

**BEFORE THE COMMISSIONER OF INSURANCE
OF THE STATE OF KANSAS**

In the Matter of)	
GOOD HEALTH HMO, INC.)	
d.b.a. BLUE-CARE)	Docket No. 4699--CO
NAIC #95315.)	

CONSENT AGREEMENT AND FINAL ORDER

Pursuant to the authority granted to the Commissioner of Insurance (“Commissioner”) by K.S.A. 40-103 and in accordance with K.S.A. 40-4901 *et seq.*, and K.S.A. 77-501 *et seq.*, the Commissioner hereby accepts the stipulations of the parties, and imposes sanctions against Good Health HMO, Inc., doing business as Blue-Care (“Respondent”). This Consent Agreement shall become effective as a Final Order, without further notice when signed by the Commissioner or her designee and filed of record with the Kansas Insurance Department (“KID”).

Findings of Fact

1. Respondent is a health maintenance organization organized as a capital stock insurance company, domiciled in Missouri, admitted to do business in Kansas since 1989, and doing business in the Kansas City metropolitan area.
2. In June 2011, Respondent submitted certifications of 1,155 individual agent appointments with effective dates in June 2011.
3. KID received a telephone call from a newly certified individual agent who stated that she had been appointed by the company for many years.
4. As a result, KID and Respondent began a three-year process of accounting for Respondent’s appointments, and terminations of appointments, that had not been reported to KID.
5. Although omissions date back to 1989, no new appointments were reported in 2005, 2008, 2009, and 2010, and many of the unreported appointments occurred in 2005 through early 2011.
6. In addition, Respondent failed to notify KID of terminations of appointments.

7. The parties agree that KID, insurance agency staff, and the insurance buying public all rely upon KID's records to verify an agent's current authority to represent the company in Kansas.
8. Respondent represents that the failure to certify to KID its appointments and terminations of agents of Good Health HMO, Inc. was due to a misunderstanding of previous KID guidance.
9. The parties agree that Respondent discovered the ongoing failure to certify agent appointments and, on its own initiative, took action to bring its appointments up to date.
10. Through the cooperative efforts of Respondent and KID, corrections have been made to the appointment records of over 1500 individual agents and 151 agencies.
11. Respondent has paid initial appointment fees, but no attempt has been made to calculate precisely the unpaid annual renewal fees or the statutory penalties for failure to certify appointments.
12. The parties agree that Respondent has established a workable system for managing compliance with the Kansas appointment requirements in the future and assigned staff members to implement and maintain the system.
13. For purposes of an agreed order, Respondent agrees that its failure to certify its agent appointments and give timely notice of terminations constitutes cause for the Commissioner to initiate action against the company.
14. For purposes of an agreed order, the parties stipulate that unpaid fees would be no less than \$70,000.00.
15. For purposes of an agreed order, the parties stipulate that the statutory penalties would be no less than \$30,000.00.
16. Respondent agrees to designate a representative to oversee future compliance measures and submit quarterly reports attesting to the company's timely reporting of agent appointments and terminations.
17. In addition, the parties stipulate that, in lieu of a full audit, a manager in the KID producer licensing division has devoted substantial time to assisting Respondent's review, and that time should be valued at \$2,500.00 and assessed to Respondent.
18. Respondent stipulates that the Commissioner has jurisdiction of the company and of the subject matter of this action.

19. Respondent acknowledges and waives any and all rights to administrative or judicial review of the Commissioner's order.

Applicable Law

20. K.S.A. 40-241i, repealed effective July 1, 2001, and K.S.A. 40-4912(a), effective July 1, 2001, both provide that if a company appoints a person as its agent to solicit business in Kansas, the appointment must be certified to the Commissioner, the company must pay an appointment fee, and failure of the company to certify an agent subjects the company to a penalty of up to \$25.00 per day from the date the certification was due until it is recorded. Under the prior statute, the appointment certification was required when annual premium tax returns and other fees were due. K.S.A. 40-241i. Under the current version, the certification is due within 30 days of the date of appointment. See K.S.A. 2013 Supp. 40-4912(a).

21. "Each company admitted to this state shall report annually to the commissioner all agents the company has contracted with during the prior calendar year and pay the certification fees set forth in K.S.A. 40-252 and amendments thereto. The commissioner may audit agent or representative certification forms and fees to ensure proper reporting and receipt of fees. Any costs associated with auditing such forms shall be borne by the company or auto rental agency audited." K.S.A. 40-241j.

22. A "capital stock insurance company" is required to pay an annual fee of \$5.00 for each Kansas agent certified by the company. K.S.A. 40-252(D)(1).

23. Each insurer must notify the Commissioner within 30 days when the insurer terminates a business relationship with an agent for any reason. K.S.A. 2013 Supp. 40-4913.

Conclusions of Law

24. The Commissioner has jurisdiction over Respondent as well as the subject matter of this proceeding, and such proceeding is held in the public interest.

25. The Commissioner finds Respondent failed to comply with K.S.A. 40-241i, K.S.A. 40-252, K.S.A. 40-4912, and K.S.A. 40-4913 by failing to report agent appointments and terminations and failing to pay initial appointment and annual renewal fees when due.

26. The Commissioner finds no evidence the failure to comply was either intentional or willful, finds that Respondent's current management has, on its own initiative, taken steps to bring the company into compliance, and finds Respondent has cooperated with KID in a review of past violations.

27. Further, the Commissioner finds that a precise accounting of past appointments and corresponding fees would consume additional company and KID resources without providing proportional benefit to the insurance buying public.

28. The Commissioner finds the public interest requires that any compromise remedy for Respondent's violations be adequate to deter Respondent and other companies from delaying certification of appointments and reports of terminations.

29. The Commissioner concludes that the proposed approximation of outstanding fees in the amount of \$70,000.00 is an appropriate compromise.

30. The Commissioner concludes that the proposed remedy consisting of assessment of estimated unpaid fees imposition of a monetary penalty, and ordering future compliance reports is necessary and sufficient to protect the interests of the insurance-buying public.

Stipulation

The undersigned, on behalf of and with authority granted by Good Health HMO, Inc., stipulates and agrees to the above findings of fact and conclusions of law and waives any rights to administrative hearing and judicial review of the Commissioner's Order.

_ /s/ _____ _10/14/14_
[NAME] Date
For Respondent Good Health HMO, Inc.

Prepared by:

_ /s/ Brenda J. Clary _____
Brenda J. Clary, #18770
KID Staff Attorney

ORDER

THE COMMISSIONER OF INSURANCE THEREFORE ORDERS THE FOLLOWING:

1. **GOOD HEALTH HMO, Inc.**, shall pay outstanding fees in the amount of \$70,000.00, receipt of which is hereby acknowledged;
2. **GOOD HEALTH HMO, Inc.**, shall pay a monetary penalty in the amount of \$30,000.00, plus audit costs of \$2,500.00, within 90 days of the date of this order;
3. **GOOD HEALTH HMO, Inc.**, shall designate a representative to oversee agent and agency appointments; and
4. The designated representative shall submit a quarterly statement, beginning November 1, 2014, and continuing for five quarterly reports, attesting to Respondent's good faith efforts to maintain accurate records, timely report agent appointments and terminations, and promptly discover and notify KID of any errors or omissions in the process.

IT IS SO ORDERED THIS ___21st___ DAY OF OCTOBER 2014, IN THE CITY OF TOPEKA, COUNTY OF SHAWNEE, STATE OF KANSAS.

_/_s/ Zachary J.C. Anshutz_____
Zachary J.C. Anshutz
Asst. Commissioner of Insurance



NOTICE

In the event Respondent files a Petition for Judicial Review, pursuant to K.S.A. 77-613(e), the agency officer to be served on behalf of the Kansas Insurance Department is

John Wine, General Counsel
Kansas Insurance Department
420 S.W. 9th Street
Topeka, Kansas 66612

Certificate of Service

The undersigned hereby certifies that she served a true and correct copy of the above and foregoing **Consent Agreement and Final Order** and accompanying **Notice of Rights** on this ___21st___ day of October 2014, by causing the same to be placed in the United States Mail, first class postage prepaid, addressed to the following:

Jason Spacek
BlueCross BlueShield of Kansas City
P.O. Box 419071
Kansas City, MO 64141-6169

_____/s/ Jana L. Beethe_____
Jana L. Beethe
Legal Assistant