

BEFORE THE IOWA INSURANCE COMMISSIONER

IN THE MATTER OF)	Division Case No. 103556
)	
EHEALTH INSURANCE SERVICES, INC.,)	ORDER AND
)	CONSENT TO ORDER
NPN 2971515,)	
BEP 1001002273,)	
)	
Respondent.)	

COMES NOW the Iowa Insurance Division (“Division”) and pursuant to the provisions of Iowa Code chapter 507B—Insurance Trade Practices, Iowa Code chapter 522B—Licensing of Insurance Producers, Iowa Administrative Code chapter 15—Unfair Trade Practices, and Iowa Administrative Code chapter 37—Medicare Supplement Insurance Minimum Standards, states the following:

I. PARTIES AND JURISDICTION

1. The Commissioner of Insurance, Douglas M. Ommen, directly and through his designees, administers and enforces Iowa Code chapter 507B—Insurance Trade Practices, Iowa Code chapter 522B—Licensing of Insurance Producers, Iowa Administrative Code chapter 15—Unfair Trade Practices, and Iowa Administrative Code chapter 37—Medicare Supplement Insurance Minimum Standards, pursuant to Iowa Code § 505.8.
2. eHealthInsurance Services, Inc. (“Respondent”) is a business entity with a last-known mailing address of 2625 Augustine Drive, 2nd Floor, Santa Clara, CA 95054.
3. Respondent is and has been licensed in the state of Iowa as a business entity insurance producer since June 12, 2003. Respondent is licensed under National Producer Number 2971515 and BEP license number 1001002273.
4. Pursuant to Iowa Code § 505.28, Respondent has consented to the jurisdiction of the Commissioner of Insurance by committing acts governed by chapters 507B and 522B.

5. From about January 1, 2018 to October 19, 2018, Respondent engaged in acts and practices within the state of Iowa subjecting Respondent to corrective action by the Commissioner pursuant to Iowa Code chapters 505, 507B, 522B, and rules adopted pursuant to these chapters.

6. Respondent knowingly and voluntarily enters into this Order. Respondent neither admits nor denies the findings of fact found herein and denies that it has engaged in any unlawful acts or practices; Respondent's consent to this Order is not an admission of liability.

II. FINDINGS OF FACT

7. Respondent applied for a business entity insurance producer license with the Division by submitting through the National Insurance Producer Registry a Uniform Application for Business Entity Producer License (“Uniform Application”). In submitting the Uniform Application, Respondent designated the Commissioner as an agent for service of process.

8. The Division issued Respondent a license as a business entity insurance producer on June 12, 2003 and assigned to it National Producer Number 2971515 and BEP license number 1001002273.

9. Respondent is an insurance producer that markets supplemental Medicare insurance plans and is not endorsed or connected with the federal government’s programs.

10. The logo Respondents used in Iowa from January 1, 2018 through October 19, 2018, was similar to the federal government’s logo for Medicare.gov.

11. Respondent sent approximately 78,800 mailers to Iowa consumers from the period of January 1, 2018 to October 19, 2018. These mailings displayed the logo for Medicare.com on the envelope.

12. Respondent sent eight variations of their mailers to Iowa consumers.

13. The mailers sent to Iowa consumers failed to include sufficiently prominent statements at the beginning of the mailers that Respondent was not in any manner connected with the federal government or the federal Medicare program.

14. Many of the consumers the Division spoke with in its investigation stated that they thought that Respondent was a government entity or that the Respondent was affiliated with the federal government in some way.

15. On April 1, 2019, Respondent entered into a Consent Order with the Minnesota Department of Commerce. Respondent was assessed a civil penalty of \$50,000.

16. Respondent has now remedied its past advertising and marketing practices based on the facts stated herein. Respondent has taken the necessary steps to communicate clearly to consumers that Respondent is a private insurance company and not affiliated with the federal government.

17. The Respondent cooperated fully with the Division as part of its investigation.

III. CONCLUSIONS OF LAW

COUNT ONE
Improper Advertising

18. Iowa Administrative Code chapter 15—Unfair Trade Practices establishes certain minimum standards and guidelines of conduct by identifying unfair methods of competition and unfair or deceptive acts or practices in the business of insurance, as prohibited by Iowa Code chapter 507B.

19. Under Iowa Administrative Code rule 191— 15.3(9)(b), “No advertisement shall use any combination of words, symbols, or physical materials which by its content, shape, phraseology, color or other characteristics is so similar to combination of words, symbols, or physical materials used by a municipal, state or federal agency that it would lead a reasonable individual

to believe that the advertisement is approved, endorsed or accredited by the agency of the municipal, state or federal government.”

20. From January 1, 2018 through October 19, 2018, Respondent sent out approximately 78,800 mailers to Iowa consumers.

21. Respondent’s mailers displayed symbols and combinations of words similar enough to those used by a government program that a reasonable consumer could believe the advertisements were affiliated with a government program or agency.

22. Respondent’s acts and practices have been in violation of Iowa Code § 507B and Iowa Administrative Code rule 191—15.3(9)(b) subjecting Respondent to corrective action by the Commissioner pursuant to Iowa Code §§ 507B.7, 505.8, and Iowa Administrative Code rule 191—15.14.

V. ORDER

WHEREFORE, IT IS ORDERED pursuant to the powers granted to the Commissioner of Insurance by Iowa Code chapter 507B:

- A. Respondent shall cease and desist from engaging in acts or practices that would violate Iowa Administrative Code rule 191—15.3(9)(b), pursuant to Iowa Code § 507B.7;
- B. Respondents shall pay a civil penalty to the state of Iowa in the amount of \$5,000 due within 14 days of this Order, payable to the Iowa Insurance Division, to be credited to the Iowa Enforcement Fund, to provide funds for insurance enforcement and education pursuant to Iowa Code §§ 505.8, 507B.7;
- C. These orders may be enforced under Iowa Code chapters 507B, and 522B, including but not limited to Iowa Code §§ 507B.8, 522B.17(3), and additionally, by any

collection remedies available to the State of Iowa Department of Revenue for unpaid penalties and other ordered monetary amounts.



DOUGLAS M. OMMEN
Iowa Insurance Commissioner

Respectfully submitted,

/s/ Adam J. Kenworthy

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ATTORNEYS FOR RESPONDENT



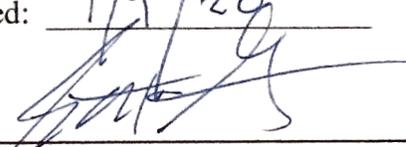
NOTICE OF PENALTIES FOR WILLFUL VIOLATION OF THIS ORDER

YOU ARE NOTIFIED that if you violate this Order, you may be subject to administrative and civil penalties pursuant to Iowa Code § 507B. The Commissioner may petition the district court to hold a hearing to enforce the order as certified by the Commissioner. The district court may assess a civil penalty against you in an amount not less than three thousand dollars but not greater than ten thousand dollars for each violation, and may issue further orders as it deems appropriate.

CONSENT TO ORDER AND AGREEMENT

I, _____, Scott Giesler, as authorized agent for Respondent, EHEALTHINSURANCE SERVICES, INC., in this matter, have read, understood, and do knowingly consent to this Order in its entirety. By executing this Consent, Respondent understands that it is waiving its right to a hearing, to confront and cross-examine witnesses, to produce evidence, and to judicial review.

Respondent further understands this Order is considered a final administrative action that will be reported by the Division to the National Association of Insurance Commissioners and to other regulatory agencies. Respondent also understands this Order is a public record under Iowa Code chapter 22 and information may be shared with other regulatory authorities or governmental agencies, pursuant to Iowa Code § 505.8(8)(d). Respondent also understands this Order will be posted to the Division’s website and a notation will be made to the publicly available website record that administrative action has been taken against it.

Dated: 7/9/20


EHEALTHINSURANCE SERVICES, INC.
Respondent
By: Scott Giesler
Title: Senior Vice President and General Counsel

2625 Augustine Drive.
Second Floor
Sana Clara, CA 95054

Subscribed and sworn before me by _____ on this ___ day of _____, 2020

See Attached Notary
Jurat Certificate

Notary Public for the State of _____

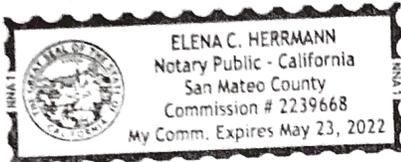
A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California

County of SAN MATEO

Subscribed and sworn to (or affirmed) before me on this 9TH
day of JULY, 2020, by _____

SCOTT GIESLER
proved to me on the basis of satisfactory evidence to be the
person(s) who appeared before me.



(Seal)

Signature Elena C. Herrmann

CERTIFICATE OF SERVICE

The undersigned certifies that the foregoing instrument was served upon all parties to the above cause, or their attorney, at their respective addresses disclosed on the pleadings on July 14, 2020.

By: First Class Mail Personal Service
 Restricted certified mail, return receipt Email, by consent
 Certified mail, return receipt _____

Signature: /s/ Hilary Foster
Hilary Foster