

CONSUMERS BEWARE—ILLEGAL “ERISA” AND “UNION PLAN” SCAMS

If it seems too good to be true, it probably is. Nationwide, the health insurance marketplace is facing tougher times. The cost of health insurance is rising. Criminals, seeking to make a profit by selling fraudulent health insurance, claim that state insurance laws don't apply. These entities recruit insurance agents to sell “ERISA plans” or “union plans” falsely claimed to be exempt from state law.

Legitimate ERISA plans (plans governed by the federal Employee Retirement Income Security Act of 1974) and union plans may be exempt from state insurance regulation, which is why criminals try to fool people by making these claims. However, legitimate ERISA or union plans are established by unions for its own members or by an employer for the employer's own employees. They are not sold by insurance agents.

Consumers and employers should take care to ask their agents whether the health coverage they are purchasing is fully insured by licensed insurers. A “union plan” sold by an agent, health coverage that seems unusually “cheap,” health coverage that is issued with few questions about the applicant's health condition, or plan material that refers only to a “stop-loss” insurer should alert a consumer to question the selling agent or contact the state insurance department.

A typical fraudulent health insurance scam attempts to recruit as many local insurance agents as possible to market the coverage. The health coverage is not approved by the state insurance department. Agents are told it is regulated by federal, not state law. In fact, it is totally illegal. The coverage is typically offered regardless of the applicant's health condition and at lower rates and with better benefits than can be found from licensed insurers. The scam seeks to collect a large amount of premium as rapidly as possible. While claims may be paid initially, the scam will soon begin to delay payment and offer excuses for failure to pay. Unsuspecting consumers who thought they were covered for their medical needs are left responsible for huge medical bills. Employers may be liable for the medical bills of their employees as well.

How can the average consumer avoid becoming the next victim? Be suspicious, ask hard questions and do your homework. Read all materials and scrutinize websites carefully. Most insurance agents will reject these scams but some are selling them:

- ? Coverage that boasts low rates and minimal or no underwriting should be a signal to look deeper.
- ? Make sure that your insurance agent is selling you a state licensed insurance product. If an insurance agent is trying to sell you a union plan, contact the [state department of insurance].

- ? Deal with reputable agents. If the person trying to sell you the coverage says he or she doesn't need a license because the coverage isn't insurance or is exempt from regulation, watch out. Contact your insurance department if you have any questions.
- ? Ask your agent for the name of the insurer and check the benefit booklet you receive to see whether it names a licensed insurer that is fully insuring the coverage.
- ? If your agent or the marketing material says that the plan is covered only by “stop loss insurance” or that the plan is an “ERISA” plan or “union” plan, call the [state insurance department.]

In sum: if you suspect that an insurance agent is trying to sell you fraudulent health insurance, contact your state department of insurance right away.