



Kansas Department of Insurance
Commissioner Vicki Schmidt

In the Matter of)
Third Party Administrator License of:)
Benefit Management, LLC) Docket No. 110539
Respondent)

CONSENT AGREEMENT AND FINAL ORDER

Pursuant to the Kansas Third Party Administrators Act, K.S.A. 40-3801, 40-3802, 40-3804 through 40-3810 and K.S.A. 40-3812 through 40-3817, any *person* that is an *administrator, third party administrator, or TPA* must obtain a license from the Commissioner of Insurance to operate in the State of Kansas.

K.S.A. 40-3815 directs that the license of an *administrator shall be denied, suspended or revoked* if the Commissioner finds that the *administrator*:

- (1) Is in an unsound financial condition;

The same statute also provides that the Commissioner **may, in the Commissioner's discretion and without advance notice or hearing, immediately suspend** the license of an *administrator*, if the Commissioner finds that one or more of the following circumstances exist:

- (1) The administrator is insolvent or impaired;

K.S.A. 40-281 requires that any person subject to any *order* as defined in K.S.A. 77-502, and amendments thereto, issued by the Commissioner may request a hearing on such order. If such request is made, the Commissioner shall conduct a hearing in accordance with the provisions of the Kansas Administrative Procedure Act.

The Commissioner has reason to believe that the administrator license issue to Respondent should be suspended and revoked based on the following:

- 1.) On August 7, 2024, without any notice to any regulatory body, including the Commissioner, the Respondent filed a Chapter 7 voluntary petition for non-individuals for bankruptcy in the United States Bankruptcy Court for the District of Kansas. The Respondent asserted it is insolvent and unable to pay creditors. Listed among creditors in the petition were, *inter alia*:
 - a. State departments of insurance
 - b. A state reinsurance program
 - c. A state high risk pool
 - d. Private employers
 - e. Other non-state government employers

- 2.) During meetings with representatives of the Respondent, and through filings made by the Respondent with the bankruptcy court, the Kansas Department of Insurance learned that Respondent:
- a. Has claims data of its clients that it has transferred to Respondent's former clients to enable the Respondent's former clients to process their pending claims with new third-party administrators;
 - b. Respondent has funds at two different banks - an operating account at Landmark Bank and a funds at People's Bank. The People's Bank accounts are either segregated by individual client or grouped by the type of client. Respondent has possession of funds transferred to it to pay certain health insurance claims to health care providers or third party vendors associated with health plans. The Respondent agrees the funds in the People's Bank accounts are property of the Respondent's clients who are plan sponsors.
 - c. Representatives of the Respondent have prepared a Reconciliation, which it has provided to the bankruptcy court. The Reconciliation details the Respondent's record for the amount held by the Respondent belonging to each client.
 - d. Respondent has distributed the client funds in accordance with the Reconciliation and pursuant to an order of the bankruptcy court approving the Respondent's *Motion to Compel Abandonment of Funds Held for the Benefit of Third Parties in People's Bank to Allow Distribution by the Debtor to Employers*.¹

3.) Respondent has laid off all its employees and has shuttered operations.

Now, in lieu of further civil administrative proceedings and to resolve this matter, the Commissioner and Respondent hereby agree to the following:

1. Respondent has been advised that, pursuant to K.S.A. 77-537 and K.S.A. 77-542, a party has a right to a hearing before the Commissioner may impose any sanctions or penalties; at a hearing, the party would be entitled to appear in person, to be represented by an attorney or other representative who is permitted to practice before the agency, to present its position, arguments or contentions in writing and to present evidence and examine witnesses appearing for and against it. Respondent hereby waives all such rights.
2. Respondent hereby waives any and all rights it may have under the Kansas Administrative Procedure Act, K.S.A. 77-501 *et seq.* and the Kansas Judicial

¹ Doc. 33 *In re Benefit Management, LLC*, (Case No. 24-21015, Bankr. D. Kan. 2024)

Review Act, K.S.A. 77-601 *et seq.* to seek administrative or judicial review of this Consent Agreement and Final Order.

3. Respondent consents to the jurisdiction of the Commissioner and the Kansas Department of Insurance ("Department") to determine the issues set forth herein. Respondent expressly waives any prerequisites to jurisdiction that may exist.
4. Respondent admits the Commissioner has sufficient evidence to introduce at an administrative hearing that Respondent is insolvent.
5. Respondent admits the applicability of K.S.A. 40-3815(a), which directs that the license of an administrator shall be denied, suspended or revoked if the Commissioner finds that the administrator:
 - (1) Is in an unsound financial condition;

Respondent admits the applicability of K.S.A. 40-3815(c), which provides that the Commissioner may, in the Commissioner's discretion and without advance notice or hearing, immediately suspend the license of an administrator, if the Commissioner finds that one or more of the following circumstances exist:

- (1) The administrator is insolvent or impaired;
6. Respondent agrees to a conditional suspension of its Kansas administrator license. Respondent consents to being suspended from all activities for which an administrator license is required except for those activities necessary to transfer client data to a new administrator or to return client funds in accordance with the Reconciliation or subsequent plan approved by the Commissioner.
 7. Respondent consents that its administrator license will be immediately revoked.
 8. Respondent has read and understands this Consent Agreement and Final Order. Respondent further understands that they have the right to retain counsel of their choice and have counsel review this Consent Agreement and Final Order.
 9. Respondent agrees that if it fails to comply with the terms of this Consent Agreement and Final Order, the Commissioner may take action to gain compliance with the Consent Agreement and Final Order including, but not limited to enforcement of the Consent Agreement and Final Order in the District Court of Shawnee County, Kansas.
 10. Respondent waives any and all causes of action, claims or rights, known and unknown, which they may have against the Department, and any employees, agents, consultants, contractors or officials of the Department, in their individual

and official capacities, as a result of any acts or omissions on the part of such persons or firms.

11. Respondent agrees to be served a copy of this fully executed Consent Agreement and Final Order electronically or by regular U.S. Mail.
12. Respondent acknowledges that this Consent Agreement and Final Order may be published on the website of Kansas Department of Insurance. Respondent understands and acknowledges that this Consent Agreement and Final Order is a public document pursuant to the Kansas Open Records Act, K.S.A. 45-215 et seq.
13. Respondent acknowledges that this Consent Agreement and Final Order is an administrative action which is required to be reported on future applications and to other regulatory authorities as required by their respective state laws and regulations.

The undersigned stipulates and agrees to the above findings, facts, and conclusions of law and waives their rights to an administrative hearing and judicial review of the Commissioner's Order.

CONSENTED TO BY:

Daniel Tasset

Daniel Tasset (Printed name)
Authorized Representative of
Benefit Management, LLC

7500 College Blvd. Suite 1400 Overland Park, KS 66210
Street Address
Attn: Scott Palecki

[Signature]

10/24/2024

Daniel Tasset (Signature)

Date

ORDER

IT IS THEREFORE ORDERED BY THE COMMISSIONER OF INSURANCE THAT:

1. Respondent's administrator license is immediately suspended. Respondent shall not accept or conduct new business for which an administrator license is required. Respondent is permitted to conduct activities to transfer data for its clients to a new TPA and to return all client funds in accordance with the Reconciliation identified herein or as directed by the Commissioner. Such data transfer and return of client funds has been completed.

2. The administrator license of Respondent shall be revoked effective as of the date of this Order.

3. This Order shall take effect when signed by all parties and the Commissioner or the Commissioner's designee and filed of record with the Kansas Insurance Department.

IT IS SO ORDERED THIS 28th DAY OF October 2024, IN THE CITY OF TOPEKA, COUNTY OF SHAWNEE, STATE OF KANSAS.



VICKI SCHMIDT
COMMISSIONER OF INSURANCE

BY: _____

Justin L. McFarland
General Counsel

NOTICE AND OPPORTUNITY FOR HEARING

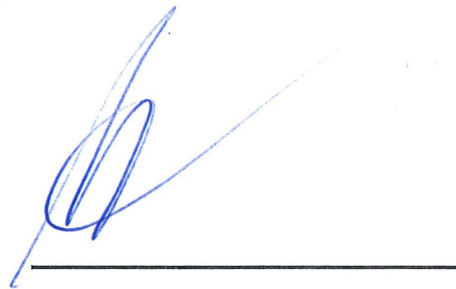
- (1) A party to this action may petition the Commissioner for reconsideration within 15 days after service of a final order, following the procedures in K.S.A. 77-529. Under K.S.A. 77-528, a party may petition for a stay of effectiveness of this order until the time at which a petition for judicial review would no longer be timely.
 - (2) This order may be subject to judicial review. The agency officer to receive service of a petition for judicial review on behalf of the Commissioner of Insurance is Justin McFarland, General Counsel, at 1300 SW Arrowhead Road, Topeka, Kansas 66604.
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CERTIFICATE OF SERVICE

The undersigned hereby certifies that she served the above-and-foregoing Consent Agreement and Final Order on this 27th day of October 2024, by causing the same to be deposited in the United States Mail, certified, addressed to the following:

And via email to:

spalecki@foulston.com

A handwritten signature in blue ink, consisting of a stylized 'S' and 'C' followed by a long horizontal stroke, positioned above a solid black horizontal line.

Sarah Cowan
Legal Assistant