

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

In the Matter of UNITED HEALTHCARE)
OF THE MIDWEST, INC. and the)
policies for [REDACTED] and)
[REDACTED])

Docket No. 2744-SO

CONSENT ORDER

United Healthcare of the Midwest, Inc. ("United Healthcare") wishes to resolve this matter without formal adjudicative proceedings by entering into this consent order. The Commissioner of Insurance ("Commissioner") hereby makes the following findings of fact, conclusions of law, and order, to-wit:

Findings of Fact

1. Records maintained by the Kansas Insurance Department ("KID") indicate that United Healthcare is a Kansas admitted, foreign insurance company with offices located at 77 West Port Plaza, Suite 500, St. Louis, Missouri 63146 and is subject to the Kansas statutes regulating the business of insurance.

2. The Commissioner has jurisdiction over the subject matter of this proceeding, and this proceeding is held in the public interest.

3. Gregory D. Bergman ("Bergman") is a non-resident insurance agent licensed by the State of Kansas, with a current address of 546 N.E. Valleybrook Road, Blue Springs, Missouri 64014.

4. United Healthcare issued policies for [REDACTED] ("[REDACTED]" and her business partner [REDACTED] ("[REDACTED]" effective May 1, 1997. The policies were then switched to a group policy for their business, [REDACTED], effective August

1, 1997 through Bergman, which agent was not properly appointed by United Healthcare as an agent in the State of Kansas.

5. Bergman has never been properly appointed by United Healthcare with KID.

6. [REDACTED] incurred an amount of \$462.00 on out-of-pocket expenses for medical bills which were not covered by the policy sold to her by Bergman.

7. [REDACTED] incurred an amount of \$416.00 on out-of-pocket expenses for medical bills which were not covered by the policy sold to her by Bergman.

Conclusions of Law

8. K.S.A. 1998 Supp. 40-241i provides, in relevant part:

(a) Any company authorized to transact business in this state may,...certify such agent as the agent of the company under the license in effect for the agent. The certification shall be made to the commissioner on a form prescribed by the commissioner within 30 days of appointment of the agent by the company....

9. K.S.A. 1998 Supp. 40-241i(a) provides, in relevant part:

[f]ailure of the company to certify an agent within 30 working days of such agent's appointment shall subject the company to a penalty of not more than \$25 per calendar day from the date of appointment to the date proper certification is recorded by the insurance department.

10. K.S.A. 1998 Supp. 40-2,125 provides, in relevant part:

(a) If the commissioner determines after notice and opportunity for a hearing that any person has engaged or is engaging in any act or practice constituting a violation of any provision of Kansas insurance statutes or any rule and regulation or order thereunder, the commissioner may in the exercise of discretion, order any one or more of the following:

(1) Payment of a monetary penalty of not more than \$1,000 for each and every act or violation, unless the person knew or reasonably should have known such person was in violation of the Kansas

insurance statutes or any rule and regulation or order thereunder, in which case the penalty shall be not more than \$2,000 for each and every act or violation;...

- (3) that such person cease and desist from the unlawful act or practice and take such affirmative action as in the judgment of the commissioner will carry out the purposes of the violated or potentially violated provision....

11. Based upon the information contained in paragraphs 3 through 5 above, it appears that United Healthcare of the Midwest, Inc. failed to certify Gregory D. Bergman, as agent of the company within 30 days of appointment of the agent by the company, in violation of K.S.A. 1998 Supp. 40-241i.

12. United Healthcare of the Midwest, Inc. admits to the allegations set forth herein this order with the exception of paragraphs 6 and 7. United Healthcare of the Midwest, Inc. denies any liability regarding the representations made by Bergman to [REDACTED] and [REDACTED]

13. For the purposes of this Consent Order, United Healthcare of the Midwest, Inc. waives it's right to a formal adjudicative proceeding and notice thereof and voluntarily consents to the following order of the Commissioner of Insurance.

IT IS THEREFORE ORDERED BY THE COMMISSIONER OF INSURANCE THAT:

1. United Healthcare of the Midwest, Inc. shall immediately cease and desist from all acts alleged to be violations herein. Specifically, United Healthcare of the Midwest, Inc. shall cease and desist from failing to certify an agent as the agent of the company within 30 days of appointment of the agent by the company.

2. United Healthcare of the Midwest, Inc. shall remit to the Kansas Insurance Department an administrative penalty in the sum of six thousand five hundred dollars (\$6,500.00) for violating K.S.A. 1998 Supp. 40-241i.

3. In partial consideration of entering into this Consent Order, and with the express understanding that United Healthcare does not admit liability in this situation, it will reimburse the out-of-pocket expenses of Ms. Schimke and Ms. Ferguson as indicated in paragraphs six and seven above.

IT IS SO ORDERED THIS 16th ^{August} DAY OF ~~JULY~~ 1999 IN THE CITY OF TOPEKA, COUNTY OF SHAWNEE, STATE OF KANSAS.



Kathleen Sebelius
Commissioner of Insurance

BY:

Kathy Greenlee
General Counsel

Jill Winters
United Healthcare of the Midwest, Inc.

SUBMITTED AND APPROVED BY:

Jallynn Copp
Attorney for Petitioner
Kansas Insurance Department