



LOUISIANA DEPARTMENT OF INSURANCE

JAMES J. DONELON
COMMISSIONER

NOTICE OF FINE
LDI#7824

March 9, 2023

Becky Hilsabeck
Express Scripts Administrators, LLC
One Express Way, Mail Stop HQ2E03
Saint Louis, MO 63121

Article #:7022 2410 0002 6981 2916

Becky Hilsabeck
Express Scripts Administrators, LLC
1209 Orange Street
Wilmington, DE 19801

Article #:7022 2410 0002 6981 2923

Via Email:RMHilsabeck@express-scripts.com

WHEREAS, IT HAS COME TO MY ATTENTION, as Commissioner of the Louisiana Department of Insurance (LDI), that Express Scripts Administrators, LLC has violated certain provisions of the Louisiana Insurance Code (Title 22, La. R. S. 22:1 et. seq.). As used hereinafter, “you” and “your” refer to Express Scripts Administrators, LLC. Accordingly, pursuant to the power and authority vested in me as the Commissioner, I issue you this Notice of Fine based on the following, to wit:

Express Scripts Administrators, LLC dba Express Scripts (ESA) is an affiliate of Express Scripts, Inc. ESA is a Pharmacy Benefit Manager pursuant Louisiana Revised Statute (La. R.S) 40:2861 et.al. and a licensed Third-Party Administrator pursuant to La. R.S. 22:1657. The Louisiana Department of Insurance (LDI) opened 19 complaints from 19 independent pharmacies on December 2, 2022, against ESA. The due date for responses to the complaints was December 19, 2022. On December 12, 2022, ESA requested an extension, which was granted. The extended date was January 15, 2023. The responses were not received on January 15, 2023.

On January 18, 2023, the LDI issued ESA an **Order and Directive to Respond** pursuant to La. R.S 22:1984C, which requires a regulated entity to respond to information requested by the LDI or be subject to regulatory action. ESA was ordered to respond by February 17, 2023.

On January 19, 2023, ESA responded specifically to complaint number 877362. Additionally, on January 24, 2023, ESA submitted a written request to the LDI for instructions on how the requested data should be formatted. LDI responded on February 2, 2023, by providing a spreadsheet detailing the prescribed format. LDI also noted that the **Order and Directive to Respond** was still in effect and that the formatted responses for all 19 complaints were due on February 17, 2023.

On February 17, 2023, ESA submitted a request for (45) forty-five additional days to respond. The request was denied. As of March 9, 2023, LDI has not received the responses as directed.

AUTHORITY OF THE COMMISSIONER

The Louisiana Insurance Code, Title 22, R.S. §22:1 *et seq.* states as follows:

§2. Insurance regulated in the public interest

A. (1) Insurance is an industry affected with the public interest and it is the purpose of this Code to regulate that industry in all its phases....It shall be the duty of the commissioner of insurance to administer the provisions of this Code.

La. R.S. 22:1984 C and G maintains in pertinent part:

§ 1984. Commissioner of Insurance to conduct financial and market analysis of insurers and regulated entities

C. Failure by an insurer or regulated entity to supply information requested by the Department of Insurance during the course of financial or market analysis may subject the insurer or regulated entity to revocation or suspension of its license, or, in lieu thereof, a fine not to exceed ten thousand dollars per occurrence. Every insurer or regulated entity shall producer and make freely accessible to the commissioner of insurance the accounts, records, documents and files in its possession or control.

G. Any insurer or regulated entity against whom a fine has been levied shall be given thirty days notice of such action. Upon receipt of this notice, the aggrieved insurer or regulated entity may apply for and shall be entitled to a hearing pursuant to R.S. 22:2191 *et seq.*

BE ADVISED:

COMMISSIONER'S ACTION:

As a result of the investigation and documentation in possession of the LDI, it has been determined that you are in violation of La. R.S. 22:1984C, and the Louisiana Commissioner of Insurance hereby imposes upon you, Express Scripts Administrators, LLC, LDI # 7824 a **FINE** of \$10,000.00 effective 30 days from the date of this Notice.

YOUR ACTION:

Be advised that this constitutes an administrative action and that it will be reported to the National Insurance Producer Registry (NIPR). Please also take note that you may need to report this administrative action to other states in which you hold an active license. Contact that state's insurance department if you are unsure of the requirements.

Please remit your \$10,000.00 fine payment and a copy of this Notice to:

Louisiana Department of Insurance
Attn: Accounts Receivable
P.O. Box 94214
Baton Rouge, LA 70804-9214

Pursuant to La. R.S. 22:2191(A)(2), any person aggrieved by an act of the Commissioner may request a hearing. You must make a written demand for an appeal within thirty (30) days from the date of this notice. Failure to file a written demand for an appeal within thirty (30) days from this notice will preclude your right to an administrative hearing.

Pursuant to La. R.S. 22:2191(B), your written demand for an appeal (1) shall reference the particular sections of the statutes and rules involved; (2) shall provide a short and plain statement of the matters asserted for review; and (3) shall attach a copy of the order or decision that you are appealing. Appealing this notice does not stay the action of the Commissioner of Insurance. Pursuant to La. R.S. 22:2204, you must request and be granted a stay of this action by the Division of Administrative Law. Your request for a stay may be included in your appeal. Your written demand for an appeal shall be filed with the Louisiana Department of Insurance at the addresses below:

Louisiana Department of Insurance
Attn: J. David Caldwell, Executive Counsel
P. O. Box 94214
Baton Rouge, LA 70804-9214

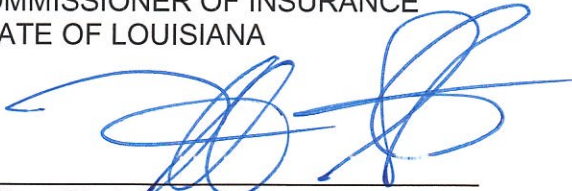
Telephone: (225) 342-4673
Fax: (225) 342-1632

File in Person at:
1702 N. Third Street
Baton Rouge, LA 70802

Signed in Baton Rouge, Louisiana this 9th day of March 2023.

JAMES J. DONELON
COMMISSIONER OF INSURANCE
STATE OF LOUISIANA

BY:



Nathan Strebeck
Deputy Commissioner
Office of Insurance Fraud
Louisiana Department of Insurance
Telephone: (225) 219-5819

CERTIFICATE OF SERVICE

Article #7022 2410 0002 6981 2916

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I hereby certify that I have this day served the foregoing document upon Express Scripts Administrators, LLC by mailing a copy thereof properly addressed with postage prepaid, this 9th day of March, 2023.



Jennifer Mourain