

**GOVERNMENT OF THE DISTRICT OF COLUMBIA  
DEPARTMENT OF INSURANCE, SECURITIES AND BANKING**

IN THE MATTER OF:

Senior Health Insurance Company  
of Pennsylvania (In Rehabilitation),

Respondent.

Case No.: IB-CD-1-22

**SUMMARY CEASE AND DESIST ORDER**

Pursuant to D.C. Official Code § 31-233, the Commissioner of the Department of Insurance, Securities and Banking hereby issues this summary cease and desist order against Senior Health Insurance Company of Pennsylvania (“SHIP”) after determining based on knowledge and belief that SHIP is engaging or is about to engage in conduct prohibited by Chapters 1-55, of Title 31, and any implementing rule thereunder, and that immediate action is in the public interest. The predicate for this administrative action is set forth below.

1. SHIP is a Pennsylvania-domiciled life and health insurance company that became authorized to issue long-term care insurance (“LTC”) policies in the District as a foreign insurer beginning in 1986 (NAIC Company Code 76325).

2. Beginning in 1995, SHIP has filed three requests for premium rate increases for its LTC policies issued in the District. SHIP’s 1995 filing for a 12% increase was approved, its 1998 filing for a 16% increase was approved, and its 2003 filing for a 25% increase was denied. SHIP has not submitted any further

rate filings with the Department since 2003.

3. In recent years, SHIP experienced financial distress and faced the possibility of insolvency.

4. On January 29, 2020, upon the application of Jessica Altman, the Commissioner of Insurance for the Commonwealth of Pennsylvania, the Commonwealth Court of Pennsylvania, in suit number 1 SHP 2020, entered an Order of Rehabilitation placing SHIP into rehabilitation in accordance with the provisions of Pennsylvania law.

5. The Order of Rehabilitation appointed Commissioner Altman and her successors in office as statutory rehabilitator of SHIP pursuant to the provisions of 40 P.S. §§ 221.14 – 221.18, and required the Rehabilitator to prepare a plan of rehabilitation. Commissioner Altman appointed Patrick Cantilo as Special Deputy Rehabilitator, with the power to act on the Rehabilitator's behalf.

6. SHIP currently has 5 in force policies issued in the District and subject to District law, with the average age of the District policyholders being 84 years-old.

7. On April 22, 2020, the Rehabilitator filed her Application for Approval of the Plan of Rehabilitation for SHIP and contemporaneously filed a Rehabilitation Plan.

8. The Rehabilitation Plan was approved by a Memorandum Opinion and Order of the Pennsylvania Commonwealth Court on August 24, 2021, as amended on November 4, 2021.

9. State insurance regulators from Massachusetts, Maine and

Washington intervened in rehabilitation proceedings and appealed the Order approving Rehabilitation Plan to the Pennsylvania Supreme Court (Middle District), No. 71 MAP 201. Approximately, 24 state insurance regulators, including the undersigned, have requested leave to support the intervening regulators as amici curie. The appeal remains pending before the Pennsylvania Supreme Court.

10. In late-January 2022, the Rehabilitator filed for approval by the Commissioner proposed premium rates for the District policyholders, which have been designated by the Rehabilitator as the “If Knew Premium Rates”. Pursuant to the Rehabilitation Plan, the District, which elected to “Opt-Out” of the Rehabilitation Plan while reserving all rights, is being forced to review SHIP’s proposed “If Knew Premium Rates” that have an average premium increase of 425%. If approved, the District policyholders will be mailed a “Coverage Election Package” for the “Opt-In” states that advises them of five policy options to select from that includes some combination of premium increases and/or benefit reductions, as well as a non-forfeiture option. Conversely, if SHIP’s proposed “If Knew Premium Rates” are denied, either in whole or in part, the District policyholders will be mailed a “Coverage Election Package” for “Opt-Out” states advising them of four policy options that are inferior to the “Opt-In” options that includes another combination of premium increases and/or benefit reductions, as well as a non-forfeiture option.

11. Pursuant to the Rehabilitation Plan, District policyholders will be required to complete and return their election forms by mid-March 2022.

12. On February 2, 2022, the Rehabilitation Court approved the proposed premium rate plan and methodology established by Rehabilitator Plan that will be used by SHIP nationwide, including in the District.

13. Notwithstanding SHIP's "If Knew Premium Rate" filing submitted to the District, SHIP's rate plan and methodology established by the Rehabilitation Plan and approved by the Rehabilitation Court for the five "Opt-In" and four "Opt-Out" premium and benefit options from which policyholders, including District policyholders, are to select, has not, in its entirety with the accompanying "Coverage Election Packages" it intends to use, been filed with the District for review and approval under the District's LTC rate and form filing requirements.

14. The Rehabilitator has set a deadline of February 15, 2022, for the Commissioner to approve SHIP's "If Knew Premium Rate" filing. According to the Rehabilitation Plan, if the Commissioner does not approve SHIP's rate filing by February 15, then "Coverage Election Packages" will be mailed to the District policyholders, whereby they will be asked to select from the four "Opt-Out" options. Without complying with the District's rating filing requirements for long-term care policies, SHIP will be using insurance rates and forms that have not been approved; and consequently, will be relying on the Rehabilitation Court's approval of the Rehabilitation Plan and SHIP's rating plan and methodology filed with the Court, rather than the District's, to set rates and benefits for District policyholders.

15. Further, in addition to the pending appeal of the order approving the Rehabilitation Plan before the Pennsylvania Supreme Court, injunctions and

administrative cease and desist orders have been issued against SHIP, enjoining the Rehabilitator from implementing the Rehabilitation Plan, in South Carolina, Louisiana, North Dakota and Maine upon findings that the insurance regulator challenges to the Rehabilitation Plan demonstrated a likelihood of success on the merits and that relief was necessary to prevent irreparable harm. In each proceeding, SHIP and the Rehabilitator were named as parties.

16. In this context, the Rehabilitator is requiring District policyholders to make final and binding coverage elections under a cloud of legal risk that creates the potential for the disruption of the delivery of medical services. Moreover, the rate increases and reductions in benefits will have a permanent adverse effect on policyholders' guaranty association benefits in the event SHIP is placed into liquidation at a later date, which is likely given the uncertainty and necessity of additional rounds of rate increases and benefit reductions built into the multi-phased Rehabilitation Plan and SHIP's previous track-record. Even the Special Deputy Rehabilitator has conceded that restoring SHIP to solvency is unlikely.

17. Based on the foregoing predicate, there is substantial cause to believe that SHIP is transacting insurance business in the District in a manner that is causing or is reasonably expected to cause significant, imminent, and irreparable injury to District policyholders, including in violation of the following District laws and regulations:

18. The business of insurance in the District is regulated pursuant to Chapters 1 – 55, of Title 31, of the D.C. Official Code.

19. Pursuant to D.C. Official Code § 31-233, the Commissioner is

authorized to issue a summary cease and desist order against any person that is engaging or is about to engage in conduct prohibited by Chapters 1 – 55, of Title 31.

20. Pursuant to D.C. Official Code § 31-4712, every life insurance company shall file with the Commissioner for approval the classification of risks and the premium rates appertaining thereto, and policy forms.

21. Pursuant to D.C. Official Code §§ 31-2231 *et seq.*, no person shall engage in an unfair or deceptive act or practice in the business of insurance in the District.

22. Pursuant to D.C. Official Code §§ 31-2231.03, no person shall make, issue, circulate, or cause to be made, issued or circulated, an estimate, illustration, circular or statement, sales presentation, omission, or comparison that: (1) Misrepresents the benefits, advantages, conditions, or terms of a policy.

23. Pursuant to D.C. Official Code §§ 31-2231.04, no person shall make, publish, disseminate, circulate, or place before the public, or cause, directly or indirectly, to be made, published, disseminated, circulated, or placed before the public, in a newspaper, magazine, or other publication, or in a notice, circular, pamphlet, letter, or poster, or over a radio or television station, or in any other way, an advertisement, announcement, or statement containing an assertion, representation, or statement with respect to the business of insurance or with respect to an insurer in the conduct of its insurance business which is untrue, deceptive, or misleading.

**WHEREFORE**, it is so Ordered this 15th day of February 2022 that SHIP and any of its principles, agents, employees, successors, and assigns are directed to cease and desist from implementing the Rehabilitation Plan in the District or otherwise interfering with the rights of SHIP's District policyholders or violating the insurance laws and regulations of the District, including by mailing "Coverage Election Packages" and notifying District policyholders of proposed rate or benefit modifications SHIP intends use in place of the policyholders' existing rates and benefits, none of which has been authorized by the Commissioner.

**WHEREFORE**, it is further Ordered that for the duration of this cease and desist order, SHIP shall continue to abide by the current policy terms, benefits and premium levels for District policyholders in effect prior to February 15, 2022.

This Order does not prohibit SHIP from curing any of its form or rate filing deficiencies or from obtaining the approval thereof.

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Karima M. Woods  
Commissioner  
Department of Insurance, Securities and Banking

## **NOTICE OF RIGHT TO REQUEST A HEARING**

Pursuant to D.C. Official Code § 31-233(b)(2), the Respondent has fifteen (15) calendar days from the date of receipt of this notice to request a hearing to determine whether the proposed action should be taken. If a hearing is requested, the Commissioner, or a designee, shall hold the hearing within thirty (30) days after the date the Commissioner receives your request. If a request for a hearing is not received by the Department within fifteen (15) days from the date of receipt of this notice, the Respondent's right to a hearing will be deemed waived and a final order may be issued.

In addition, pursuant to 26A DCMR §§ 3804.8 – 3804.11, the Respondent has ten (10) business days from the date of receipt of this notice to file a written answer. The answer should be made in writing, and shall admit, deny or admit with an explanation each charge and specification alleged. If an answer is not timely filed, the summary cease and desist order may be entered as final.

Your request for a hearing should be made in writing and addressed to Ms. Sharon Shipp, Deputy Commissioner, Department of Insurance, Securities and Banking, 1050 First Street, NE, Suite 801, Washington, DC 20002.

## **CONDUCT OF HEARING**

If a hearing is requested, the hearing will be governed in accordance with the 26A DCMR §§ 3800 – 3819; and section 10 of the District of Columbia Administrative Procedure Act, D.C. Official Code § 2-509. The Respondent may appear personally or may be represented by legal counsel. The Respondent will have the right to produce witnesses and evidence on your behalf, and to cross-examine witnesses. The strict rules of evidence will not govern the administrative hearing. The Hearing



Officer shall have authority to administer oaths to witnesses.

Anyone testifying falsely after having been administered such an oath shall be subject to the penalties of perjury. Oral or documentary evidence may be received at the hearing. However, the Hearing Officer shall exclude irrelevant, immaterial, and unduly repetitious evidence. Every party shall have the right to present in person or by counsel his or her case and defenses by oral and documentary evidence, to submit rebuttal evidence, and to conduct such cross-examination as may be required for full and true disclosure of the facts.

No motion for a continuance will be granted unless good cause is shown in writing to the Hearing Officer and is made no later than five (5) days prior to the hearing date. Correspondence requesting a continuance should be directed to the Hearing Officer. A copy of any pleading or other written communication addressed to the Department of Insurance, Securities and Banking in this matter should also be sent to the attorney of record for the Department.

If the Respondent, any corporate officer, or any witness to be called, are deaf or because of a hearing impediment cannot readily understand or communicate the spoken English language, the Respondent or the witness may apply to the Department for the appointment of a qualified interpreter. In addition, if Respondent or any witnesses to be called require any other special accommodations, please contact the Hearing Officer at least five (5) business days prior to the hearing.

**CERTIFICATE OF SERVICE**

I hereby certify that on February 15, 2022, I caused a copy of the foregoing Summary Cease and Desist Order to be sent by certified mail to:

Jessica K. Altman  
Rehabilitator

Patrick H. Cantilo  
Cantilo & Bennett, L.L.P.  
Special Deputy Rehabilitator

Senior Health Insurance Company  
of Pennsylvania (In Rehabilitation)  
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/s/Adam Levi  
Adam Levi