

STATE OF NEW JERSEY
DEPARTMENT OF BANKING AND INSURANCE

IN THE MATTER OF:

Proceedings by the Commissioner of Banking)
and Insurance, State of New Jersey, to fine A)
and E Billing Services Corporation and)
Ernesto Berdu)
_____)

ORDER TO SHOW CAUSE

TO: A and E Billing Services Corporation
1139 E. Jersey Street
Suite 618
Elizabeth, New Jersey 07201

Ernesto Berdu
826 Pearl Street
Apt. 2
Elizabeth, New Jersey 07202

THIS MATTER, having been opened by the Commissioner of Banking and Insurance (“Commissioner”), State of New Jersey, upon information that A and E Billing Services Corporation and Ernesto Berdu (collectively, “Respondents”), may have violated various provisions of the insurance laws of the State of New Jersey; and

WHEREAS, pursuant to N.J.S.A. 17B:27B-1, a third party billing service is defined as a person or entity that is paid by a health care provider to process claims or claims payments on behalf of the health care provider; and

WHEREAS, pursuant to N.J.S.A. 17B:27B-16 and N.J.A.C. 11:23-5.1(a), no person shall act as, offer to act as or hold himself out to be a third party billing service without being certified by the Commissioner; and

WHEREAS, pursuant to N.J.A.C. 11:1-12.2(a), active officers shall be held individually responsible for all insurance related conduct of the corporate licensee; and

WHEREAS, pursuant to N.J.S.A. 17B:27B-24, any third party billing service that violates N.J.S.A. 17B:27B-16 is subject to a civil administrative penalty in an amount not less than \$250 no more than \$5,000 for each day that a third party billing service is in violation of the act; and

COUNT ONE

IT APPEARING THAT, A and E Billing Services Corporation, was originally incorporated in New Jersey on May 21, 2006; and

IT FURTHER APPEARING THAT, A and E Billing Services Corporation commenced business as a third party billing service in New Jersey on or about December 13, 2007; and

IT FURTHER APPEARING THAT, Ernesto Berdu (“Berdu”) is the sole owner of A and E Billing Services Corporation; and

IT FURTHER APPEARING THAT, as the sole owner of A and E Billing Services Corporation, Berdu knew of and/or directed the illegal acts alleged herein and is thus liable for the violations for that reason and under N.J.A.C. 11:1-12.2(a); and

IT FURTHER APPEARING THAT, between December 2007 and the present, Respondents have acted as a third party billing service in New Jersey; and

IT FURTHER APPEARING THAT, between December 2007 and February 2022, while not certified as a third party billing service, Respondents performed third party billing services for at least twelve (12) clients in New Jersey; and

IT FURTHER APPEARING THAT, on February 4, 2022, A and E Billing Services Corporation submitted an application for certification as a third party billing service to the Commissioner; and

IT FURTHER APPEARING THAT, A and E Billing Services Corporation was certified by the Commissioner as a third party billing service on July 28, 2022;

IT FURTHER APPEARING THAT, A and E Billing Services Corporation acted as a third party billing service in New Jersey when it was not certified as a third party billing service from December 13, 2007, to February 4, 2022, for a period of 5,167 days; and

IT FURTHER APPEARING THAT, because Respondents acted as a third party billing service in New Jersey without the required certification, they violated N.J.S.A. 17B:27B-16, N.J.A.C. 11:23-5.1(a), and N.J.A.C. 11:23-5.1(b); and

NOW, THEREFORE, IT IS on this 17 day of February, 2023,

ORDERED, that Respondents appear and show cause why the Commissioner should not assess a civil penalty in an amount not less than \$250 no more than \$5,000 for each day Respondents were in violation of N.J.S.A. 17B:27B-16, pursuant to the provisions of N.J.S.A. 17B:27B-24; and

IT IS FURTHER ORDERED, that Respondents have the right to request an administrative hearing, to be represented by counsel or other qualified representative, at their own expense, to take testimony, to call or cross-examine witnesses, to have subpoenas issued, and to present evidence or argument if a hearing is requested; and

IT IS FURTHER ORDERED, that unless a request for a hearing is received within twenty (20) days of the service of this Order to Show Cause, the right to a hearing in this matter shall be deemed to have been waived by Respondents, and the Commissioner shall dispose of this matter in accordance with law. A hearing may be requested by mailing the request to Virgil Downtin, Chief of Investigations, Department of Banking and Insurance, P.O. Box 329, Trenton, New Jersey 08625, or by faxing the hearing request to the Department at (609) 292-5337. A copy of the request

for a hearing shall also be sent to Deputy Attorney General Chandra M. Arkema at: Division of Law, P.O. Box 117, Trenton, New Jersey 08625, fax (609) 777-3503. The request shall contain the following:

- (a) Respondent's full name, current address, and daytime telephone number;
- (b) A statement referring to each charge alleged in this Order to Show Cause and identifying any defense intended to be asserted in response to each charge. Where the defense relies on facts not contained in the Order to Show Cause, those specific facts must be stated;
- (c) A specific admission or denial of each fact alleged in this Order to Show Cause. Where the Respondent has no specific knowledge regarding a fact alleged in the Order to Show Cause, a statement to that effect must be contained in the hearing request. Allegations of this Order to Show Cause not answered in the manner set forth above shall be deemed to have been admitted; and
- (d) A statement requesting the hearing.



Marlene Caride
Commissioner