POLICY NO.	TYPE OF COVERAGE PROVIDED

6a. Is this insurance to replace or change other insurance?  Yes  No If "Yes," give details including name of company. \_\_\_\_\_

6b. If Billing Type is "Worksite Payroll" or "Worksite Nonpayroll" and question 6a is "Yes," is interim coverage being applied for?  Yes  No  
 If 6b is "Yes," effective immediately, interim insurance coverage will be provided as applied for: a) until the date the policy becomes effective; or b) until the owner is notified that no insurance policy will be issued. In no event will interim insurance coverage be provided for more than 90 days from the date of this application.

7. Have you received the Outline of Coverage (in those states where required by law)?  Yes  No (check one).

8. Have you received a copy of the "Guide to Health Insurance for People with Medicare"?  Yes  No (check one). APPLIES ONLY IF APPLICANT IS AGE 65 OR OLDER.

I certify that I have read, or had read to me, the completed application and realize that any false statement or misrepresentation thereon which materially affects the insurance company's acceptance of any person for coverage under a policy or rider may result in loss of coverage for that person subject to the Time Limit on Certain Defenses and Legal process. Unless interim insurance coverage is provided, the "Effective Date" of the policy will be the date recorded on the Policy Schedule by the Home Office. It is not the date the application is signed.

Applicant's Signature: X Diane A. Kivien Agent's Signature: [Signature]  
 Date: 11/20/99 Dated at: [Signature] Agent No.: 77330



ADDITIONAL INFORMATION ON COVERAGE APPLIED FOR: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

X

Agent's Signature

Date

Applicant's Signature

## Central States Health & Life Co. of Omaha

Home Office: Located at 96th & Western, P.O. Box 34350, Omaha, Nebraska 68134-0350

A MUTUAL LEGAL RESERVE COMPANY

### ELIMINATION RIDER

RIDER EFFECTIVE DATE: (same as Policy Date if no date shown): \_\_\_\_\_

In consideration of the issuance or reinstatement of the Policy to which this Rider is attached, it is hereby understood and agreed that the person named in the application as having a condition listed below prior to the date the application was signed, is excluded from coverage as indicated below:

Non-Melanoma  
Skin Cancer

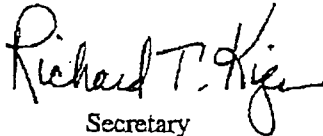
We will not be liable for any loss resulting from \_\_\_\_\_  
(named Skin Cancer) affecting \_\_\_\_\_, who is  
excluded from coverage for the named Skin Cancer.

Specified Diseases

We will not be liable for any loss resulting from \_\_\_\_\_  
(named Specified Disease) affecting \_\_\_\_\_, who is excluded from  
coverage for the named Specified Disease.

Nothing herein contained shall be held to vary, alter, waive or extend any of the terms, conditions, agreements or limitations of the policy other than as stated above.

CENTRAL STATES HEALTH & LIFE CO. OF OMAHA

  
Secretary

  
President

Countersigned by: \_\_\_\_\_  
Licensed Resident Agent

Accepted by: \_\_\_\_\_  
Signature of Applicant

0250069329

# CENTRAL STATES HEALTH & LIFE CO. OF OMAHA

Home Office: Located at 96th & Western, P.O. Box 34350, Omaha, Nebraska 68134-0350

**FILE**  
CC  
M

## CANCER AND SPECIFIED DISEASE PLAN VERIFICATION OF EFFECTIVE DATE

If your application is approved, your coverage will become effective on the date shown below. The policy effective date is not the date the application is signed. The effective date will also be shown on the Policy Schedule included with your policy. No coverage will be provided prior to this date unless you are eligible, and apply for, interim coverage. To be eligible for interim coverage you must be replacing another Cancer policy with this policy.

The policy you are applying for has a pre-existing conditions limitation. Premiums deducted prior to the effective date are pre-paid premiums and will be applied to coverage beginning on the effective date.

7-01-04

Date of First Deduction

8-1-04

Effective Date of Coverage

*Herman Kuning*

Applicant's Signature

8-1-2004

Date Signed

*Olga L. Spira*

Agent's Signature

**DATE RECEIVED**

SEP 08 2004

**NBA**

**DATE REC'D**

SEP 08 2004

**POS**

1-96

Central States Health & Life Co. of Omaha  
P. O. Box 34350, Omaha, NE 68134-0350

POLICY ADJUSTMENT ENDORSEMENT



DIANE A KIRVEN

0250069329  
Policy Number

SIMPSONVILLE SC 29581

01/01/2000  
Effective Date  
of Coverage

This Policy Adjustment Endorsement is attached to and forming a part of the above referenced policy number.

This policy is amended by: Correcting name of primary insured to DIANE A KIRVEN. Please attach this form to your copy of the policy.

01/01/2000  
Effective Date of Change

Same  
New Premium Amount

Anything in the policy inconsistent with this Endorsement is hereby modified to agree herewith.

Central States Health & Life Co. of Omaha

*Richard T. Kiger*  
President

\_\_\_\_\_  
(Signature of Insured)

\_\_\_\_\_  
(Date Endorsement Signed)

\_\_\_\_\_  
(Signature of Owner, if Other than Insured)

\_\_\_\_\_  
(Date Endorsement Signed)

FILE COPY

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**Central States Health & Life Co. of Omaha**

Home Office: Located at 96<sup>th</sup> & Western, P.O. Box 34350, Omaha, NE 68134-0350  
A MUTUAL LEGAL RESERVE COMPANY

**POLICY CHANGE ENDORSEMENT**

DIANE A KIRVEN

0250069329

Policy Number

SIMPSONVILLE, SC 29681

January 01, 2000

Effective Date of Coverage

This Policy Change Endorsement is attached to and forming a part of the above referenced policy number.

This policy is amended by:

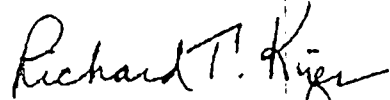
Policy type: Cancer. Addition of Herman G Kirven JR, change from Individual to Family rates.

November 11, 2004  
Effective Date of Change

\$12.09  
New Premium Amount

Anything in the policy inconsistent with this Endorsement is hereby modified to agree herewith.

Central States Health & Life Co. of Omaha



Chairman & Chief Executive Officer

Copies Sent to: MARSHA A LANDRETH INC  
806 POWDERSVILLE RD STE H  
EASLEY, SC 29642

Group Number: G2000  
Name of Group: GREENVILLE CTY SCHOOLS - BI-WEEKLY  
ATTN: JAMIE MCCUTCHEON  
PO BOX 2848  
GREENVILLE, SC 29602

FILE COPY

Form 187B

12-01

DEF 0036

Adding spouse to existing policy 0250069329

Application to: **CENTRAL STATES HEALTH & LIFE CO. OF OMAHA**  
 Western at 66th - Box 34350 - Omaha, Nebraska 68134-0350

SDGC

FILED  
 M

1. List all individuals to be covered under these plans. Use box on back of application for additional children.

Name (Please Print) First/Middle/Last	Relationship	Date of Birth			Age	Sex	Soc. Sec. #
		Month	Day	Year			
1. Diane A. Kirven	APPLICANT				57	F	
2. Herman G. Kirven JR.	spouse				57	M	
3.							
4.							
5.							

Address of Applicant: Simpsonville SC 29681  
 STREET CITY STATE ZIP  
 Occupation: social worker Phone: 864 241-3520

2. I hereby apply for the following coverage:

Cancer and Specified Disease Policy Form C02 SC  
 Individual  Single-Parent Family  Family  
 Hospital Confinement Benefit (Check one):  
 \$250 per day (Option A)  \$150 per day (Option B)

Optional Riders:  Rider Form 8018 - Return of Premium Rider  
 Rider Form 8159 Rev. - Benefit Adjustment Rider

Total monthly premium for Policy Form C02 SC and optional riders  
 \$ 26.09 If other than monthly, MODE and premium \$ 12.09

Total Premium paid with this application: \$ \_\_\_\_\_ Make all checks payable to Central States Health & Life Co. of Omaha.

Billing Type:  Worksite Payroll  Worksite Nonpayroll  Individual

DATE RECEIVED

SEP 08 2004

NBA

3. REPRESENTATION AND AGREEMENT OF POLICYHOLDER:

I hereby represent that to the best of my knowledge, information and belief, all persons to be insured:

A. **Specified Disease** — are not now nor ever have been treated nor diagnosed for any of the following diseases: Addison's Disease, Amyotrophic Lateral Sclerosis, Botulism, Cystic Fibrosis, Diphtheria, Encephalitis, Histoplasmosis, Legionnaire's Disease, Lupus Erythematosus, Lyme Disease, Malaria, Meningitis, Multiple Sclerosis, Muscular Dystrophy, Myasthenia Gravis, Osteomyelitis, Poliomyelitis, Q Fever, Rabies, Reye's Syndrome, Rheumatic Fever, Rocky Mountain Spotted Fever, Sickle Cell Anemia, Tetanus, Toxic Shock Syndrome, Trichinosis, Tuberculosis, Typhoid Fever, Undulant Fever except (enter name(s)) (IF NONE, STATE "NONE") None

The person named above will be excluded in part or in total from coverage by an Elimination Rider to be signed by the applicant prior to policy issuance.

B. **Cancer** — are not now nor ever have been treated nor diagnosed for the following forms of cancer within the last 12 months: Basal Cell Carcinoma, Bowen's Disease, Epithelioma, Malignant Keratoacanthoma, Prickle Cell Epithelioma, Squamobasal Cell Carcinoma, Squamous Cell Carcinoma (epidermoid) except (enter name(s)) (IF NONE, STATE "NONE") None. The person named above will be excluded in part from coverage by an Elimination Rider to be signed by the Applicant prior to policy issuance.

C. **Internal Cancer and Other Skin Cancers** — are not now nor ever have been treated nor diagnosed for any other Internal Cancer or Skin Cancers not mentioned in B above except (enter name(s)) (IF NONE, STATE "NONE") \_\_\_\_\_

4. Has any person to be insured now or ever been diagnosed or treated as a victim of a heart attack, heart condition, heart trouble, any abnormality of the heart, Acquired Immune Deficiency Syndrome (AIDS), AIDS Related Complex (ARC) or Antibodies to Human T-lymphotrophic Virus Type III (HTLV-III) prior to this date?  Yes  No If "Yes," enter name(s) None

5. Present Insurance — list any type of medical insurance you have or have applied for (if NONE, so state): None

INSURED	COMPANY & POLICY NO.	TYPE OF COVERAGE PROVIDED

6. Is this insurance to replace or change other insurance?  Yes  No If "Yes," give details including name of company: \_\_\_\_\_  
 If yes and billing type is "Worksite Payroll" or "Worksite Nonpayroll", interim insurance coverage will be provided as applied for: a) until the date this policy becomes effective; or b) until the applicant is notified that no insurance will be issued. In no event will interim insurance coverage be provided for more than 90 days from the date of this application. Interim insurance coverage will not be provided during any period of time when you are eligible for benefits under the cancer or specified disease policy you are replacing.

7. Have you received the Outline of Coverage?  Yes  No (check one).

8. Have you received a copy of: a) the "Guide to Health Insurance for People with Medicare"?  Yes  No and b) the "Medicare Duplication Acknowledgment Form"  Yes  No (check one each). APPLIES ONLY IF APPLICANT IS AGE 65 OR OLDER.

I certify that I have read, or had read to me, the completed application and realize that any false statement or misrepresentation thereon which materially affects the insurance company's acceptance of any person for coverage under a policy or rider may result in loss of coverage for that person subject to the Time Limit on Certain Defenses and legal process. Unless interim insurance coverage is provided, the "Effective Date" of the policy will be the date recorded on the Policy Schedule by the Home Office. It is not the date the application is signed.

Applicant's Signature [Signature] Agent's Signature [Signature]  
 Date 8-1-04 Dated at Simpsonville SC 29681  
 CITY STATE ZIP

DATE REC'D 95265

Form 3342 SC 4th Rev.

THIS SECTION TO BE COMPLETED BY AGENT

SEP 08 2004

(Greenville) 4-00

PROPOSED ISSUE DATE: 11-01-04

POS

ADDITIONAL INFORMATION ON COVERAGE APPLIED FOR: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

X \_\_\_\_\_  
 Agent's Signature Date Applicant's Signature

**Central States Health & Life Co. of Omaha**

Home Office: Located at 96th & Westcm, P.O. Box 34350, Omaha, Nebraska 68134-0350  
 A MUTUAL LEGAL RESERVE COMPANY

**ELIMINATION RIDER**

RIDER EFFECTIVE DATE: (same as Policy Date if no date shown): \_\_\_\_\_

In consideration of the issuance or reinstatement of the Policy to which this Rider is attached, it is hereby understood and agreed that the person named in the application as having a condition listed below prior to the date the application was signed, is excluded from coverage as indicated below:

- Non-Melanoma Skin Cancer We will not be liable for any loss resulting from \_\_\_\_\_ (named skin cancer) affecting \_\_\_\_\_, who is excluded from coverage for the named Skin Cancer.
- Specified Diseases We will not be liable for any loss resulting from \_\_\_\_\_ (named Specified Disease) affecting \_\_\_\_\_, who is excluded from coverage for the named Specified Disease.

Nothing herein contained shall be held to vary, alter, waive or extend any of the terms, conditions, agreements or limitations of the policy other than as stated above.

CENTRAL STATES HEALTH & LIFE CO. OF OMAHA

*Richard T. Kizer*

Chairman & Chief Executive Officer

*[Signature]*

Senior Vice President

Countersigned by: \_\_\_\_\_  
 Licensed Resident Agent

Accepted by: \_\_\_\_\_  
 Signature of Applicant

**Philadelphia American Life Insurance Company**  
**Fraud and Abuse Policy Statement**

Philadelphia American Life Insurance Company is committed to preventing and detecting fraud. Fraud is an intentional act of deception, misrepresentation or concealment committed in order to gain something of value.

Philadelphia American Life Insurance Company fully supports the prosecution of health care providers, agents, policyowners, company employees and other groups or individuals who defraud the nation's health care system and insurance companies. Our company aggressively investigates fraud and cooperates with law enforcement officials in prosecution efforts.

We recognize that while there are several victims of insurance fraud, the ultimate victim is the policyowner. We strive to educate our employees and the public on the unfavorable financial impact fraud has on the national economy and health insurance premiums.

**Think You've Spotted Fraud?**

**Call our FRAUD HOTLINE at  
1-800-554-0092**

**You do not have to give your name.**

This notice is being provided on behalf of the following companies: (herein known as "We" or "Us");

- New Era Life Insurance Company
- New Era Life Insurance Company of the Midwest
- Philadelphia American Life Insurance Company

We value you as a customer and know that the protection of your personal information is important to you. We want to assure you that we aggressively safeguard your interest and personal information.

#### OUR PRIVACY PLEDGE

- We do not sell customer information.
- We collect only the information we need to deliver superior products and services to you.
- If a company does provide products and services for you on our behalf, We require them to protect the confidentiality of your information in accordance with strict privacy standards.
- We do not share your health information outside of Us without your consent unless if permitted by state or federal law.

#### HOW WE USE YOUR INFORMATION

In order to underwrite your policy (ies), and service your account (s), including routine business administration, we may share your information within the company. We believe this is necessary in order to provide you with the best possible service.

#### HEALTH INFORMATION

We will not share any of our customers' health information unless allowed by applicable law and/or the customer has provided us the appropriate authorization.

We are required by the privacy regulations issued under the Health Insurance Portability and Accountability Act (HIPAA) to maintain the privacy of our customers' health information and have prepared a Notice of Privacy Practices which describes how medical information about you may be used and how you can get access to this information. You have a right to obtain this notice and can request it by writing to us at the address listed below.

#### PERSONAL INFORMATION WE MAY DISCLOSE AND TO WHOM

Data about you will be kept in our records. We may disclose data to issue and service policies and settle claims. Generally, we will not disclose data about you to any external organization without your prior authorization. However, we may, as allowed by law, share data that we collect as set forth below.

- We may disclose data to your insurance agent.
- We may disclose data to persons who represent you, including your attorney or trustee.
- We may disclose data to adjusters, appraisers, auditors, investigators and attorneys.
- We may disclose data to those who need the data to perform a business, professional or insurance function for us.
- We may disclose data to other insurance companies, agents or consumer reporting agencies, in connection with any insurance application, policy or claim involving you.
- We may disclose data to medical professionals to inform you of a medical condition of which you may not be aware and for claims payment purposes.
- We may disclose data to persons or organizations that conduct research provided that no individual data may be identified in any research study report.
- We may disclose data to our affiliated companies, however, we do not share information subject to the Fair Credit Reporting Act.
- We may disclose data to a court, state insurance department or other government agency pursuant to a summons, court order, search warrant, subpoena, or as otherwise required by law or regulation.

#### PERSONAL INFORMATION WE MAY COLLECT

We collect and use information we believe is necessary to administer our business, to provide you with customer service, and to advise you about our products and services. We may use the following sources to obtain information:

- The application and forms filled out by you during the application process
- Personal Telephone Interviews
- Your agent
- Our Customer Service Department
- Your claim history
- Underwriting
- We may collect the following types of information:  
Name, address, Social Security number and other household information including your personal history
- Health information collected with authorization from you, and outside sources including: consumer reporting agencies, health care providers, and the Medical Information Bureau.

#### PROTECTING YOUR PERSONAL INFORMATION

We abide by strict internal standards established to maintain your confidentiality when we share or disclose any information concerning you to third parties or non-affiliated entities.

We maintain physical, electronic, and procedural safeguards that meet state and federal regulations in the protection of your personal information. We give access only to employees who need to know the personal information to provide insurance products or services to you.

We apply the same privacy policies to former customers that we apply to current customers.

#### ACCESS TO INFORMATION

You may request access to certain personal information we collect to provide you with insurance products and services. You must make your request in writing and send it to the address below. The letter should include your full name, address, telephone number and policy number if we have issued a policy. If you request, we will send copies of the personal information to you. If the personal information includes health information, we may provide the health information to you through a health care provider you designate. We will also send you information related to disclosures. We may charge a reasonable fee to cover our copying costs. This section applies to personal information we collect to provide you with coverage. It does not apply to personal information we collect in anticipation of a claim or civil or criminal proceeding.

We strive to keep our records accurate. You have a right to correct any errors that exist in the information. If you contact us, we will promptly correct any inaccurate information.

#### CONTACTING US

If you have questions about our privacy policy, you may contact your agent or write to us at:  
P.O. Box 4884  
Houston, TX 77210-4884

## NOTICE OF PRIVACY PRACTICES

Para recibir esta notificación en español por favor llamar al número provisto en este documento.

This Notice of Privacy Practices applies to Insured health insurance coverage issued by New Era Life Insurance Company, Philadelphia American Life Insurance Company or New Era Life Insurance Company of the Midwest and their mail order pharmacy programs and to any self-funded employer plans administered by New Horizon Benefit Administrators, Inc. ("the Companies").

This notice describes how medical information about you may be used and disclosed and how you can get access to this information. Please review it carefully. The effective date of this notice is April 14, 2003.

The Companies consider personal information to be confidential. We protect the privacy of that information in accordance with federal and state privacy laws, as well as our own company privacy policies. This notice describes how we may use and disclose information about you in administering your benefits, and it explains your legal rights regarding the information.

When we use the term "personal information," we mean financial, health and other information about you that is nonpublic, and that we obtain so we can provide you with insurance coverage. By "health information," we mean information that identifies you and relates to your medical history (i.e., the health care you receive or the amounts paid for that care).

### HOW THE COMPANIES USE AND DISCLOSE PERSONAL INFORMATION

In order to provide you with coverage, we need personal information about you, and we obtain that information from many different sources, including your employer or benefit plan sponsor, other insurers, HMOs or third-party administrators (TPAs), and health care providers. In administering your health benefits and providing mail order pharmacy services, we may use and disclose personal information about you in various ways, including:

#### HEALTH CARE OPERATIONS

We may use and disclose personal information during the course of running our health business; that is, during operational activities such as quality assessment and improvement; licensing; accreditation by independent organizations; performance measurement and outcomes assessment; health services research; and preventive health, disease management, case management and care coordination. Other operational activities requiring use and disclosure include administration of reinsurance and stop loss; underwriting and rating; detection and investigation of fraud; administration of pharmaceutical programs and payments; transfer of policies or contracts from and to other health plans; facilitation of a sale, transfer, merger or consolidation of all or part of the Companies with another entity (including due diligence related to such activity); and other general administrative activities, including data and information systems management, and customer service.

#### PAYMENT

To help pay for your covered services, we may use and disclose personal information in a number of ways, including: conducting utilization and medical necessity reviews; coordinating care; determining eligibility; determining formulary compliance; collecting premiums; calculating cost-sharing amounts; and responding to complaints, appeals and requests for external review. For example, we may use your medical history and other health information about you to decide whether a particular treatment is medically necessary and what the payment should be; during the process, we may disclose information to your provider. We also mail Explanation of Benefits forms and other information to the address we have on record for the subscriber (i.e., the primary insured). We

also use personal information to obtain payment for any mail order pharmacy services provided to you.

#### TREATMENT

We may disclose information to doctors, dentists, pharmacies, hospitals and other health care providers who take care of you. For example, doctors may request medical information from us to supplement their own records. We also may use personal information in providing mail order pharmacy services and by sending certain information to doctors for patient safety or other treatment-related reasons.

#### DISCLOSURES TO OTHER COVERED ENTITIES

We may disclose personal information to other covered entities, or business associates of those entities for treatment, payment and certain health care operations purposes. For example, we may disclose personal information to other health plans maintained by your employer if it has been arranged for us to do so in order to have certain expenses reimbursed.

#### ADDITIONAL REASONS FOR DISCLOSURE

We may use or disclose health information about you in providing you with treatment alternatives, treatment reminders, or other health-related benefits and services. We also may disclose such information in support of:

- ◆ Plan Administration - to your employer, when we have been informed that appropriate language has been included in your plan documents, or when summary data is disclosed to assist in bidding or amending a group health plan.

### ADDITIONAL REASONS FOR DISCLOSURE (CONT')

- ◆ Research - to researchers, provided measures are taken to protect your privacy.
- ◆ Business Associates - to persons who provide services to us and assure us they will protect the information.
- ◆ Industry Regulation - to state insurance departments, boards of pharmacy, U.S. Food and Drug Administration, U.S. Department of Labor and other government agencies that regulate us.
- ◆ Law Enforcement - to federal, state and local law enforcement officials.
- ◆ Legal proceedings - in response to a court order or other lawful process.
- ◆ Public Welfare - to address matters of public interest as required or permitted by law (e.g. child abuse or neglect, threats to public health and safety, and national security).

### DISCLOSURE TO OTHERS INVOLVED IN YOUR HEALTH CARE

We may disclose health information about you to a relative, a friend, and subscriber of your health benefits plan or any other person you identify, provided the information is directly relevant to that person's involvement with your health care or payment for that care. For example, if a family member or a caregiver calls us with prior knowledge of a claim, we may confirm whether or not the claim has been received and paid. You have the right to stop or limit this kind of disclosure by calling the toll-free Customer Service number below.

If you are a minor, you also may have the right to block parental access to your health information in certain circumstances, if permitted by state law. You can contact us using the toll-free Customer Service number below - or have your provider contact us.

### USES AND DISCLOSURES REQUIRING YOUR WRITTEN AUTHORIZATION

In all situations other than those described above, we will ask for your written authorization before using or disclosing personal information about you. If you have given us an authorization, you may revoke it at any time, if we have not already acted on it. If you have questions regarding authorizations, please call the toll-free Customer Service number below.

### YOUR LEGAL RIGHTS

The federal privacy regulations give you the right to make certain requests regarding health information about you. You may ask us to:

- ◆ Communicate with you in a certain way or at a certain location. For example, if you are covered as an adult dependent, you might want us to send health information to a different address from that of your subscriber. We will accommodate reasonable requests.
- ◆ Restrict the way we use or disclose health information about you in connection with health care operations, payment and treatment. We will consider, but may not agree to, such requests. You also have the right to ask us to restrict disclosures to persons involved in your health care.

- ◆ Obtain a copy of health information that is contained in a "designated record set" - medical records and other records maintained and used in making enrollment, payment, claims adjudication, medical management and other decisions. We may ask you to make your request in writing, may charge a reasonable fee for producing and mailing the copies and, in certain cases, may deny the request.
- ◆ Amend health information that is a "designated record set." Your request must be in writing and must include the reason for the request. If we deny the request, you may file a written statement of disagreement.
- ◆ Provide a list of certain disclosures we have made about you, such as disclosures of health information to government agencies that license us. Your request must be in writing. If you request such an accounting more than once in a 12-month period, we may charge a reasonable fee.

You may make any of the requests described above, or may request a paper copy of this notice, by calling the toll-free Customer Service number below.

You also have the right to file a complaint if you think your privacy rights have been violated. To do so, please follow the complaint procedures described in your policy, certificate or plan document. You also may write to the Secretary of the U.S. Department of Health and Human Services. You will not be penalized for filing a complaint.

### THE COMPANIES' LEGAL OBLIGATIONS

The federal privacy regulations require us to keep personal information about you private, to give you notice of our legal duties and privacy practices, and to follow the terms of the notice currently in effect.

### THIS NOTICE IS SUBJECT TO CHANGE

We may change the terms of this notice and our privacy policies at any time. If we do, the new terms and policies will be effective for all of the information that we already have about you, as well as any information that we may receive or hold in the future.

Please note that we do not destroy personal information about you when you terminate your coverage with us. It may be necessary to use and disclose this information for the purposes described above even after your coverage terminates, although policies and procedures will remain in place to protect against inappropriate use or disclosure.

If you have questions regarding this notice, please contact the Companies' Customer Service area by mail at:

P.O. Box 4884, Houston, TX 77210-4884

by telephone at:

800-552-7879

or by fax at 281-368-7268

Include your name and telephone and fax numbers.

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA  
COLUMBIA DIVISION

Diane Kirven, on behalf )  
herself and all others )  
similarly situated, )  
) Civil Action  
Plaintiff, ) No.: 3:11-cv-2149-MBS

vs. )  
)  
Central States Health & )  
Life Co. of Omaha, and )  
Philadelphia American Life )  
Insurance Company, )

) Defendants. )

\*\*\*\*\*  
ORAL DEPOSITION OF 30(b)(6) DEPONENT  
SUSEN BOOKWALTER  
NOVEMBER 19, 2012  
\*\*\*\*\*

ORAL DEPOSITION OF 30(b)(6) Deponent SUSEN  
BOOKWALTER, produced as a witness at the instance of the  
Plaintiff, and duly sworn, was taken in the above-styled  
and numbered cause on the 19th day of November, 2012,  
from 9:42 a.m. to 11:26 a.m., before Mary Mellard, CSR in  
and for the State of Texas, reported by machine  
shorthand, at the offices of New Era Life Insurance  
Company, 11720 Katy Freeway, Houston, Texas 77079,  
pursuant to Notice and the provisions stated on the  
record or attached hereto.

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A P P E A R A N C E S

FOR THE PLAINTIFF:

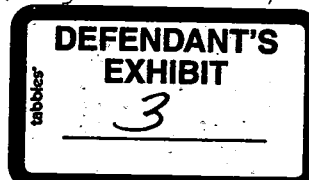
Mr. Richard A. Harpootlian  
RICHARD A. HARPOOTLIAN, P.A.  
1410 Laurel Street (29201)  
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Columbia, South Carolina 29202  
FAX (803) 252-4810  
TELEPHONE (803) 252-4848  
E-MAIL rah@harpootlianlaw.com

Mr. Tobias G. Ward, Jr.  
TOBIAS G. WARD, JR., P.A.  
6 Calendar Court, Suite 3 (29206)  
Post Office Box 6138  
Columbia, South Carolina 29260  
FAX (803) 403-8754  
TELEPHONE (803) 708-4200  
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FOR THE DEFENDANTS:

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Richardson, Texas 75082-4500  
FAX (972) 584-6113  
TELEPHONE (972) 349-9991  
E-MAIL rharris@rlharrislaw.com

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1 A. All right.  
 2 MR. HARPOOTLIAN: And I want to mark  
 3 Defendant 747 as No. 3, please.  
 4 (Exhibit 3 marked.)

5 Q. (BY MR. HARPOOTLIAN) So one of these  
 6 indicates -- 547, which is Exhibit No. 2, indicates 28  
 7 total policies in the claims that have been made. Is  
 8 that correct? (Hands document.)

9 A. Correct.

10 Q. And then I think there are 23 -- I think I'm  
 11 right on that.

12 MR. HARPOOTLIAN: Am I right on that? 23  
 13 on the second one, or is it 25?

14 MR. HARRIS: I think it's right. I think  
 15 it's -- Well, 25 actually.

16 MR. HARPOOTLIAN: 25. That's right.

17 Q. (BY MR. HARPOOTLIAN) On Exhibit No. 3, can you  
 18 tell me what the difference is between the two?

19 A. Well, on 743, we expanded the policy form  
 20 information to give more detail there; and we also, of  
 21 course, provided the dollar amounts involved in the  
 22 claims for each of those files.

23 Q. But are there policy numbers -- There are,  
 24 obviously, three more policy numbers on 547 than there  
 25 are in 743?

1 Q. Okay. Now also there are -- You indicated  
 2 there is probably additional claims since this chart was  
 3 prepared?

4 A. Yes. Because you're looking at March, and we're  
 5 November. So, you know, there may be new claimants, yes.

6 Q. And could you provide those to your attorney so  
 7 he could update his response to interrogatories and  
 8 motions to produce?

9 A. Yes.

10 MR. HARPOOTLIAN: Is that agreeable?

11 MR. HARRIS: Yeah. As long as they exist.  
 12 I mean, she's saying --

13 MR. HARPOOTLIAN: Right.

14 MR. HARRIS: I don't know -- Until we  
 15 check, we don't know. But to the extent that --

16 MR. HARPOOTLIAN: Right. But you would  
 17 expect, however --

18 MR. HARRIS: Absolutely, Dick. If they  
 19 exist, we will update them for you.

20 MR. HARPOOTLIAN: Okay.

21 Q. (BY MR. HARPOOTLIAN) And that would be  
 22 additional people or additional claims for some of these  
 23 28?

24 MR. HARRIS: Oh, you want both? The total  
 25 amount of claims for the 28 and any additional claims?

1 A. Right.

2 Q. Why is that?

3 A. And there were three files that when I was  
 4 preparing for the deposition -- Because I looked at that  
 5 myself; and I said, you know, why is that different. And  
 6 there were three files that were listed on this list. I  
 7 think it was prepared first, No. 547. And then when I  
 8 worked on preparing 743, I discovered that there was  
 9 three policies --

10 No. I'm sorry. Just two -- Well, the  
 11 three -- the difference of three -- that had been dropped  
 12 off. And it was because they had -- Their only claims  
 13 were for oral medications, oral chemotherapy, rather  
 14 than, you know, IV and treatment in a hospital and that  
 15 kind of thing. These were prescriptions that they went  
 16 to the pharmacy and had filled and turned in receipts  
 17 from their pharmacy.

18 Q. And were they paid under the previous actual  
 19 charges definitions or under the statutory definition?

20 A. They were paid under the statutory definition,  
 21 if there was any difference; but you are talking about  
 22 small dollar amounts on those.

23 Q. I understand small dollar amounts; but there are  
 24 some dollar amount differences then, even in those three?

25 A. I believe so. Yeah.

1 MR. HARPOOTLIAN: Right. Any additional --  
 2 MR. HARRIS: Okay. I just want to make  
 3 sure.

4 MR. HARPOOTLIAN: Right. Any additional  
 5 claims by the 28 and any additional people that made  
 6 claims and those amounts also.

7 MR. HARRIS: I got that. But what you are  
 8 saying is you want me to update the amount of money paid?

9 MR. HARPOOTLIAN: Absolutely. The amount  
 10 of money --

11 MR. HARRIS: Okay. Great. I just want to  
 12 make sure I'm --

13 MR. HARPOOTLIAN: Right. Any change in the  
 14 amount of the claims made or the number of claims made --

15 MR. HARRIS: Right. Okay. Or the number  
 16 of claims. Got it.

17 MR. HARPOOTLIAN: -- since March.

18 MR. HARRIS: Got it.

19 MR. HARPOOTLIAN: And we would expect  
 20 people getting chemotherapy would have gotten additional  
 21 chemotherapy --

22 MR. HARRIS: Exactly.

23 MR. HARPOOTLIAN: -- since then. And maybe  
 24 somebody else got cancer, God forbid.

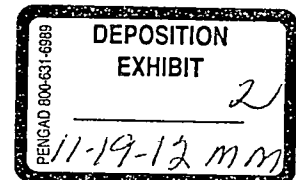
25 MR. HARRIS: Right. I agree. I got you.

SC Policies With Actual Charges Letter - Claim Amounts

Payment Amounts = totals on lines with note code 138

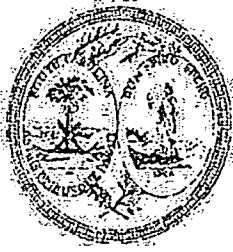
Note 138 = Benefits are based on actual charges as defined by the State of SC

Policy number	Pol Form	10K Rider	8159 Rider	Actual Chgs Ltr	Policy status	Count	Count Active v Term	Comment
6515030351	C02	Yes	No	Yes	Active	1		
6511036510	528	Yes	No	Yes	Active	1		
6515036384	C01	Yes	No	Yes	Active	1		
6518028711	C02	Yes	No	Yes	Active	1		
6515113662	C02	No	Yes	Yes	Active	1		
6518027222	C02	Yes	No	Yes	Active	1		
6518041084	C02	Yes	No	Yes	Active	1		
6518080658	C01	Yes	No	Yes	Active	1		
6518021371	528	Yes	No	Yes	Active	1		
6518013414	C02	Yes	No	Yes	Active	1		
6518092057	C01	Yes	No	Yes	Active	1		
6518026892	C02	Yes	No	Yes	Active	1		
6515026541	C02	No	Yes	Yes	Active	1		
6518027004	C02	Yes	No	Yes	Active	1		
6515144129	C02	No	Yes	Yes	Active	1		
6515026995	C02	No	Yes	Yes	Active	1		
6515141552	C09	No	No	Yes	Active	1		
6515047100	C02	No	Yes	Yes	Active	1		
6515116931	C02	No	Yes	Yes	Active	1	19	Total Active
6515143735	C02	No	Yes	Yes	Terminated	1		
6515145444	C02	No	Yes	Yes	Terminated	1		
6515144845	C02	No	Yes	Yes	Terminated	1		
6511201793	C09	No	No	Yes	Terminated	1		
6518031328	C02	Yes	No	Yes	Terminated	1		
6515069849	C02	No	Yes	Yes	Terminated	1		
6515025684	C02	No	Yes	Yes	Terminated	1		
6515003531	C02	No	Yes	Yes	Terminated	1		
6511204333	C09	No	No	Yes	Terminated	1	9	Total Terminated
				Totals all		28	28	



Summary of Claims with Amounts Denied due to Actual Charges								Check Sum of columns D+F+G+H should equal column C
Policy Number	Policy Form Info	Total Billed	Amount Not Covered as over Actual Charges (Note 138)	Additional Liability if no reduction for Actual Charges	Amount Not covered -other reasons	Coinsurance Amount	Amount Paid	
6515003531	C02 W/8159 Revised	\$165,385.50	\$28,636.81	\$14,323.46	\$102,625.00	\$17,061.84	\$17,061.90	\$165,385.55
6515025684	C02 W/8159 Revised	\$163,329.32	\$65,583.15	\$32,907.21	\$45,207.00	\$26,017.97	\$26,521.20	\$163,329.32
6515069849	C02 W/8159 Revised	\$288,749.05	\$122,214.84	\$65,071.69	\$90,329.81	\$36,683.82	\$39,520.58	\$288,749.05
6515030351	C02 W/8228	\$554.56	\$236.49	\$236.49	\$154.56	\$0.00	\$163.51	\$554.56
6511036510	528 W/8229	\$711.00	\$21.81	\$21.81	\$486.00	\$0.00	\$203.19	\$711.00
6515036384	C01 W/8226	\$202.00	\$2.66	\$2.66	\$52.00	\$0.00	\$147.34	\$202.00
6515113662	C02 W/8159 Revised	\$1,349.50	\$579.89	\$579.89	\$579.50	\$0.00	\$190.11	\$1,349.50
6518028711	C02 W/8228	\$1,468.00	\$101.57	\$101.57	\$1,079.00	\$0.00	\$287.43	\$1,468.00
6518080658	C01 W/8226	\$13,917.00	\$5,419.36	\$758.02	\$6,175.00	\$0.00	\$2,322.64	\$13,917.00
6518021371	528 W/8229	\$41,543.00	\$5,298.07	\$5,298.07	\$30,642.00	\$0.00	\$5,602.93	\$41,543.00
6518092057	C01 W/8226	\$47,934.16	\$5,845.75	\$5,063.49	\$34,081.00	\$0.00	\$8,007.41	\$47,934.16
6518013414	C02 W/8228	\$18,864.00	\$3,312.82	\$3,312.82	\$8,864.00	\$0.00	\$6,687.18	\$18,864.00
6518026892	C02 W/8228	\$44,161.00	\$7,131.44	\$7,131.44	\$29,800.00	\$0.00	\$7,229.56	\$44,161.00
6515026541	C02 W/8159 Revised	\$75,948.00	\$33,088.56	\$16,544.29	\$25,172.00	\$8,843.71	\$8,843.73	\$75,948.00
6518027004	C02 W/8228	\$36,456.00	\$0.00	\$0.00	\$26,456.00	\$0.00	\$10,000.00	\$36,456.00
6515144129	C02 W/8159 Revised	\$63,201.60	\$19,901.58	\$10,165.07	\$21,831.60	\$10,348.48	\$11,119.94	\$63,201.60
6515026995	C02 W/8159 Revised	\$127,686.00	\$45,050.01	\$22,525.01	\$57,410.00	\$12,612.99	\$12,613.00	\$127,686.00
6515141552	C09 W/4718	\$93,800.68	\$51,216.24	\$35,478.35	\$2,467.00	\$20,058.72	\$20,058.73	\$93,800.69
6515047100	C02 W/8159 Revised	\$224,207.00	\$15,733.18	\$7,866.59	\$132,010.77	\$38,231.52	\$38,231.53	\$224,207.00
6515116931	C02 W/8159 Revised	\$707,221.75	\$144,064.57	\$72,032.29	\$391,542.01	\$85,807.46	\$85,807.71	\$707,221.75
6515143735	C02 W/8159 Revised	\$842.00	\$50.00	\$50.00	\$542.00	\$0.00	\$250.00	\$842.00
6515144845	C02 W/8159 Revised	\$17,753.00	\$13,156.42	\$6,358.91	\$3,630.00	\$425.49	\$541.09	\$17,753.00
6511201793	C09 W/4646	\$14,437.00	\$7,055.78	\$7,055.78	\$6,797.00	\$0.00	\$584.22	\$14,437.00
6518031328	C02 W/8228	\$106,439.20	\$16,719.76	\$13,771.11	\$80,123.00	\$0.00	\$9,596.44	\$106,439.20
6511204333	C09 W/4646	\$349,666.06	\$106,711.55	\$106,711.55	\$146,667.06	\$0.00	\$96,287.45	\$349,666.06
Totals		\$2,605,826.38	\$697,132.31	\$433,367.57	\$1,244,723.31	\$256,092.00	\$407,878.82	\$2,605,826.44

PENGAD 800-631-6989  
**DEPOSITION EXHIBIT**  
 3  
 11-19-12 mm



# South Carolina Department of Insurance

Capitol Center  
1201 Main Street, Suite 1000  
Columbia, South Carolina 29201

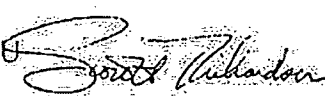
Mailing Address:  
P.O. Box 100105, Columbia, S.C. 29202-3105  
Telephone: (803) 737-6160

MARK SANFORD  
Governor

SCOTT H. RICHARDSON  
Director of Insurance

## BULLETIN NUMBER 2008-15

TO: All Life, Accident and Health Insurers Writing Supplemental Cancer and Other Specified Disease Policies

FROM: Scott H. Richardson, CPCU   
Director

SUBJECT: Compliance with S.C. Code Ann. § 38-71-242

DATE: August 28, 2008

### I. Background

Section 38-71-242 of the South Carolina Code became effective on June 4, 2008. That section provides:

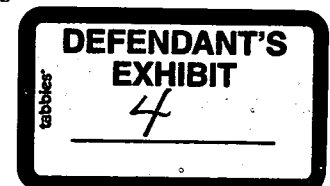
(A)(1) When used in any individual or group specified disease insurance policy in connection with the benefits payable for goods or services provided by any health care provider or other designated person or entity, the terms 'actual charge', 'actual charges', 'actual fee', or 'actual fees' shall mean the amount that the health care provider or other designated person or entity:

(a) agreed to accept, pursuant to a network or other agreement with a health insurer, third-party administrator, or other third-party payor, as payment in full for the goods or services provided to the insured;

(b) agreed or is obligated by operation of law to accept as payment in full for the goods or services provided to the insured pursuant to a provider, participation agreement, or supplier agreement under Medicare, Medicaid, or any other government administered health care program, where the insured is covered or reimbursed by such program; or

(c) if both subitems (a) and (b) of this subsection apply, the lowest amount determined under these two subitems; and

(2) must include any applicable deductibles, coinsurance requirements, or co-pay requirements applicable to the insured under any government administered health care program or any private primary health insurance coverage for the health care provider's goods or services provided to the insured.



(B) This section applies to any individual or group specified disease insurance policy issued to any resident of this State that contains the terms 'actual charge', 'actual charges', 'actual fee', or 'actual fees' and does not contain an express definition for the terms 'actual charge', 'actual charges', 'actual fee', or 'actual fees'.

(C) Notwithstanding any other provision of law, after the effective date of this section, an insurer or issuer of any individual or group specified disease insurance policy shall not pay any claim or benefits based upon an actual charge, actual charges, actual fee, or actual fees under the applicable policy in an amount in excess of the 'actual charge', 'actual charges', 'actual fee', or 'actual fees' as defined in this section.

This statute codifies the Department's longstanding interpretation of the term "actual charges" or similar wording in supplemental cancer policies. For many years, spanning the terms of three directors of insurance, the Department has consistently interpreted those terms to require insurers to pay benefits on an expense-incurred basis, and not to pay benefits to insureds in amounts greater than a medical provider agreed to accept as payment in full for services rendered to the insured.

Section 38-71-242 is based upon the same legal and public policy considerations upon which the Department has continuously relied in interpreting the term "actual charges" in supplemental disease policies. The statute embodies the basic principle of insurance, codified at S.C. Code Ann. § 38-1-20(19), that insurance is a contract of indemnification, and that an insured must suffer an actual out-of-pocket loss to receive payment of benefits. This construction of the term "actual charges" ensures that a few insureds and beneficiaries do not receive windfalls in the form of payments of benefits greater than sums actually paid to health care providers, either by insureds or beneficiaries, or by a primary health insurer. Such windfalls inevitably would cause premiums to increase exponentially for all and would restrict the availability and affordability of supplemental disease policies, to the detriment of the citizens of this state. Finally, the statute comports with the Department's consistent position that allowing payment of benefits in excess of amounts actually paid to health care providers creates opportunities for fraudulent conduct, such as deliberately inflating medical bills solely for the purpose of allowing an insured or beneficiary to collect greater benefits under a supplemental disease policy.

## II. Compliance With S.C. Code Ann. § 38-71-242

Unless expressly required to do so by a final judgment issued before June 4, 2008 by a court of competent jurisdiction, insurers that have issued supplemental cancer policies or other specified disease policy in this state containing the term(s) "actual charge," "actual charges," "actual fee," or "actual fees" and that do not contain an express definition of those terms may not pay any claim or any benefit in excess of the amount specified in S.C. Code Ann. § 38-71-242.

Every insurer licensed in this state that has issued a supplemental cancer policy or other specified disease policy subject to the provisions of S.C. Code Ann. § 38-71-242 shall transmit a notice, in a form approved by the Department, to the named insured or beneficiary of each such policy informing him or her of the content of S.C. Code Ann. § 38-71-242.

### III. Questions

Questions should be directed to the attention of Carla Griffin @ [cgriffin@doi.sc.gov](mailto:cgriffin@doi.sc.gov) or (803) 737-6230.<sup>1</sup>

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<sup>1</sup> Bulletins are the method by which the Director of Insurance formally communicates with persons and entities regulated by the Department. Bulletins are departmental interpretations of South Carolina insurance laws and regulations and provide guidance on the Department's enforcement approach. Bulletins do not provide legal advice. Readers should consult applicable statutes and regulations or contact an attorney for legal advice or for additional information on the impact of that legislation on their specific situation.



August 21, 2008

DIANE A KIRVEN

SIMPSONVILLE SC 29681

Re:

Policy No.: 6515069329

Dear Ms. Kirven:

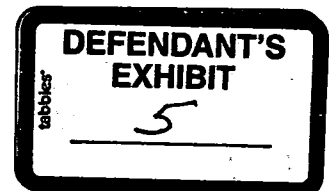
Some of the benefits provided under your supplemental Cancer and Specified Disease policy are based on actual charges. Effective June 4, 2008 the state of South Carolina approved legislation, Section 38-71-242 (the "Act"), concerning the definition of the term "actual charges" in specified disease policies. Under the Act, the term "actual charges" means:

- "the amount that the health care provider or other designated person or entity:
- (a) agreed to accept, pursuant to a network or other agreement with a health insurer, third-party administrator, or other third-party payor, as payment in full for the goods or services provided to the insured;
  - (b) agreed or is obligated by operation of law to accept as payment in full for the goods or services provided to the insured pursuant to a provider, participation agreement, or supplier agreement under Medicare, Medicaid, or any other government administered health care program, where the insured is covered or reimbursed by such program; or
  - (c) if both subitems (a) and (b) of this subsection apply, the lowest amount determined under these two subitems;"

The Act also states that an insurer shall not pay benefits in excess of the "actual charges" as defined above. This definition applies to those individual or group specified disease insurance policies issued to South Carolina residents that do not contain an express definition for the term "actual charges."

Going forward, any claims submitted for expenses incurred on or after June 4, 2008 will be paid in accordance with South Carolina law. In many cases pharmacy receipts or print-outs provide us with the information we need to process pharmacy claims. If additional information is needed to process your claim such as Explanation of Benefits statements from your primary insurance carrier, we will let you know.

P.O. Box 34952 • Omaha, NE 68134  
Toll Free: (800) 554-0092



DEF 0245

Please do not hesitate to contact us if you have any questions concerning this.

Sincerely,

Benefit Services

P.O. Box 34952 • Omaha, NE 68134  
Toll Free: (800) 554-0092

DEF 0246



March 24, 2010

DIANE A KIRVEN  
SIMPSONVILLE, SC 29681

CLAIMANT: KIRVEN, DIANE A  
CLAIM NO: 2003016825  
POLICY NO: 6515069329

Dear Ms. Kirvin:

We have reviewed this claim but need additional information to complete the claim.

Please submit copies of the Explanation of Benefits (EOB) statements from your primary insurance carrier for the February 2010 chemotherapy charges. We are also still in need of the EOB for the 12/2/09 chemotherapy charges.

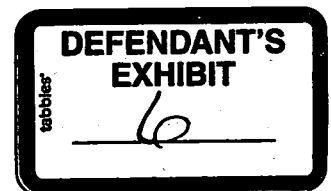
We would like to thank you in advance for the requested information. Our Customer Service Representatives are available to assist you during normal business hours. You may reach them at the toll-free number shown below.

Sincerely,

Elizabeth Eckley, ACS, FLHC  
Senior Health Claims Examiner  
Benefit Services

EAEA

P.O. Box 34952 • Omaha, NE 68134  
Toll Free: (800) 554-0092



DEF 0052



April 23, 2010

DIANE A KIRVEN

SIMPSONVILLE, SC 29681

CLAIMANT: KIRVEN, DIANE A  
CLAIM NO: 2003016825  
POLICY NO: 6515069329

Dear Ms. Kirvin:

We requested information needed to consider this claim. To date, we have not received it. The information needed includes:

A copy of the Explanation of Benefits statement from your primary insurance for the February 2010 chemotherapy charges.

Please submit the information requested above as soon as possible. A self-addressed envelope is enclosed for your convenience.

Although we won't request this information again, if you submit it within the policy's time restrictions, your claim will be promptly handled.

Our Customer Service Representatives are available to assist you during normal business hours. You may reach them at the toll-free number shown below.

Sincerely,

Elizabeth Eckley, ACS, FLHC  
Senior Health Claims Examiner  
Benefit Services

EAEA

P.O. Box 34952 • Omaha, NE 68134  
Toll Free: (800) 554-0092

DEF 0053



June 28, 2010

DIANE A KIRVEN  
SIMPSONVILLE, SC 29681

CLAIMANT: KIRVEN, DIANE A  
CLAIM NO: 2003016825  
POLICY NO: 6515069329

Dear Ms. Kirven:

We have reviewed this claim but need additional information to complete the claim.

Please submit a copy of the Explanation of Benefits statement from your primary insurance for the May 2010 radiation treatment.

We would like to thank you in advance for the requested information. Our Customer Service Representatives are available to assist you during normal business hours. You may reach them at the toll-free number shown below.

Sincerely,

Elizabeth Eckley, ACS, FLHC  
Senior Health Claims Examiner  
Benefit Services

EAEA

P.O. Box 34952 • Omaha, NE 68134  
Toll Free: (800) 554-0092

DEF 0054



July 15, 2010

DIANE A KIRVEN

SIMPSONVILLE, SC 29681

CLAIMANT: KIRVEN, DIANE A  
CLAIM NO: 2003016825  
POLICY NO: 6515069329

Dear Ms. Kirven:

We have reviewed this claim but need additional information to complete the claim.

Please submit copies of the Explanation of Benefits (EOB) statements from your primary insurance carrier for the March 2010 chemotherapy charges. Please note that all other chemotherapy and radiation charges from December 2009 through May of 2010 are also pending for the corresponding EOB statements, which we have requested from you but have not yet received.

We would like to thank you in advance for the requested information. Our Customer Service Representatives are available to assist you during normal business hours. You may reach them at the toll-free number shown below.

Sincerely,

Elizabeth Eckley, ACS, FLHC  
Senior Health Claims Examiner  
Benefit Services

EAEA

P.O. Box 34952 • Omaha, NE 68134  
Toll Free: (800) 554-0092

DEF 0055



August 16, 2010

DIANE A KIRVEN

SIMPSONVILLE, SC 29681

CLAIMANT: KIRVEN, DIANE A

CLAIM NO: 2003016825

POLICY NO: 6515069329

Dear Ms. Kirven:

We requested information needed to consider this claim. To date, we have not received it. The information needed includes:

Copies of the Explanation of Benefits statements from your primary insurance carrier for the December 2009 through May 2010 chemotherapy and radiation charges.

Please submit the information requested above as soon as possible. A self-addressed envelope is enclosed for your convenience.

Although we won't request this information again, if you submit it within the policy's time restrictions, your claim will be promptly handled.

Our Customer Service Representatives are available to assist you during normal business hours. You may reach them at the toll-free number shown below.

Sincerely,

Elizabeth Eckley, ACS, FLHC  
Senior Health Claims Examiner  
Benefit Services

EAEA

P.O. Box 34952 • Omaha, NE 68134  
Toll Free: (800) 554-0092

DEF 0056

THE STATE OF SOUTH CAROLINA  
In the Supreme Court

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QUESTIONS OF LAW CERTIFIED FROM  
DISTRICT OF SOUTH CAROLINA

By Order of The Honorable Margaret B. Seymour,  
District Court Judge for the District of South Carolina

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Appellate Case No: 2013-000273

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Diane Kirven, on behalf of herself and all others similarly situated, ..... Plaintiff,

v.

Central States Health & Life Company of Omaha and Philadelphia  
American Life Insurance Company ..... Defendants.

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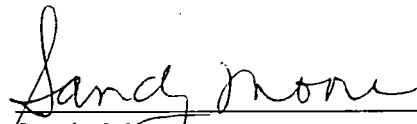
PROOF OF SERVICE

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I, Sandy Moore, the undersigned employee of Gallivan, White & Boyd, P.A.,  
attorneys for the Defendants, do hereby certify that I have served a copy of the foregoing  
**Appendix of Exhibits**, in connection with the above-referenced case by hand-delivering  
a copy of same on June 6, 2013 to the following addresses:

Richard A. Harpootlian  
Graham L. Newman  
M. David Scott  
Richard A. Harpootlian, P.A.  
1410 Laurel Street  
Columbia, SC 29201

Tobias G. Ward, Jr.  
Tobias G. Ward, Jr., P.A.  
6 Calendar Court, Suite 3  
Columbia, South Carolina 29206

  
Sandy Moore

Columbia, South Carolina