

Update

Third Party Administrator (TPA) Licensing and Compliance Developments

March 2020

RECENT REGULATORY ACTIONS AGAINST TPAs

KANSAS

The Kansas Insurance Department (“Kansas Department”) recently issued a Summary Order against a Missouri-domiciled third party administrator (“Company”) revoking the Company’s Kansas non-resident TPA license.

The Company obtained a Kansas non-resident TPA license from the Kansas Department in 2018. The Company was eligible for a Kansas non-resident TPA license because of the Company’s “home state” TPA license in Missouri. Per the Kansas Department, Missouri is one of eight states (Alaska, Delaware, Florida, Idaho, Indiana, Missouri, New Hampshire, and West Virginia) which have adopted TPA laws which are substantially similar to the TPA laws in Kansas. TPAs which have “home state” TPA licenses in any of the above states are eligible for a non-resident TPA license issued by the Kansas Department. TPAs which do not have a home state TPA license in one of these eight states must obtain a home state TPA license in Kansas.

On October 1, 2019, the Missouri Department of Insurance informed the Kansas Department that the Company’s Missouri TPA license had become inactive due to nonpayment of fees. Per the Kansas Department, the issuance and continuation of the Company’s Kansas non-resident TPA license was based upon the Company’s Missouri TPA license. Therefore, the company no longer met the criteria to maintain its Kansas non-resident TPA license, which was revoked by the Kansas Department.

The above regulatory action taken by the Kansas Department underscores the importance of TPAs avoiding an enforcement action taken against their home state TPA license, as a regulatory action against a TPA’s home state license may adversely affect its non-resident TPA licenses in other states.

NEW JERSEY

Recently, the New Jersey Department of Banking and Insurance (“New Jersey Department”) took regulatory action against a company operating in New Jersey based on its failure to be properly licensed as a third party administrator (“TPA”) in that state.

According to the New Jersey Department, the company acted as a TPA in New Jersey when it wasn’t licensed or registered as a TPA in violation of N.J.S.A. 17B:27B-2.

As a result, the Company entered into a Consent Order with the New Jersey Department and agreed to pay a \$21,125 monetary penalty pursuant to N.J.S.A 17B:27B-24.

The regulatory action taken by the New Jersey Department underscores the importance of TPAs being properly licensed in each state where they are transacting business as a TPA. State insurance departments typically assess monetary penalties for unlicensed activities, and they may also require an unlicensed entity to cease and desist from operating in a state until such time as the entity is properly licensed. Entities which are subject to a regulatory action for unlicensed activity are also required to report a regulatory action in other states in which they are licensed.

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