

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

IN THE MATTER OF
SMITH HEALTH, INC.

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CONSENT ORDER

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:

SMITH HEALTH, INC. ("SMITH"), whose address of record is 300 Brannan St, STE 601, San Francisco, CA 94107, is a Third-Party Administrator ("TPA") in the State of South Dakota holding a TPA License;

SMITH is aware that the South Dakota Division of Insurance ("Division") has conducted an investigation of its insurance-related activities in South Dakota and SMITH has cooperated with the Division's review;

The Division has alleged the following:

- 1) SMITH processed drug claims in South Dakota without a TPA License or Pharmaceutical Benefit Manager ("PBM") qualification due to incorrect information contained in the licensing application, in violation of SDCL 58-29D-21 and 58-29E-2;
- 2) The above-cited conduct may be grounds for the revocation or suspension of SMITH's Third-Party Administrator License and/or the denial of its PBM qualification pursuant to SDCL 58-29D-21 and 58-29E-2;

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

SMITH 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 SMITH 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;

SMITH agrees to a monetary penalty in the amount of \$10,000 pursuant to SDCL 58-4-28.1, in lieu of contesting this matter formally;

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

SMITH 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 SMITH pay a monetary penalty in the amount of \$10,000 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 SMITH abide the agreements made by it in this Consent Order; and it is further

ORDERED that should SMITH fail to comply with the provisions of this Order, the Division may seek the suspension or revocation of SMITH's 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 PBM qualification of SMITH is APPROVED for as of the effective date of this Consent Order; 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 28 day of June, 2024.



Larry Deiter, Director
South Dakota Division of Insurance

The undersigned, on behalf of SMITH HEALTH, INC., 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 14 day of June, 2024.



Signature of Authorized Representative

Jacob E Franz

Printed Name

CEO

Title