False offers of cash subsidies used to 'capture' health insurance customers, lawsuit alleges

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A health insurance operation based in Broward County, Florida, used internet ads that falsely promised cash subsidies to sign up clients across the country and replace their agents, a lawsuit contends.

The scheme was carried out by Enhance Health LLC, TrueCoverage LLC, Speridian Technologies LLC, Number One Prospecting LLC and two individuals who ran it, according to a lawsuit that seeks class action status.

The suit claims the defendants operate a criminal enterprise that targets low-income consumers who are eligible for coverage under the Affordable Care Act.

It accuses the defendants of violating the federal Racketeering Influenced and Corrupt Organizations (RICO) Act, as well as federal laws meant to prevent unauthorized entities from accessing ACA plans.

Prospects were lured in by internet ads promising free monthly subsidies that could be used for groceries, medical bills, rent and other expenses, the suit claims.

The ads, reproduced in the complaint filed on Friday in U.S. District Court in Fort Lauderdale, promised subsidies of $6,400 a month, $1,400 a month, or a flat $6,300. Ads promising $6,400 and $1,400 a month showed pictures of what looks like a debit card.

Actually, according to the complaint, consumers never receive cash from the government for signing up for ACA plans. Subsidies made available to reduce health insurance costs—called advanced premium tax credits—are paid directly by the government to insurers to offset costs of providing coverage, the suit states.

Once prospects provided personal information including names, birth dates and states of residence, agents working in call centers were instructed to follow sales scripts deflecting questions about the subsidies because the companies knew they could not be provided, the suit states.

Yet the ads succeeded, according to the complaint, in bringing prospects to agents who then "captured" many in one of three ways:

- Accessed consumers' health insurance accounts to remove their agent of record and replace them with their own agents—"to essentially steal the original (agent's) commissions for the policy."
- Replaced consumers' existing policy by replacing it with another plan "that has similar or worse benefits solely to generate a new commission."
- Broke up families into two plans—"for example, creating a new policy for the husband while leaving the wife and children on the original policy."

Plaintiffs suffered damages by losing medical treatments, in-network health care providers and specialists, prescription coverage, and sometimes even lost their coverage altogether, the lawsuit states.

The complaint alleges that some policyholders had to spend money to correct changes to their data and agents, and some had to pay tax penalties after being put into plans for which they did not qualify.

Because the lawsuit was filed on Friday, attorneys have not yet filed notices of representation on behalf of any of the named defendants, and no response has been filed so far to the charges.

The South Florida Sun Sentinel sent numerous emails to addresses listed on the defendant companies' websites and left voice and text messages to phone numbers associated with Brandon Bowsky and Matthew B. Herman seeking comment about the lawsuit.

By Tuesday afternoon, only Enhance Health responded. It issued this statement:

"First and foremost, Enhance Health is committed to leading the way in transforming what is too often an overwhelming and complicated health insurance enrollment experience while improving health care access for millions of individuals and families across the country.

"We take any allegations of misconduct by our employees or partners seriously and are committed to upholding the highest standards of compliance and controls in all aspects of our operations. This lawsuit is without merit. We will defend against these baseless claims."

Defendants operated out of Broward County

Defendant Enhance Health LLC is listed by Florida's Division of Corporations website as a Florida-registered limited liability company with its principal place of business in Sunrise. The agency's CEO is Matthew Herman, 38, who is also named as a defendant.

TrueCoverage LLC, another defendant, is a New Mexico-based health insurance agency registered to do business in Florida.

Defendant Speridian Technologies is a New Mexico-based company registered to operate in Florida.

Speridian Technologies controls TrueCoverage and another company, not named as a defendant in the lawsuit, that's identified in the complaint as the developer of a software platform used by the agencies to access consumers' ACA accounts, the lawsuit says.

TrueCoverage is a sub-tenant of the Sun Sentinel in a building leased by the newspaper in Deerfield Beach.

Defendant Number One Prospecting LLC, doing business as Minerva Marketing, is registered in Florida and its principal place of business is Fort Lauderdale. Minerva's founder and CEO is Brandon Bowsky, 31, also named as a defendant, according to the lawsuit.

TrueCoverage and Enhance Health, the lawsuit alleges, spent thousands of dollars daily to purchase consumer contact information from outside lead-generation companies, including Minerva, despite knowing the leads were generated by ads that promise "cash benefits that do not exist," the lawsuit states.

The lawsuit claims that TrueCoverage, Enhance Health and their agents use "uniformly constructed sales scripts designed to deflect consumers' inquiries about the monthly cash payments." The companies, the suit states, "mislead consumers to believe that those cash benefits will be coming 'in the mail' from health insurance companies like Ambetter, Cigna and others."

Plaintiffs include consumers and health insurance agents

The lawsuit designates two plaintiffs classes: consumers who alleged they were victimized, and agents who said they lost thousands of dollars in commissions.

Consumers identified as lead plaintiffs include Conswallo Turner, 52, a Texas woman who said her agent was switched five times in December 2023 by an Enhance Health agent. Her health insurance plan was switched without her consent to one that did not include her son, according to the suit.

Larry Foreman, a Georgia man, was enrolled into a plan by a TrueCoverage agent who led him to believe he would receive a cash card and an insurance plan that cost him nothing, the lawsuit states. Instead, he received a bill from the IRS stating he owed $871 for a single month of coverage because the agent underreported Foreman's and his wife's income, according to the lawsuit.

The lead agent plaintiffs are WINN Insurance Agency LLC, a Florida-registered company with its principal place of business in South Carolina, and NavaQuote LLC, a Delaware company with its principal place of business in Georgia.

Marsha Broyer, owner of WINN Insurance, said she was removed as agent of record in at least 81 of her clients' policies and replaced by agents with no relation to her. More than 20 of her clients were lost for good, the lawsuit states.

Broyer and the plaintiffs' attorneys were able to identify the insurance agencies behind the switches by looking up agents' names on altered accounts, Broyer said in an interview.

The lawsuit seeks an injunction to stop the operation, plus monetary damages for both plaintiffs classes, attorneys fees and court costs.

The lawsuit estimates that hundreds of thousands of consumers and tens of thousands of agents have been victimized by the alleged scheme.

Jason Kellogg, attorney with the Miami-based law firm that filed the lawsuit, Levine, Kellogg, Lehman, Schneider & Grossman LLP, said in an interview Tuesday that his firm in 2019 successfully sued a Tampa-based company called Health Insurance Innovations, accusing it of selling short term indemnity plans that Hollywood-based Simple Health Plans sold as "ACA compliant" to customers found by similarly posting misleading ads on the internet.

Health Insurance Innovations settled the case, which did not name Simple Health Plans as a defendant, for $27.5 million and agreed to a settlement with the Federal Trade Commission to pay $100 million in refunds to customers. It did not admit any wrongdoing.

Simple Health Plans and its founder, Steven Dorfman, lost a separate FTC lawsuit seeking to permanently stop the company from selling health insurance plans. In February, Dorfman was found guilty of criminal mail fraud charges. His sentence is pending.

Kellogg said so many health insurance operations are based in Broward and Palm Beach counties because that's where skilled call center workers and technology are located.

Switching plans and agents becoming common, study finds

Allegations in the lawsuit echo a report of a recent study by Kaiser Family Foundation that found consumers covered by the Affordable Care Act are being switched into new plans without permission, potentially leaving them unable to see their doctors or fill prescriptions.

"Unauthorized enrollment or plan-switching is emerging as a serious challenge for the ACA, also known as Obamacare," states a report of the study on the KFF Health News website. "Brokers say the ease with which rogue agents can get into policyholder accounts in the 32 states served by the federal marketplace plays a major role in the problem."

Licensed agents can access policyholders' records through the federal exchange or its direct enrollment platforms armed only with the person's name, date of birth and state, the report says.

It adds that federal regulators say they are aware of the increase in unauthorized switching and have taken steps to combat it. "It's unclear, though, if these efforts will be enough," the report says.

In addition to agents losing commissions, enrollees find themselves liable for tax penalties when they are signed up for coverage that includes premium tax credits despite being ineligible because they earn too much money or had employer-based insurance, according to the report.

The Centers for Medicare & Medicaid Services, which oversees the ACA marketplace, declined to tell KFF how many complaints it has received or what steps it has taken to remedy the problem, the reports says.

The issue seems confined to states such as Florida, which serve policyholders through the federal exchange, Broyer said in the interview. States that operate their own exchanges have added measures to make them more secure, such as two-factor authentication, she said.

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