

BEFORE THE DIVISION OF INSURANCE  
DEPARTMENT OF LABOR AND REGULATION  
STATE OF SOUTH DAKOTA

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IN THE MATTER OF  
EXPRESS SCRIPTS

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)

CONSENT ORDER

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In resolution of the above matter and in lieu of issuance of a Notice of Hearing and a formal hearing, the undersigned parties do hereby agree to the following:

EXPRESS SCRIPTS, whose address of record is One Express Way, Mail Stop HQ2E03, St. Louis, Missouri 63121, is a Third-Party Administrator (“TPA”) in the State of South Dakota holding a TPA License with a Pharmacy Benefit Manager (“PBM”) Qualification;

EXPRESS SCRIPTS is aware that the South Dakota Division of Insurance (“Division”) has conducted an investigation of its PBM activities in South Dakota;

The Division has alleged the following:

- 1) Since July 1, 2023, EXPRESS SCRIPTS collected at least \$9,000 in recertification fees from pharmacies licensed in South Dakota, in violation of SDCL 58-29E-16;
- 2) The above-cited conduct may be grounds for the revocation or suspension of EXPRESS SCRIPTS’ Third-Party Administrator License and PBM Qualification pursuant to SDCL 58-29E-16;

By the execution of this Consent Order EXPRESS SCRIPTS waives its right to contest the allegations contained in this Consent Order in any future actions or licensing procedures with the Division;

By signing this Consent Order, EXPRESS SCRIPTS neither admits to nor denies any violation of the laws of this state;

EXPRESS SCRIPTS is aware of and understands the nature of the charges and has been informed that it has the right to notice, hearing, and appeal, and that by agreeing to and signing this Consent Order waives these rights;

In return for EXPRESS SCRIPTS agreeing to the provisions of this Consent Order, the Division agrees not to proceed to hearing and agrees that this Consent Order will constitute an informal disposition of this licensing matter pursuant to SDCL 1-26-20;

EXPRESS SCRIPTS agrees to a monetary penalty in the amount of \$5,000 pursuant to SDCL 58-4-28.1, in lieu of contesting this matter formally;

EXPRESS SCRIPTS further agrees that it will refund any recertification fees assessed, collected, or charged since July 1, 2023, to pharmacies in South Dakota and cease its practices regarding the collection of recertification fees from pharmacies in South Dakota;

EXPRESS SCRIPTS further agrees to conduct itself in accordance with the insurance laws and regulations of the State of South Dakota;

EXPRESS SCRIPTS further agrees that this Consent Order may be considered for the purpose of determining the appropriate sanction in any future actions with the Division for any violations of the laws or regulations of the State of South Dakota or for failing to abide by any order of the Director;

Wherefore, good cause appearing from the foregoing, it is hereby ORDERED that EXPRESS SCRIPTS pay a monetary penalty in the amount of \$5,000 payable to "South Dakota Division of Insurance" for deposit in the general fund of the State of South Dakota; and it is further

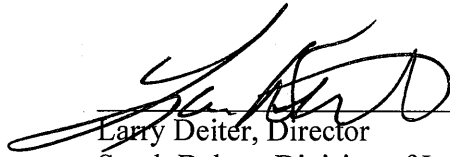
ORDERED that EXPRESS SCRIPTS abide the agreements made by it in this Consent Order; and it is further

ORDERED that should EXPRESS SCRIPTS fail to comply with the provisions of this Consent Order, the Division may seek suspension or revocation of EXPRESS SCRIPTS' Third-Party Administrator's License at hearing pursuant to SDCL 58-29D-31, or seek other remedies available at law; and it is further

ORDERED that the use of this Consent Order for competitive purposes by an insurance agent or third-party administrator holding a license in the State of South Dakota, or by any company holding a Certificate of Authority, or by anyone on their behalf, may be deemed unfair competition and be grounds for suspension or revocation of said license or authority; and it is further

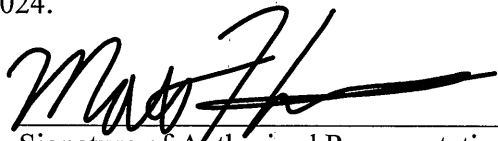
ORDERED that the provisions of this Consent Order shall be effective from the date the Director signs this Order.

Dated at Pierre, South Dakota this 23<sup>rd</sup> day of September, 2024.

  
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Larry Deiter, Director  
South Dakota Division of Insurance

The undersigned, on behalf of EXPRESS SCRIPTS, represents it understands the terms of this Consent Order and the waiver of its due process rights and voluntarily enters into this Consent Order.

Dated this 9th day of September, 2024.

  
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Signature of Authorized Representative  
Matthew C Harrison  
\_\_\_\_\_  
Printed Name  
Sr. Director of Network Compliance  
\_\_\_\_\_  
Title