



LOUISIANA DEPARTMENT OF INSURANCE

JAMES J. DONELON
COMMISSIONER

CEASE AND DESIST ORDER **LDI #7824**

December 29, 2022

Becky Hilsabeck
Express Scripts Administrators, LLC
One Express Way, Mail Stop HQ2E03
Saint Louis, MO 63121

Article #:7020 3160 0000 1370 1043

Becky Hilsabeck Article #:
Express Scripts Administrators, LLC
1209 Orange Street
Wilmington, DE 19801

Article #:7020 3160 0000 1370 1050

Email: RMHilsabeck@express-scripts.com

WHEREAS, IT HAS COME TO MY ATTENTION, as Commissioner of Insurance (Commissioner) of the Louisiana Department of Insurance (LDI), that Express Scripts Administrators, LLC (ESA) has violated certain provisions of the Louisiana Insurance Code, Title 22, La. R.S. 22:1 *et. seq.* As used hereinafter, “you” and “your” refer Express Scripts Administrators, LLC. Accordingly, pursuant to the power and authority vested in me as the Commissioner, I issue this Cease and Desist Order based on the following to wit:

Express Scripts Administrators, LLC (ESA) is a third party administrator operating as a pharmacy benefits manager for the Office of Group Benefits. The Office of Group Benefits (OGB) is an agency of the state of Louisiana within the Division of Administration. OGB is authorized by Louisiana law to provide health and life insurance benefits to eligible state employees and retirees of participating agencies as well as their eligible dependents.

The LDI initiated a market conduct investigation of ESA on April 5, 2022, after receiving multiple complaints from the Louisiana Independent Pharmacy Association (LIPA) regarding claims handling. After the investigation was initiated, LDI received hundreds of other complaints from LIPA. One of the complaints specifically alleged that ESA failed to pay electronically adjudicated claims timely as required by Louisiana Revised Statute 22:1854(A). On September 30, 2022, ESA admitted that it failed to pay 1,310,507 electronically adjudicated claims on behalf of OGB within fifteen days as required by La. RS. 22:1854(A) between January 1, 2022, and July 12, 2022.

AUTHORITY OF THE COMMISSIONER

The Louisiana Insurance Code, Title 22, R.S. §22:1 *et seq.* states as follows:

§2. Insurance regulated in the public interest

A. (1) Insurance is an industry affected with the public interest and it is the purpose of this Code to regulate that industry in all its phases....It shall be the duty of the commissioner of insurance to administer the provisions of this Code.

La. R.S. 22:18 maintains in pertinent part:

§18. Suspension or revocation of insurers' licenses; fines; orders

A. The commissioner of insurance may, as a penalty, in accordance with R.S. 49:961, refuse to renew, or may suspend, or revoke the certificate of authority or license of any insurer, person, or entity violating any of the provisions of this Code, or in lieu of suspension or revocation of a certificate or license duly issued, the commissioner may levy a fine not to exceed one thousand dollars for each violation per insurer, person, or entity, up to one hundred thousand dollars aggregate for all violations in a calendar year per insurer, person, or entity, when such violations warrant the refusal, suspension, or revocation of such certificate or license, or the imposition of the fine. The commissioner is also authorized to order any insurer, person, or entity to cease and desist any such action that violates any provision of this Code.

La. R.S. 22:1854 maintains in pertinent part:

§ 1854. Electronic claim submission standards

A. Any claim for payment for covered prescription drugs, other products and supplies, and pharmacist services submitted by a pharmacist or pharmacy to a health insurance issuer as an electronic claim that is electronically adjudicated shall be paid not later than the fifteenth day after the date on which the claim was electronically adjudicated. If the governor declares a state of emergency pursuant to R.S. 29:724, the time period prescribed in this Subsection shall be interrupted during the continuance of the state of emergency for any claims office which is located in the territorial limits of the declared state of emergency.

VIOLATIONS:

Your failure to pay 1,310,507 electronically adjudicated claims on behalf of OGB within fifteen days constitutes violations of La. R.S. 22:1854(A).

BE ADVISED:

COMMISSIONER'S ACTION:

As a result of the investigation and documentation in the possession of the LDI, and in accordance with La. R.S. 22:18 and La. R.S. 22:1854, a determination has been rendered that you are in violation of the statute listed above and the Louisiana Commissioner of Insurance hereby orders you, the licensed Third Party Administrator **Express Scripts Administrators, LLC (LDI #7824)** to **CEASE AND DESIST** from the aforementioned violations. Any violation of the cease and desist order or other violations of the Louisiana Insurance Code may result in further regulatory actions taken by the LDI.

YOUR ACTION:

Be advised that this constitutes an administrative action and that it will be reported to the National Insurance Producer Registry (NIPR). Be further advised that all actions taken on licenses, in accordance with La. R.S. 49:977.3 (formerly La. R.S. 49:961) and Regulation 120, shall take effect (10) calendar days from the date of issuance of the notice of regulatory action, unless otherwise provided in Title 22, and that cease and desist orders and summary suspension actions take effect immediately upon issuance. Please also take note that you may need to report this administrative action to other states in which you hold an active license. Contact that state's insurance department if you are unsure of the requirements.

Pursuant to La. R.S. 22:2191(A)(2), any person aggrieved by an act of the Commissioner may request a hearing. You must make a written demand for an appeal within thirty (30) days from the date of this notice. Failure to file a written demand for an appeal within thirty (30) days from this notice will preclude your right to an administrative hearing.

Pursuant to La. R.S. 22:2191(B), your written demand for an appeal (1) shall reference the particular sections of the statutes and rules involved; (2) shall provide a short and plain statement of the matters asserted for review; and (3) shall attach a copy of the order or decision that you are appealing. Appealing this notice does not stay the action of the Commissioner of Insurance. Pursuant to La. R.S. 22:2204, you must request and be granted a stay of this action by the Division of Administrative Law. Your request for a stay may be included in your appeal. Your written demand for an appeal shall be filed with the Louisiana Department of Insurance at the addresses below:

Louisiana Department of Insurance
Attn: David Caldwell, Executive Counsel
P.O. Box 94214
Baton Rouge, LA 70804-9214
Telephone: (225) 342-4673
Fax: (225) 342-1632

File in Person at:
1702 N. Third Street
Baton Rouge, LA 70802

Signed in Baton Rouge, Louisiana this 29th day of December, 2022.

JAMES J. DONELON
COMMISSIONER OF INSURANCE
STATE OF LOUISIANA

A handwritten signature in black ink, appearing to be 'Nathan Strebeck', written over a horizontal line.

BY:

Nathan Strebeck
Deputy Commissioner
Office of Insurance Fraud
Louisiana Department of Insurance
Telephone: (225) 219-5819

CERTIFICATE OF SERVICE

Article No.:7020 3160 0000 1370 1043

Article No.:7020 3160 0000 1370 1050

I do hereby certify that I have this day served the foregoing document upon Express Scripts Administrators, LLC, properly addressed with postage paid, this 29th day of December, 2022.



Barrett (Barry) Scheuermann



LOUISIANA DEPARTMENT OF INSURANCE
JAMES J. DONELON
COMMISSIONER

CEASE AND DESIST ORDER
LDI #6815

December 29, 2022

David W. Couvillon
Office of Group Benefits
5825 Florid Blvd.
Baton Rouge, LA 70804

Article #: 7020 3160 0000 1369 3829

David W. Couvillon
Office of Group Benefits
P.O. Box 44036
Baton Rouge, LA 70804

Article #: 7020 3160 0000 1369 3836

WHEREAS, IT HAS COME TO MY ATTENTION, as Commissioner of Insurance (Commissioner) of the Louisiana Department of Insurance (LDI), that Office of Group Benefits has violated certain provisions of the Louisiana Insurance Code, Title 22, La. R.S. 22:1 *et. seq.* As used hereinafter, “you” and “your” refer to the Office of Group Benefits. Accordingly, pursuant to the power and authority vested in me as the Commissioner, I issue this Cease and Desist Order based on the following to wit:

The Office of Group Benefits (OGB) is an agency of the state of Louisiana within the Division of Administration. OGB is authorized by Louisiana law to provide health and life insurance benefits to eligible state employees and retirees of participating agencies as well as their eligible dependents. Express Scripts Administrators, LLC (ESA) is a third party administrator operating as the pharmacy benefits manager for the Office of Group Benefits.

The LDI initiated a market conduct investigation of ESA on April 5, 2022, after receiving multiple complaints from the Louisiana Independent Pharmacy Association (LIPA) regarding claims handling. After the investigation was initiated, LDI received hundreds of other complaints from LIPA. One of the complaints specifically alleged that ESA failed to pay electronically adjudicated claims timely as required by Louisiana Revised Statute 22:1854(A). On September 30, 2022, ESA admitted that it failed to pay 1,310,507 electronically adjudicated claims on behalf of OGB within fifteen days as required by La. RS. 22:1854(A) between January 1, 2022, and July 12, 2022.

AUTHORITY OF THE COMMISSIONER

The Louisiana Insurance Code, Title 22, R.S. §22:1 *et seq.* states as follows:

§2. Insurance regulated in the public interest

A. (1) Insurance is an industry affected with the public interest and it is the purpose of this Code to regulate that industry in all its phases....It shall be the duty of the commissioner of insurance to administer the provisions of this Code.

La. R.S. 22:18 maintains in pertinent part:

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A. The commissioner of insurance may, as a penalty, in accordance with R.S. 49:961, refuse to renew, or may suspend, or revoke the certificate of authority or license of any insurer, person, or entity violating any of the provisions of this Code, or in lieu of suspension or revocation of a certificate or license duly issued, the commissioner may levy a fine not to exceed one thousand dollars for each violation per insurer, person, or entity, up to one hundred thousand dollars aggregate for all violations in a calendar year per insurer, person, or entity, when such violations warrant the refusal, suspension, or revocation of such certificate or license, or the imposition of the fine. The commissioner is also authorized to order any insurer, person, or entity to cease and desist any such action that violates any provision of this Code.

La. R.S. 22:1854 maintains in pertinent part:

§ 1854. Electronic claim submission standards

A. Any claim for payment for covered prescription drugs, other products and supplies, and pharmacist services submitted by a pharmacist or pharmacy to a health insurance issuer as an electronic claim that is electronically adjudicated shall be paid not later than the fifteenth day after the date on which the claim was electronically adjudicated. If the governor declares a state of emergency pursuant to R.S. 29:724, the time period prescribed in this Subsection shall be interrupted during the continuance of the state of emergency for any claims office which is located in the territorial limits of the declared state of emergency.

VIOLATIONS:

Your failure to pay 1,310,507 electronically adjudicated claims, adjudicated on your behalf by ESA, within fifteen days constitutes violations of La. R.S. 22:1854(A).

BE ADVISED:

COMMISSIONER'S ACTION:

As a result of the investigation and documentation in the possession of the LDI, and in accordance with La. R.S. 22:18 and La. R.S. 22:1854, a determination has been rendered that you are in violation of the statute listed above and the Louisiana Commissioner of Insurance hereby orders you, the provider of health and life insurance benefits to eligible state employees and retirees of participating agencies as well as their eligible dependents, **Office of Group Benefits (LDI #6815)** to **CEASE AND DESIST** from the aforementioned violations.

YOUR ACTION:

Be advised that this constitutes an administrative action and that it will be reported to the National Insurance Producer Registry (NIPR). Be further advised that all actions taken on licenses, in accordance with La. R.S. 49:977.3 (formerly La. R.S. 49:961) and Regulation 120, shall take effect (10) calendar days from the date of issuance of the notice of regulatory action, unless otherwise provided in Title 22, and that cease and desist orders and summary suspension actions take effect immediately upon issuance. Please also take note that you may need to report this administrative action to other states in which you hold an active license. Contact that state's insurance department if you are unsure of the requirements.

Pursuant to La. R.S. 22:2191(A)(2), any person aggrieved by an act of the Commissioner may request a hearing. You must make a written demand for an appeal within thirty (30) days from the date of this notice. Failure to file a written demand for an appeal within thirty (30) days from this notice will preclude your right to an administrative hearing.

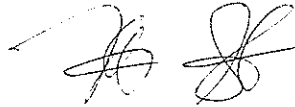
Pursuant to La. R.S. 22:2191(B), your written demand for an appeal (1) shall reference the particular sections of the statutes and rules involved; (2) shall provide a short and plain statement of the matters asserted for review; and (3) shall attach a copy of the order or decision that you are appealing. Appealing this notice does not stay the action of the Commissioner of Insurance. Pursuant to La. R.S. 22:2204, you must request and be granted a stay of this action by the Division of Administrative Law. Your request for a stay may be included in your appeal. Your written demand for an appeal shall be filed with the Louisiana Department of Insurance at the addresses below:

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P.O. Box 94214
Baton Rouge, LA 70804-9214
Telephone: (225) 342-4673
Fax: (225) 342-1632

File in Person at:
1702 N. Third Street
Baton Rouge, LA 70802

Signed in Baton Rouge, Louisiana this 29th day of December, 2022.

JAMES J. DONELON
COMMISSIONER OF INSURANCE
STATE OF LOUISIANA



BY:


Nathan Strebeck
Deputy Commissioner
Office of Insurance Fraud
Louisiana Department of Insurance
Telephone: (225) 219-5819

CERTIFICATE OF SERVICE

Article No.: 7020 3160 0000 1369 3836

Article No.: 7020 3160 0000 1369 3929

I do hereby certify that I have this day served the foregoing document upon the Office of Group Benefits, properly addressed with postage paid, this 29th day of December, 2022.


Barrett (Barry) Scheuermann