

# PRESS RELEASE

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### **State Insurance Department Penalizes American Community for Numerous Regulatory Violations; Directs Insurer to Clarify Policy Language Regarding Pre-existing Conditions**

The Arizona Department of Insurance has issued a consent order against American Community Mutual Insurance Company, in which the insurer admits to numerous regulatory violations and agrees to pay a \$130,000 penalty.

In addition to the market conduct consent order, American Community agreed to amend its policies to replace ambiguous pre-existing condition exclusions with new language clarifying and enhancing its coverage of pre-existing conditions.

Arizona Insurance Director Charles R. Cohen said his approval of American Community's amendment with the new language on pre-existing conditions should provide consumers with more certainty about what coverage they are entitled to. It should also eliminate the opportunity for American Community to engage in post-claim underwriting -- a practice of deciding what will be covered by a policy after a claim is made, Cohen said.

The former language described a pre-existing condition as "an illness or disease that first appeared (made itself known) within 60 months before the Effective Date of a Family Member's coverage under this policy."

"The old language was ambiguous and open to multiple interpretations when claims were filed," Cohen said. "With these changes, consumers should have a clear understanding of what is covered and what is not. It can be financially and emotionally ruinous to learn after the fact that your insurance policy will not cover a specific medical condition."

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Cohen continued: "After the Insurance Department analyzed complaints received from American Community policyholders, the results of our market conduct examination, and media accounts of the insurer's application of its pre-existing condition exclusion, it was apparent that the policy language was ambiguous. The Department instructed the company to change the definition of pre-existing condition in current and future policies. American Community did not object. It cooperated."

The new language states: "Pre-existing condition means a medical condition not fully disclosed on the application, for which, prior to the effective date of coverage:

- "The family member received medical advice or treatment from a physician within 60 months before the effective date of the family member's coverage under this policy; or
- "Symptoms existed which could cause an ordinarily prudent person to seek diagnosis, care or treatment within 60 months before the effective date of the family member's coverage under this policy."

American Community advised the Insurance Department it will send a letter and an amendment revising the pre-existing condition provisions to all current policyholders. The new language is retroactive to June 11. All new policies will have the new language incorporated in them.

Regarding the consent order, based on the findings of the Insurance Department's Market Conduct Division, American Community was ordered to pay 10 percent interest to 199 claimants, re-open two claims and pay the amounts owed, plus interest, and pay a civil penalty of \$130,000 to the state. The Market Conduct Division examined more than 2,400 American Community claims and underwriting files. It is not currently known how much restitution will be paid to policyholders.

American Community was ordered to take a series of corrective measures regarding its failure to:

- Complete the investigation of claims within 30 days.
- Give applicants and insured specific reasons for adverse decisions.
- Use a consent form approved by the insurance director to obtain permission from insureds and applicants to conduct an HIV-related test.
- Pay interest on claims not paid within 30 days of receipt of proof of loss.
- Delete exclusion riders that conflict with state law.
- Respond to inquiries from the Insurance Department within 15 days.
- Disclose to employers information regarding rating practices and rate changes.

Twenty-two specific orders were lodged against American Community. Cohen, who signed the consent order on June 10, 1999, said many of the directives contained in the consent order may have already been addressed by the company. Some of the same issues raised in the consent order were contained in an earlier consent order that resulted from a previous market conduct examination.