

Commissioner. By information and belief, Respondents continued to act as insurers and transacted insurance in Montana without a required Certificate of Authority issued by the Commissioner.

4. During an interview, one of Respondents' agents named "Don" stated, "This is not really insurance, but an alternative to insurance through ppoNEXT." However, none of the Respondents' offers contained a disclaimer stating their plans were not insurance, and the offers were, in fact, designed to masquerade as offers for medical insurance coverage.

5. ppoNext is a preferred provider service that acted as a discount broker to secure medical providers who were willing to provide medical services at discounted rates. ppoNext had no Montana family practitioner medical provider or Montana hospital facility that was a member of its preferred provider list.

6. An investigation conducted by the Department revealed that no Montana medical provider recognized or honored any part of the insurance plan offered by Respondents.

7. Therefore, Respondents, when in the course of offering medical insurance as hereinabove described, misrepresented numerous material facts known to Respondents to be untrue or made with reckless indifference as to whether they were true, to wit: the fact that no Montana medical provider recognized or honored any part of its insurance plan, and that no Montana family medical practitioner or Montana hospital facility was a member of ppoNext's preferred provider list. In doing so, Respondents intended to cause others to rely upon said representations to the relying persons' detriment, and thereby committed insurance fraud under Montana law.

CONCLUSIONS OF LAW

1. The Department has jurisdiction over this matter by reason of Respondents' offer of its health insurance plan to persons in Montana pursuant to Section 33-1-311, MCA.

2. Respondents violated Sections 33-1-102 and 33-2-101, MCA by offering offer its health insurance plan to persons in Montana without the required certificate of authority as hereinabove described.

3. Respondents violated Section 33-1-107, MCA by offering its discount medical purchasing mechanism through ppoNext as hereinabove described and failing to state the offered discounts are not insurance in bold and prominent type, prominently placed in the advertisements.

4. Respondents committed insurance fraud in violation of Section 33-1-1302, MCA by offering its medical insurance plan as hereinabove described and misrepresenting numerous material facts known to Respondents to be untrue or made with reckless indifference as to whether they were true with the intention of causing others to rely upon said representations to the relying persons' detriment.

FINAL ORDER

Respondents have failed to respond within the required 15 days so default against all Respondents is proper. The State Auditor adopts the Findings of Fact and Conclusions of Law as set forth above. For violations of the Montana Securities Act, each Respondent is fined \$25,000 each. The temporary Cease and Desist Order dated August 24, 2004, is made permanent. The State Auditor ORDERS Respondents to cease and desist issuing, offering, and selling securities to persons in this state

in violation of the Securities Act of Montana, and specifically to cease and desist the above described activity.

Any party, who is aggrieved by this order or has a pecuniary interest, may appeal the order or may file a motion for a rehearing or reargument pursuant to Section 33-1-711, Mont. Code Ann. (2005).

JOHN MORRISON
State Auditor and Commissioner of Insurance

By: *Alicia Pichette*
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