

STATE OF MICHIGAN  
DEPARTMENT OF INSURANCE AND FINANCIAL SERVICES

Before the Director of the Department of Insurance and Financial Services

In the matter of:

**Health Choice of America**  
System ID No. 0108055 (Unlicensed)

**Enforcement Case No. 15-12770**

**American Small Business Development Association**  
System ID No. 0105598 (Unlicensed)

Respondents.

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Issued and entered  
on October 10, 2016  
by Teri L. Morante  
Chief Deputy Director

**ORDER TO CEASE AND DESIST WITH STATEMENT OF FINDINGS  
AND NOTICE OF OPPORTUNITY FOR HEARING**

Pursuant to Section 251 of the Michigan Insurance Code (Code), MCL 500.251, and after reviewing evidence of the conduct described in the attached Statement of Finding, and

**WHEREAS**, the Director of the Department of Insurance and Financial Services finds that immediate action is necessary and appropriate in the public interest for the protection of the public health, safety, and welfare, and consistent with the purposes fairly intended by public policy and provisions of the Code,

**IT IS THEREFORE ORDERED THAT:**

1. The Respondents shall immediately **CEASE AND DESIST** from all activities in violation of the Code as described in the Statement of Findings.
2. A copy of this Order shall be immediately served upon Respondents. As to any Respondent, this Order shall be effective upon the date of service.
3. Respondents will have 30 calendar days after the service of this Order to contest it by requesting a hearing. Within 10 calendar days after receiving the request, the hearing process shall commence. This Order shall remain in effect until further order of the Director. Any request for a hearing should be addressed to the Department of Insurance and Financial Services, Attention: Tracy Janousek, Hearings Clerk, P.O. Box 30220, Lansing, MI 48909-7720 or faxed to 517-284-8843.

4. Any such hearing held shall address the following issues:
  - a. The facts set forth in the Statement of Findings.
  - b. The continuation of the Order to Cease and Desist.
  - c. Restitution to be paid by the Respondents.
5. If a hearing is requested, an administrative law judge from the Michigan Administrative Hearing System shall preside over any such hearing.
6. The Director retains jurisdiction of the matters contained herein and the authority to issue such further Orders as shall be deemed just, necessary, and appropriate.
7. Pursuant to Section 251(6) of the Code, MCL 500.251(6), a person who violates or otherwise fails to comply with an Order to Cease and Desist is subject to one or more of the following:
  - a. Payment of a civil fine of not more than \$1,000 for each violation not to exceed an aggregate civil fine of \$30,000. However, if the person knew or reasonably should have known the conduct was in violation of the cease and desist order, the person shall be subject to a civil fine of not more than \$25,000 for each violation not to exceed an aggregate civil fine of \$250,000.
  - b. Suspension or revocation of the person's license or certificate of authority.
  - c. Complete restitution, in the form, amount, and within the period determined by the Director, to all persons in Michigan damaged by the violation or failure to comply.



Teri L. Morante  
Chief Deputy Director

Dated: October 10, 2016

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**STATEMENT OF FINDINGS**

1. Pursuant to Executive Order 2013-1 all authority, powers, duties, functions, and responsibilities of the Commissioner of the Office of Financial and Insurance Regulation have been transferred to the Director of the Department of Insurance and Financial Services (DIFS).
2. Respondents knew or should have known that Section 402a of the Code, MCL 500.402a, provides:  
  
In this state, the following transactions of insurance, whether effected by mail or otherwise, require a certificate of authority:
  - (a) The issuance or delivery of insurance contracts to residents of this state.
  - (b) The solicitation of applications for insurance contracts from residents of this state.
  - (c) The collection of premiums, membership fees, assessments, or other consideration for insurance contracts from residents of this state.
  - (d) The doing or proposing to do any act in substance equivalent to subdivisions (a) to (c).
3. Pursuant to Section 251(1) of the Code, MCL 500.251(1), the Director is empowered to issue a cease and desist order if the Director finds any of the following:
  - (a) A person is conducting transactions of insurance for which a certificate of authority is required by this act without having obtained a certificate of authority.

(b) A person is acting as an insurance agent, solicitor, adjuster, or counselor without a license as required by this act.

(c) A person is engaged in an act or practice in the business of insurance for which authority from or notification to the commissioner is required by this act and the person has not received authority or given notification.

(d) A person authorized to engage in the business of insurance under this act is engaged in conduct that presents an immediate danger to public health, safety, or welfare. MCL 500.251(1).

4. DIFS Staff received information that Respondents may have engaged in the transaction of insurance without obtaining a certificate of authority. After an investigation, DIFS Staff concluded that Respondents have engaged in activities regulated by the Code, without the requisite certificate of authority, and have violated the insurance laws of this state.
5. Respondent Health Choice of America (HCA) purports to be a “PPO Specific Sickness Plan” funded by Respondent American Small Business Development Association (ASBDA). The plan provides for co-pays and deductibles and provides “coverage” for, among other things, physician’s office visits, emergency room visits, hospital supplies, in/outpatient surgery, and physical therapy. HCA’s signature plan also represents that “all sicknesses are subject to a deductible & co-insurance unless specified.” HCA is not authorized to transact the business of insurance in the state of Michigan.
6. ASBDA purports to be a member based organization that provides discount programs and benefits/services to its members. It offers health insurance to its members through HCA. All funding for HCA is provided by membership dues collected by ASBDA. ASBDA is not authorized to transact the business of insurance in the state of Michigan.
7. ASBDA has created a brochure in which it markets itself as providing, among other things, association group “health insurance” and association group “critical illness insurance.” Moreover, its website invites browsers to request a free quote for affordable “health insurance rates” and said quote requires that medical details of all those to be “insured” be provided.
8. DIFS staff obtained claim files of several ASBDA members who opted for HCA’s “PPO Specific Sickness Plan.” These files contain documentation confirming that the plan operates not as a discount plan in which the provider merely applies a discount to the charge for services to the group member but one in which the group member submits a copayment and the provider submits claim forms to HCA to receive payment for services. Additionally, it appears as if the group member provides a premium to HCA based in part on medical history. These are all hallmarks of insurance.
9. Simbarashe Mujuru (Mujuru), a licensed resident producer in the state of Michigan, is the sole incorporator of ASBDA. Mujuru is also the sole incorporator, President, and Director of HCA.

10. Robert James Spencer (Spencer) is a licensed resident producer who solicits applications from ASBDA members for HCA insurance contracts. Spencer also issues HCA contracts to ASBDA members and collects premiums, fees, or other consideration from ASBDA members for the HCA contracts. Spencer is both the Secretary of HCA and the Inside Sales Manager for ASBDA.
11. Respondents jointly employ Spencer and allow him to solicit insurance applications, issue insurance contracts, and collect premium, fees, or other consideration for the insurance contracts. Although the Respondent companies are separately incorporated, for purposes of the solicitation of applications for insurance contracts, issuance of insurance contracts, and the collection of monies for the insurance contracts, the Respondents act in concert. As set forth above, Mujuru is the sole incorporator of both Respondents, the Respondents jointly employ Spencer to engage in the activities described above, and Respondent ASBDA collects the monies that are paid by its members for Respondent HCA's policies.
12. Neither ASBDA nor HCA have obtained certificates of authority to transact the business of insurance in the state of Michigan.
13. By soliciting applications for insurance contracts, issuing insurance contracts, and collecting premiums, fees, or other consideration for the insurance contracts, Respondents have engaged in the transaction of insurance without obtaining a certificate of authority, in violation of Section 402a of the Code, MCL 500.402a.