

BEFORE THE INSURANCE COMMISSIONER
FOR THE STATE OF ARKANSAS

IN THE MATTER OF
DESSIE A. COUSINS
LICENSE NO. 295415

A.I.D. NO. 2006- 043

EMERGENCY LICENSE SUSPENSION ORDER

On this day the emergency matter of Dessie A. Cousins ("Respondent") came before Julie Benafield Bowman, Arkansas Insurance Commissioner ("Commissioner"). The Arkansas Insurance Department ("Department") was represented by Zane A. Chrisman, Associate Counsel. From the facts and law before the Commissioner, she finds:

FINDINGS OF FACT

1. The Commissioner has jurisdiction over the parties and subject matter pursuant to Ark. Code Ann. §23-61-103 and the authority to issue summary license suspensions and/or order payment of penalties under Ark. Code Ann. §§ 23-60-108, 23-64-216(e), 23-64-512(a), and 23-66-408.

2. Respondent is licensed as a non-resident life and accident and health agent and holds Arkansas non-resident producer license #295415. Respondent held an appointment with PacifiCare Life and Health Insurance Company to sell Secure Horizons Direct, a Medicare Advantage Plan.

3. On or about March 9, 2006, Respondent appeared at the home of Anita Gilliland without an appointment for the purpose of selling a Secure Horizons Plan. This visit was shortly after President George W. Bush's Address announcing that Medicaid may suffer cuts. Ms. Gilliland is 65 years old and disabled. She is a resident of Nelson Hall Homes, a low income subsidized housing facility for the elderly and disabled located in Fort Smith, Arkansas.

4. Respondent represented herself as a Federal Medicare agent to gain entrance to Ms. Gilliland's home. She told Ms. Gilliland that Medicaid was about to be cut and that she had a product that would protect her from losing coverage; this was not to cost her anything and not become effective unless she lost her Medicaid. Respondent knew that she was only being granted access to

the apartment because she was a Federal Medicare agent. Respondent repeated several times that she was a Medicare agent.

5. Respondent did not give Ms. Gilliland information about the Advantage Plan or any material to read and become familiar with the plan until Ms. Gilliland had already signed the form and Respondent was leaving. At all times Respondent told Ms. Gilliland that this plan would not affect her Medicare or Medicaid in any way.

6. After having Ms. Gilliland sign the application, Respondent then asked Ms. Gilliland to call all of her friends to come over to learn about the insurance. Ms. Gilliland called Harold Bluford, Cathy Hacker, Blake Perilienger, Shirley Lance, Randy Keeton, Le Thi Le, Donna Decker, Linda Daniel, and Charles Stewart.

7. Respondent spoke to Harold Bluford, Cathy Hacker, Blake Perilienger, Shirley Lance, Randy Keeton, Le Thi Le, Donna Decker, Linda Daniel, and Charles Stewart and took their medical information and social security numbers in the same room. Respondent assured all of the parties that the product would not become active until their other policies had lapsed or were no longer in effect and that it would not affect their Medicare.

8. During the meeting at Ms. Gilliland's home, Respondent sold Linda Kaye Daniel a policy. Ms. Daniel is 55 years old and disabled. Respondent told Ms. Daniel that this was a secondary insurance product with Secure Horizons that was to supplement her Medicare. Respondent stated multiple times that this would not affect her Medicare. Respondent did not give Ms. Daniel any literature until she left. Respondent spoke to Ms. Daniel individually in the same room as the rest of the group.

9. Ms. Hacker was also a participant at the meeting in Ms. Gilliland's home. Respondent also sold Ms. Hacker a policy. Ms. Hacker is a 52 years old, disabled resident of the Nelson Hall Homes. Ms. Gilliland told Ms. Hacker in Respondent's presence, that Respondent was a Federal Medicare agent. Ms. Hacker went to the meeting with Respondent believing that Respondent would give her information about Medicare Part D. Respondent did not deny that she was employed by Medicare. Respondent told Ms. Hacker that she was returning to see more people

the following day at 1 p.m. Respondent did not give Ms. Hacker any written information on the policy. Ms. Hacker asked Respondent if she was with Medicare and if this would sign her up for Medicare Part D and received an affirmative answer. Respondent attempted to call Ms. Hacker after 10:00 p.m. and left a lengthy message apologizing for her actions shortly after receiving a notification of a complaint from the Arkansas Insurance Department.

10. Respondent sold Ms. Decker a policy at Ms. Gilliland's home as well. Ms. Decker is 51 years old and disabled. Respondent told Ms. Decker that this policy was to help with her Medicare and would be free. Respondent stated that this was to help Ms. Decker get the medicines for which Medicare Part D would not pay. Respondent stated multiple times that this would not affect her Medicare. Respondent did not give Ms. Decker any literature until she left. Respondent spoke to Ms. Decker individually in the same room as the rest of the group.

11. Respondent also sold Mr. Stewart a policy during the meeting at Ms. Gilliland's home. Mr. Stewart is 77 years old. Respondent told Mr. Stewart that this policy would not affect his insurance policies. Respondent stated that this was a new HMO that was being offered by Secure Horizons. Respondent told Mr. Stewart that this would cover his doctors and medications. Respondent did not give Mr. Stewart any literature until she left. Respondent spoke to Mr. Stewart individually in the same room as the rest of the group.

12. Respondent also sold Mr. Keeton a policy during the meeting at Ms. Gilliland's home. Mr. Keeton is a 51 year old, disabled resident of Nelson Hall Homes. Respondent told Mr. Keeton that this policy would not affect his Medicare. Respondent did not give Mr. Keeton any literature until she left. Respondent spoke to Mr. Keeton individually in the same room as the rest of the group.

13. Respondent also sold Harold Bluford a policy during the meeting at Ms. Gilliland's home. Mr. Bluford is a 68 year old resident of Nelson Hall Homes. Respondent told Mr. Bluford that this policy would not affect his Medicaid or Medicare. Respondent made Mr. Bluford believe that she was working with Medicare. Respondent only talked to Mr. Bluford with the rest of the group. Respondent did not give Mr. Bluford any literature until she left.

14. Respondent also sold Ms. Lance a policy during the meeting at Ms. Gilliland's home. Ms. Lance is a resident of Nelson Hall Homes. Respondent told Ms. Lance that the policy would continue to cover her after Medicaid and Medicare would fail to cover her. Respondent also told Ms. Lance that it would cover her health, medication and dental care. Respondent only talked to Ms. Lance with the rest of the group. Respondent did not give Ms. Lance any literature until she left.

15. Ms. Gilliland, Ms. Lance, Ms. Hacker, Ms. Daniel, Ms. Decker, Mr. Bluford, Mr. Keeton and Mr. Stewart discovered after Respondent left that Respondent was not a Federal Medicare agent. Nor were the parties aware that the Advantage Plan would replace their current coverage rather than become effective after a triggering event as relayed by Respondent.

16. On or about March 9, 2006, Ms. Gilliland, Ms. Lance, Ms. Hacker, Ms. Daniel, Ms. Decker, Mr. Bluford, Mr. Keeton and Mr. Stewart attempted to call Respondent five (5) times to no avail. They then called the number listed on the Secure Horizons brochure and issued a complaint. They requested that they not be enrolled due to the fact that Respondent had lied to them about the policy and had misrepresented herself to them. They were assured that they would not be enrolled if they sent letters requesting that they not be enrolled.

17. Ms. Gilliland, Ms. Lance, Ms. Hacker, Ms. Daniel, Ms. Decker, and Mr. Bluford, Mr. Perilienger, Mr. Keeton and Mr. Stewart received letters stating that they had been enrolled in the plan. They called the number on the Secure Horizons pamphlet and were told that they had to send a second letter to Secure Horizons. All of the parties sent certified letters to Secure Horizons and faxed the letters on April 7, 2006. They also filed a complaint with the Area Agency on Aging of Western Arkansas, Inc. This complaint was forwarded to the Attorney General's Office and then to the Insurance Department. The Insurance Department notified Respondent and sought a response to the complaint.

18. The issuance of the Secure Horizons policies caused the Medicare and Medicaid policies held by all of the parties to be terminated.

19. Respondent called Ms. Gilliland, Ms. Hacker and Ms. Daniel soon after receiving the letter from the Department. Ms. Gilliland was the only person who accepted the call. Ms. Gilliland

received the call at 10:30 p.m. The call lasted more than two (2) hours. Respondent offered to help the members of the group get their Medicaid and Medicare back if they would withdraw their complaints. Respondent reiterated to Ms. Gilliland that she was a Medicare representative even though it was through Secure Horizons. Respondent told Ms. Gilliland that she had never read the policy information provided by the company and that she had told them only what Secure Horizons had told her to tell potential customers. However, the Secure Horizons marketing brochure states that agents are strongly discouraged from enrolling Dually Eligible beneficiaries and Qualified Medicare Beneficiaries.

20. On April 6, 2006, Respondent came to the home of Gloria Moore. Respondent told Ms. Moore that she was from the Social Security Office and was there to get a new card for her. Ms. Moore signed the agreement and later filed a complaint with the Area Agency on Aging of Western Arkansas, Inc. Respondent has failed to answer this complaint.

21. On April 7, 2006, Respondent came to the home of Ed Goff after talking to other residents in the lunchroom and sold him a policy. Mr. Goff is 58 years old and a resident of Peach Tree Village North, a retirement community. Respondent told Mr. Goff that this policy would pick up where Medicare and Medicaid left off. Respondent was never given a pamphlet or information about the policy. Both Respondent and Mr. Goff signed the application. Mr. Goff learned a few days later that Respondent had represented herself in different ways to other people in the community. Due to this and his receipt of the insurance packet, he discovered that the policy would not operate as Respondent described. Mr. Goff complained to the Arkansas Insurance Department. Respondent denied selling this policy to Mr. Goff.

22. On June 29, 2006, Respondent came to the home of Ardith Rose and Carl Johnson without an appointment to demonstrate the insurance policy for Secure Horizons. Ms. Rose is 74 years old and has had brain surgery. Mr. Johnson is 80 years old. Respondent did not give Ms. Rose or Mr. Johnson a pamphlet or information about the policy until she left. Respondent told Ms. Rose and Mr. Johnson that they would have to give her their social security numbers before they could hear anything about the policy or before she would leave. Respondent also told Ms. Rose and Mr.

Johnson that they could cancel at any time and that this would be supplemental coverage for them. Ms. Rose and Mr. Johnson discovered after reading the brochure that this was not the policy that had been described and tried to keep the policy from being submitted. They never were able to get a person when they called the company and were later told that their time to withdraw had lapsed.

23. On August 31, 2006, the Department received a returned Second Request for Information Letter in the Mail. It was marked "Return to Sender – Moved and Left no Address." As of October 2, 2006, Respondent had failed to update her address with the Department.

VIOLATIONS

Dessie A. Cousins is in violation of:

24. Ark. Code Ann. §23-64-216(a)(2)(B) which provides that a license may be suspended or revoked for violation or noncompliance with any applicable provision of the laws of this state, this code, or of any lawful rule, regulation, or order of the Commissioner;

25. Ark. Code Ann. §§23-64-216(a)(2)(E) which provides that a license may be suspended or revoked for intentionally misrepresenting the terms of an actual or proposed insurance contract or application for insurance;

26. Ark. Code Ann. §§23-64-216(a)(2)(G) which provides that a license may be suspended or revoked for having admitted or been found to have committed any insurance unfair trade practice or fraud;

27. Ark. Code Ann. §23-64-216(a)(2)(H) which provides that a license may be suspended or revoked for using fraudulent, coercive, or dishonest practices, or demonstrating incompetence, untrustworthiness, or financial irresponsibility in the conduct of business in this state or elsewhere;

28. Ark. Code Ann. § 23-64-512(a)(2) which provides that a license may be suspended or revoked for violating any insurance laws, or violating any regulation, subpoena or order of the commissioner or of another state's insurance commissioner;

29. Ark. Code Ann. § 23-64-512(a)(5) which provides that a license may be suspended or revoked for intentionally misrepresenting the terms of an actual or proposed insurance contract or application for insurance;

30. Ark. Code Ann. § 23-64-512(a)(7) which provides that a license may be suspended or revoked for having admitted or been found to have committed any insurance unfair trade practice or fraud;

31. Ark. Code Ann. § 23-64-512(a) (8), which provides that a license may be suspended or revoked for using fraudulent, coercive, or dishonest practices, or demonstrating incompetence, untrustworthiness or financial irresponsibility in the conduct of business in this state or elsewhere;

32. Ark. Code Ann. § 23-64-512(a) (13), which provides that a license may be suspended or revoked for failing to provide a written response after receipt of a written inquiry from the commissioner or his or her representative as to transactions under the license within thirty (30) days after receipt thereof unless the timely written response is knowingly waived in writing by the commissioner;

33. Ark. Code Ann. § 23-66-206(8) (A), which provides that a license may be suspended or revoked for misrepresenting the benefits, advantages, conditions, or terms of any insurance policy;

34. Ark. Code Ann. § 23-66-206(8) (E), which provides that a license may be suspended or revoked for using any name or title of any insurance policy or class of insurance policies, misrepresenting the true nature thereof;

35. Ark. Code Ann. § 23-66-206(8) (F), which provides that a license may be suspended or revoked for misrepresenting the policy for the purpose of inducing or tending to induce the lapse, forfeiture, exchange, conversion, or surrender of any insurance policy;

36. Ark. Code Ann. § 23-66-206(8) (F), which provides that a license may be suspended or revoked for misrepresenting the policy for the purpose of inducing or tending to induce the lapse, forfeiture, exchange, conversion, or surrender of any insurance policy;

37. Ark. Code Ann. § 23-66-302, which provides that a license may be suspended or revoked for making any material false statement, representation, or pretense for the purpose of obtaining insurance business;

38. Ark. Code Ann. § 23-66-307, which provides that a licensee must exercise discretion and good faith in the sales presentation or transaction;

39. Ark. Code Ann. § 23-66-306, which provides no person shall make or issue, or cause to be made or issued, any written or oral statements misrepresenting or making incomplete comparisons regarding the terms or conditions or benefits contained in any policy or contract of insurance for the purpose of inducing or attempting to induce the owner of the policy or contract of insurance to forfeit or surrender the policy or contract or to allow it to lapse for the purpose of replacing the policy or contract with another; and

40. Ark. Code Ann. §23-64-507(f), which provides that licensees shall inform the commissioner by any means acceptable to the commissioner of a change of address within thirty (30) days of the change.

PENALTIES

41. The Department seeks sanctions, up to and including revocation of Arkansas insurance agent license of Respondent, pursuant to Ark. Code Ann. §23-64-216, Ark. Code Ann. 23-60-108, financial penalties pursuant to § 23-64-216(d) based upon the above findings of fact.

42. Due to the gravity of the allegations and averments, it is found that a public emergency exists for the immediate suspension of Respondent's Insurance License.

43. Any and all licenses issued by the Department, whether acquired by the Respondent, Dessie A. Cousins, for being a broker, agent, solicitor, or consultant in this State, are hereby suspended pending a promptly instituted hearing on the above matter.

44. The Department reserves the right to amend this Emergency License Suspension Order to include additional violations of state law.

45. A Notice of Hearing is enclosed. At the hearing, the Department will seek to revoke all insurance licenses of Respondents based on the above allegations.

IT IS SO ORDERED THIS 5th day of October, 2006.



JULIE BENAFIELD BOWMAN
INSURANCE COMMISSIONER
STATE OF ARKANSAS