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## **DEPARTMENTAL GUIDELINES AND REQUIREMENTS FOR APPROVAL OF BINDING ARBITRATION PROVISIONS IN INSURANCE POLICIES**

In view of the United States Fifth Circuit Court of Appeals ruling in American Heritage Life Insurance Company, et al. v. Orr, et al., 2002 WL 1306188 (5th Cir. Miss.), and to ensure that insurance consumers in the State of Mississippi are adequately protected, it is the purpose of this document to set forth certain internal guidelines and requirements which must be met in order for the Mississippi Department of Insurance ("Department") to approve policy filings containing binding arbitration provisions. The Department will approve the use of binding arbitration provisions in insurance policies, subject to the following guidelines and requirements:

1. A binding arbitration provision must be set forth in either the policy or on a separate endorsement. The arbitration provision must be displayed in at least 12 point type, capitalized and in bold print.
2. At the time an applicant applies for a policy containing a binding arbitration provision, the applicant must sign an arbitration disclosure form furnished by the insurer which notifies the applicant that the policy contains an arbitration provision. The arbitration disclosure may appear on the policy application or may be a separate document, and if a part of the application, must be displayed in at least 12 point type, capitalized and in bold print. The arbitration disclosure must appear in plain English and, at a minimum, must contain the following information:
  - a. The policy contains a binding arbitration provision.
  - b. The arbitration provision requires all disputes related to the policy to be resolved by arbitration and not in a court of law.
  - c. The results of any arbitration proceeding are generally final and binding on both the insured and the insurer.
  - d. In an arbitration proceeding, one or more arbitrators, who are independent, neutral decision makers, render a decision after hearing the positions of the parties.
  - e. When an insured accepts a policy containing a binding arbitration provision, the insured agrees to resolve any dispute related to the policy by binding arbitration instead of a trial in court, including a trial by jury.
  - f. Binding arbitration generally takes the place of resolving disputes by a judge and jury.

- g. An insured needing additional information regarding the binding arbitration provision in the policy may contact our toll free assistance line at (insert toll-free number).
- h. The insured will have 5 days from and after delivery of the policy to the insured to reject the policy if he/she does not want to accept the requirement for arbitration.

Use by an insurer of the form attached hereto as Exhibit "A" will satisfy the arbitration disclosure requirements set forth above. Arbitration disclosures, whether appearing as a part of the application or as a separate document, must be filed with and approved by the Department prior to use.

- 3. An arbitration disclosure, in the form attached hereto as Exhibit "B", must be provided at the inception of coverage to the certificateholder covered under a group or blanket insurance policy or group annuity contract. Additionally, an arbitration provision appearing in a group or blanket policy or contract must also be set forth in any plan booklets or certificates issued to the certificateholder.
- 4. The arbitration provision in the policy must either set forth or reference the rules that will govern any arbitration proceedings.
- 5. The arbitration provision in the policy must provide a toll free number insureds may call to receive additional information regarding binding arbitration. Upon request, an insurer must make available to an insured, at no charge, a copy of the rules that will govern any arbitration proceedings.
- 6. The arbitration provision in the policy must clearly state the extent to which any arbitration award is subject to judicial review.
- 7. The arbitration provision in the policy must state how the costs of any arbitration proceeding will be divided. At a minimum, an insurer must pay all costs of arbitration, except that each party must bear the cost of its own attorneys, experts and witness fees and expenses, unless the arbitrator(s) holds that a party is entitled to recover attorneys fees and other fees and expenses based upon applicable law. An arbitration provision may provide that if a party makes a request for a panel of three arbitrators, the party making such request shall pay the fees of those additional arbitrators.
- 8. The arbitration provision in the policy must require that all arbitration proceedings be conducted in the county of residence of the insured unless another location is mutually agreed upon by both parties.
- 9. The arbitration provision in the policy must require that arbitration proceedings commence within a fixed time after the first notification by one party to the other of an election to arbitrate a dispute.

**IMPORTANT NOTICE ABOUT THE  
POLICY OF INSURANCE FOR WHICH YOU  
HAVE APPLIED**

**THIS DOCUMENT AFFECTS YOUR LEGAL RIGHTS**

**READ THE FOLLOWING INFORMATION CAREFULLY.**

1. The policy for which you have applied includes a binding arbitration agreement.
2. The arbitration agreement requires that any dispute related to this policy must be resolved by arbitration and not in a court of law.
3. The results of the arbitration are final and binding on you and the insurance company.
4. In an arbitration, one or more arbitrators, who are independent, neutral decision makers, render a decision after hearing the positions of the parties.
5. When you accept this insurance policy you agree to resolve any dispute related to the policy by binding arbitration instead of a trial in court, including a trial by jury.
6. Binding arbitration generally takes the place of resolving disputes by a judge and jury.
7. Should you need additional information regarding the binding arbitration provision in the policy, you may contact our toll free assistance line at (insert toll-free number).

**ACKNOWLEDGEMENT OF ARBITRATION AGREEMENT**

I have read this statement. I understand that I am voluntarily surrendering my right to have any dispute between the insurance company and myself resolved in court. This means I am waiving my right to a trial by jury.

I understand that upon receipt of the policy, I should read the arbitration clause contained in the policy and that I have the right to reject this policy within five (5) days of the date of delivery if I do not want to accept the requirement for arbitration.

I understand that this same type of insurance may be available through an insurance company that does not require that policy related disputes be resolved by binding arbitration.

\_\_\_\_\_  
Applicant/Insured

\_\_\_\_\_  
Date

\_\_\_\_\_  
Time

\_\_\_\_\_  
Agent

\_\_\_\_\_  
Date

\_\_\_\_\_  
Time



# **IMPORTANT NOTICE ABOUT YOUR INSURANCE COVERAGE**

## **THIS DOCUMENT AFFECTS YOUR LEGAL RIGHTS**

### **READ THE FOLLOWING INFORMATION CAREFULLY.**

1. The group or blanket policy under which you are covered includes a binding arbitration agreement.
2. The arbitration agreement requires that any dispute related to your insurance coverage must be resolved by arbitration and not in a court of law.
3. The results of the arbitration are final and binding on you and the insurance company.
4. In an arbitration, one or more arbitrators, who are independent, neutral decision makers, render a decision after hearing the positions of the parties.
5. When you become a certificateholder under this insurance policy you must resolve any dispute related to the policy by binding arbitration instead of a trial in court, including a trial by jury.
6. Binding arbitration generally takes the place of resolving disputes by a judge and jury.
7. Should you need additional information regarding the binding arbitration provision in the policy, you may contact our toll free assistance line at (insert toll-free number).