Montana State Legislature

Exhibit Number: 2

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MONTANA STATE AUDITOR
JOHN MORRISON

Protecting Montana's consumers through insurance and securities regulation

EXHIBIT 2
DATE 3.31.05
SB 380

Montana Medical Care Discount Card Act
SB 380

Protecting Montanans from medical discount card fraud

Background:
The rising cost of health care as caused the medical discount cards and pharmacy discount cards market to explode in recent years. Discount cards are attractive to people searching for affordable healthcare because they can offer savings on visits to healthcare providers (doctors, dentists etc.) and on prescription drugs. The problems begin when the sellers of these cards mislead consumers on who accepts the cards, and the amount of savings and services the cards provide. Some solicitors mislead consumers into believing the cards are a substitute for health insurance. What happens then? Consumers pay for discounts they do not receive. Consumers do not receive the services they expect, and are often still left paying full price for all their medical expenses.

Bill Details:
This legislation is designed to reduce the occurrence of medical discount card fraud in the state of Montana. It gives the State Auditor greater regulatory authority over the solicitation and sale of the medical discount cards, so that consumers in Montana are better protected from such scams.

Under the new law, discount card providers would comply with the following regulations:
Medical discount card providers

- Before marketing, promoting or selling discount cards in Montana providers will register as a medical discount card supplier with the State Auditor.
- The discount card providers will provide the State Auditor with a list of solicitors authorized to sell or distribute its products
- The discount card providers must maintain a surety bond in the amount of $500,000 to pay for any damages caused by or fine levied against supplier for violations

Medical discount card and pharmacy discount card suppliers will;

- Not mislead consumers about the discounts offered by the card, doing so will be considered fraud and a deceptive practice, resulting in fines and possible restitution to victims
- Inform consumers that cards are not a substitute for insurance
- Provide consumers a list of services offered by the card and contact information of the nearest providers that honor the card, before selling the card.
- Provide consumers with a 30-day right to cancel
- Make available all contact information of all providers who honor the card
- Provide their contact information with State Auditor's Office

To enforce the new law, the State Auditor may issue cease and desist orders and fine violators.

The State Auditor's Office in cooperation with industry amended SB 380 in the Senate to exempt third party administrators. SB 380 passed the Senate easily by a vote of 48-2.

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The Adit

"Your Opening To A Gold Mine"

Vol 29 #27
Wednesday, March 23, 2005 443-3690 adit.com

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Issue Brief

MARCH 2005

Discount Medical Cards: Innovation or Illusion?

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ABSTRACT: Discount medical cards have come under increasing scrutiny by regulators and law enforcement officials as a result of mounting consumer-reported problems. For their study, the authors tested five cards available in the Washington, D.C., metro area; interviewed card company representatives, state attorneys general, insurance regulators, and insurance agents; and reviewed court and administrative actions. While some cards provide a measure of value, other cards were found to have serious drawbacks, including: high-pressure sales tactics; misleading or inaccurate promotion; exaggerated claims of savings; difficulty finding participating doctors; and providers who failed to give cardholders promised discounts. Some discount card companies are seeking to reform the market through a trade association and voluntary code of conduct. Still, legislative and regulatory interventions will be needed to protect consumers in an unregulated and growing market.

* * * * *

Background

Double-digit premium increases over the past four years have made health insurance unaffordable for many Americans. As an alternative to insurance coverage, some consumers are turning to discount medical cards, which can allow the purchaser to obtain services at reduced fees from participating doctors, hospitals, and other providers. But as reports of a variety of consumer problems—from exaggerated discounts to nonexistent provider networks—mount, these cards have come under growing scrutiny from regulators and law enforcement officials.

To understand the challenges facing consumers, the authors tested five of the 27 cards advertised in the Washington, D.C., metro area by undergoing the application process, seeking health care services from participating providers, and then canceling the cards. (Only nine of the 27 products identified were eligible for study; the other 18 cards could not be studied because of nonworking telephone numbers, lack of provider discounts, or other reasons.) In addition, the researchers interviewed representatives from companies

Marketers use insurance terminology like "no underwriting" and "no preexisting conditions," leading people to presume incorrectly that they are buying insurance. Also, the monthly fee—which can be as high as the monthly cost for catastrophic insurance—can mislead people into thinking that it is actually an insurance premium. Some discount medical cards, moreover, are sold with accident insurance coverage that pays medical bills resulting from an accident; others are sold with hospital indemnity insurance policies that pay for hospital stays.[8] This bundling of noninsurance and insurance products may cause further confusion.

How Many People Have a Discount Medical Card?

There are no data on how many people have a discount medical card, nor are there demographic data on those enrolled. One large discount card company reports that nearly 680,000 people have enrolled in its physician discount program.[9] Another company reported more than 81,000 enrollees and $39.3 million in revenue in 2003.[10]

Marketing of Cards

Companies that administer and manage discount cards sell their product in three ways: directly to consumers; through other companies, like associations; or by independent sales agents (including insurance agents) and marketing firms.[11] One publicly traded company reports that it devotes 37 percent of its operating expenses to sales and marketing, including recruitment and training of an independent sales force and sales commissions.[12] This company uses a technique known as "network marketing," under which marketers recruit other marketers and receive commissions based on their sales.[13]

Unlike insurance agents, promoters of discount cards are generally not regulated or licensed, meaning that there are few standards that apply to sales or sales methods. In preparing this issue brief, the authors reviewed marketing materials that used scare tactics, misleading information, and exaggeration to attract buyers. The following is an unedited excerpt from a telemarketing script used to sell one national card:

> At this moment in time you have no insurance coverage. What if something were to happen to you or anyone in your family like an accident that required immediate attention. What if the closest hospital is a private hospital, as you know, the first thing that the hospital will asks [sic] you for is your insurance card. And if you don't have any they won't admit you. They'll just tell you to go to the county hospital. Now there have been nightmares and horror stories about people dieing [sic] on their way to the county hospital because they didn't have insurance. Everyday that you wait is another day that you don't have that Emergency Protection. No one likes to think like this but, What if you're one day too late. By enrolling Today you'll Never have to say WHAT IF again!![14]

Promoters solicit business in a variety of ways, including advertising on television, radio, and the Internet, as well as through fax, e-mail, and telemarketing.[15] Some consumer groups, associations, retailers, and credit card companies have endorsed or affiliated themselves with discount card programs.[16] According to an August 2004 article in the *Chicago Tribune,* a pastor in Illinois sold discount medical cards to his parishioners.[17]

Field Test of Discount Medical Cards

To test how well discount medical cards work, the authors in August, September, and October 2004 enrolled in, used, and disenrolled from five cards that offered discounts for health care services in the greater Washington, D.C., area. (See page 12 for complete study methodology.)

Enrollment Process

The authors found considerable variation in enrollment experiences. Promoters of two of the five cards gave detailed explanations of how the cards work, how they differ from insurance, and how they can be used in combination with insurance in

In total, the researchers contacted 44 medical providers. Of these, 16 honored the card, but only nine provided an estimated discount. In one case, the researchers contacted 12 providers whose information was provided by the card company and found that only one recognized and accepted the card.[19] Of the five cards tested, only one had a 100 percent record of providers offering discounts to cardholders (Table 1).[20]

within 15 percent of the upper limit promised. Discounts for the other two cards either were substantially less than promised or the authors were not able to obtain estimates from the providers. Two of the five cards promised an 80 percent discount, but the authors were unable to find a provider who offered such a discount.

In several cases, discounts were also available to non-cardholding patients paying cash. One

Table 1. Reaching Providers

Card	Number of Providers Able to Contact*	Number of Providers Accepting Card	Promised Savings	Actual Discount	Discount for Cash-Paying or Uninsured Patient
1	9 of 12	1	15%–40%	30%	None
2	6 of 9	4	15%–40%	20%–25%	2 of 4 providers; amount varied, depending on individual's circumstance
3	7 of 7	7**	Up to 40%	4%–34%	None
4	5 of 9	3	50%–80%	6%–36%	2 of 3 providers; amount varied for one provider, depending on individual's circumstance; the other provider gave 30% off (6% off to discount cardholders)
5	4 of 7	1	25%–80%	Estimate not provided	None

* We were not able to contact providers for one of two reasons: 1) the phone number was disconnected; or 2) discount card company gave us incorrect contact information for the provider.

** One provider offered a discount for the first visit only.

Source: Authors' review and analysis of a selected group of discount medical cards, 2004.

To determine how the discounts compared to noncardholder rates, the authors asked the providers for their regular price, the rate for an uninsured individual paying cash, and the rate for cardholders. Prices were compared for the following medical events: standard annual physical from a physician; standard annual gynecological visit (with Pap test; lab fees not included); and an initial visit to an allergist that included testing for allergies (skin test/scratch test).

The level of discount varied from between 4 percent and 36 percent off the providers' regular rates. For two cards, the discount quoted was consistent with what was promised in advertisements and in the enrollment materials—within 10 percent of the upper limit promised. One card was

provider gave uninsured patients a discount of $45 off the usual and customary fee of $155; the discount for a cardholder would be only $10.[21]

Even when providers offered discounts, only the two least expensive cards provided any measure of value when the authors figured in the cost of the monthly fee and enrollment fee. The two least expensive cards did provide some level of savings. For example, one card (monthly fee of $12.99 and no enrollment fee) provided savings of $80 on an annual gynecological exam and $25 on a routine physical with a physician. Because the first 60 days for this card cost only $1, the net savings equaled $104. However, one drawback is that although all providers contacted said that they participated, not all were able to say what the amount of the