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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91223181
Party	Defendant The Network Advantage Card, LLC.
Correspondence Address	OMID E. KHALIFEH Omni Legal Group 10866 WILSHIRE BLVD , STE 400 Los Angeles, CA 90024-4338 UNITED STATES info@omnilegalgroup.com, omid@omnilegalgroup.com
Submission	Motion to Amend/Amended Answer or Counterclaim
Filer's Name	Omid E. Khalifeh
Filer's e-mail	info@omnilegalgroup.com, omid@omnilegalgroup.com
Signature	/OEK/
Date	03/11/2016
Attachments	NACmta.pdf(5736614 bytes)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

Independent Health Association, Inc.)	
)	
Opposer,)	Opposition No. 91223181
)	
v.)	Mark: NETWORK ADVANTAGE
)	CARD
The Network Advantage Card, LLC)	
)	Application No. 86517436
)	
Applicant.)	
)	

Commissioner for Trademarks
P.O. Box 1451
Alexandria, VA 22313-1451

ATTN: Trademark Trial and Appeal Board

MOTION TO AMEND ANSWER TO ADD COMPULSORY COUNTERCLAIM
AND TO ADD AFFIRMATIVE DEFENSES

The Network Advantage Card, LLC (“**Applicant**”) hereby moves the Trademark Trial and Appeal Board (“**Board**”) pursuant to 37 C.F.R. 2.106(b)(2)(1) and TBMP §507.02(b) for leave to amend its Answer to Independent Health Association, Inc.’s (“**Opposer’s**”) Notice of Opposition to include Counterclaims for cancellation of Opposer’s pleaded Reg. Nos. 4748611 and 4545064, add Affirmative Defenses related to those Counterclaims, and amend certain paragraphs of Applicant’s Answer previously submitted in response to Opposer’s Notice of Opposition.

The Amended Answer is attached to this motion.

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The following newly discovered facts have come to light during the course of this Opposition, giving rise to grounds for the proposed amendments to Applicant's Answer:

FACTS

On June 29, 2013, Opposer filed an intent-to-use application, serial number 85/973,645, to register the mark INDEPENDENT HEALTH'S NETWORK ADVANTAGE under 15 U.S.C. §1051(b) for use with "health insurance benefits, namely, providing benefits for health care services through a network of multiple physician practices offering primary care services working in association with other health care providers, including specialists and hospitals" in international Class 036. On March 28, 2013 Opposer submitted a Statement of Use to the United States Patent and Trademark Office ("USPTO") alleging a date of first use in commerce at least as early as October 1, 2013. Attached to Opposer's Statement of Use were Specimens of Use comprising graphic advertisements for Opposer's services, explicitly limiting availability of such services to residents of Erie and Niagara Counties in the state of New York.

Similarly, on August 2, 2013 Opposer filed an intent-to-use application, serial number 86/026,948, to register the mark NETWORK ADVANTAGE under 15 U.S.C. §1051(b) for use with "health insurance benefits, namely, providing benefits for health care services through a network of multiple physician practices offering primary care services working in association with other health care providers, including specialists and hospitals" in international Class 036. On March 3, 2015, Opposer submitted a Statement of Use to the USPTO alleging a date of first use in commerce at least as early as October 1, 2013. Attached to Opposer's Statement of Use were Specimens of Use comprising graphic advertisements for Opposer's services, explicitly limiting availability of such services to residents of Erie and Niagara Counties in the state of New York.

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As of the filing of this Motion and the attached Amended Answer, services respectively identified by Opposer's pleaded marks via Opposer's website are limited for purchase by residents of Erie and Niagara Counties, New York only. This constitutes wholly intrastate commerce insufficient to support registrability of a mark through the USPTO, which is only competent to grant registration for marks identifying services rendered in commerce that is subject to Congressional regulation, i.e. interstate commerce.

ARGUMENT IN SUPPORT OF THE MOTION

"Pleadings in an opposition proceeding may be amended in the same manner and to the same extent as in a civil acting in a United States district court." 37 C.F.R. §2.107. Accordingly, Applicant may amend its Answer and "leave shall be freely given when justice so requires" Fed. R. Civ. P. 15(a).

In this case, Applicant's counterclaims are expressly made compulsory under the Code of Federal Regulations. More particularly, "[a] defense attacking the validity of any one or more of the registrations pleaded in the opposition shall be a compulsory counterclaim." 37 C.F.R. §2.106(b)(2)(i).

Additionally, justice dictates that Applicant be permitted to amend its Answer to assert such compulsory counterclaims heretofore unknown to Applicant, assert Affirmative Defenses related to such counterclaims, and further amend certain paragraphs of its Answer previously submitted in response to Opposer's claims in its Notice of Opposition. Indeed, such situations are expressly contemplated by the TBMP:

If, after the filing of its pleading, a party learns, through discovery or otherwise, of information which would serve as a basis for an additional claim ... or defense or counterclaim ... the party should

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move promptly to amend its pleading to assert the additional matter...

TBMP §314 (citations omitted). Here, the grounds for cancellation of Opposer's pleaded registration were not known to Applicant when its Answer was first filed, and Applicant has acted promptly under the circumstances. Justice is additionally served by granting this motion because

[a] defendant who fails to timely plead a compulsory counterclaim cannot avoid the effect of its failure by thereafter asserting the counterclaims grounds in a separate petition to cancel...

TBMP §313.04 (citations omitted).

In view of the foregoing, it is respectfully requested that the Board permit Applicant to file the Amended Answer attached hereto.

Respectfully submitted,

By: /OEK/
Omid E. Khalifeh
Attorney for Applicant
Omni Legal Group
10866 Wilshire Blvd., Ste. 400
Los Angeles, California 90024-4338
TEL: (310) 276-6664
FAX: (310)305-1550
EMAIL: omid@omnilegalgroup.com

DATED: March 11, 2016

CERTIFICATION UNDER 37 C.F.R. §1.8

I hereby certify that this MOTION TO AMEND ANSWER TO ADD COMPULSORY COUNTERCLAIMS AND AFFIRMATIVE DEFENSES is being filed electronically with the United States Patent and Trademark Office utilizing the *Electronic System for Trademark Trials and Appeals* on this 11th day of March, 2016.

/OEK/

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TEL: (310) 276-6664
FAX: (310)305-1550
EMAIL: omid@omnilegalgroup.com

CERTIFICATE OF SERVICE

I certify that a true copy of this MOTION TO AMEND ANSWER TO ADD
COMPULSORY COUNTERCLAIMS AND AFFIRMATIVE DEFENSES was served upon the
Opposer by depositing a copy thereof with the U.S. Postal Service, via first class mail, postage
prepaid, directed to Opposer:

Ellen S. Simpson
Simpson & Simpson, PLLC
5555 Main Street
Williamsville, New York 14221

Dated: March 11, 2016

By: /OEK/

Omid E. Khalifeh
Attorney for Applicant
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Los Angeles, California 90024-4338
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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
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)	
Applicant.)	
)	

Commissioner for Trademarks
P.O. Box 1451
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ATTN: Trademark Trial and Appeal Board

**AMENDED ANSWER TO NOTICE OF OPPOSITION WITH
COUNTERCLAIM AND AFFIRMATIVE DEFENSES**

The Network Advantage Card, LLC (“**Applicant**”) answers Independent Health Association, Inc.’s (“**Opposer’s**”) Notice of Opposition as follows:

1. Applicant is without knowledge or information sufficient to form a belief as to the allegations of Paragraph 1 and therefore denies the same.
2. Applicant admits the allegations of Paragraph 2.
3. Upon information and belief, Applicant admits the allegations of Paragraph 3.

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4. Evidence has been brought to Applicant's attention, which serves as a basis for Counterclaims detailed below, tending to dispute Opposer's claims in Paragraph 4. Therefore, upon information and belief, Applicant denies the allegations of Paragraph 4.

5. Evidence has been brought to Applicant's attention, which serves as a basis for Counterclaims detailed below, tending to dispute Opposer's claims in Paragraph 5. Therefore, upon information and belief, Applicant denies the allegations of Paragraph 5.

6. Upon information and belief, Applicant admits the allegations of Paragraph 6.

7. Upon information and belief, Applicant admits the allegations of Paragraph 7.

8. Applicant is without knowledge or information sufficient to form a belief as to the allegations of Paragraph 8 and therefore denies the same.

9. Applicant admits the allegations of Paragraph 9.

10. Applicant admits that Application Serial No. 86/517,436 was filed on January 28, 2015. Applicant is without knowledge or information sufficient to form a belief as to the remainder of the allegations of Paragraph 10 and therefore denies the same.

11. Applicant denies the allegations of Paragraph 11.

12. Applicant admits that it intends to use the mark NETWORK ADVANTAGE CARD in association with financial advisory and consultancy services, namely, the creation of personalized strategies to achieve financial independence; financial consultancy services in the area of healthcare; financial information and advisory services; financial planning and investment advisory services; insurance and financial information and consultancy services; insurance consultancy services, namely, providing advice in the field of property and casualty insurance; on-line financial planning services; providing counseling and consulting in the field of healthcare benefits; providing information about healthcare insurance plans. However, Applicant denies that

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such services may be properly characterized so generally as existing in association with services in the filed of healthcare. Upon information and belief, Applicant admits the remainder of the allegations of Paragraph 12.

13. Applicant is unable to admit or deny the intended use of its mark described by Opposer based on grammatical ambiguity and therefore denies the same. Applicant is without knowledge or information sufficient to form a belief as to the remainder of the allegations of Paragraph 13 and therefore denies the same.

14. Applicant admits that Applicant would obtain a *prima facie* exclusive right to use the mark set forth in its application for registration if Applicant is granted the registration subject to this opposition. Applicant denies the remainder of the allegations of Paragraph 14.

15. Applicant denies the allegations of Paragraph 15.

16. Applicant denies the allegations of Paragraph 16.

17. Applicant denies the allegations of Paragraph 17.

18. As and for Arguments in Support of Denial of the Claims, Applicant states as follows:

ARGUMENTS IN SUPPORT OF DENIAL OF THE CLAIMS

No Likelihood of Confusion -

Third-Party Uses of Similar Marks for Similar Services

19. Applicant denies there is any likelihood of confusion. Specifically, there is no likelihood of confusion, mistake or deception because, *inter alia*, extensive third-party use of a dominant portion of Opposer's marks weaken Opposer's marks to the extent that even the slightest difference from Opposer's mark is sufficient to eliminate a likelihood of confusion.

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20. Disclaimed matter is not regarded as the dominant or most significant portion of the mark. Opposer has disclaimed the phrase "Health's Network" in Reg. No. 4545064. In Reg. No. 4748611, Opposer has disclaimed the word "Network" so that the dominant portions of Opposer's marks are, respectively, "Independent [...] Advantage" and "Advantage."

21. The term "Advantage", and various derivatives thereof, has been widely adopted and used by third parties as a trademark, which is evidence of the weakness of the Opposer's cited registrations. Indeed, third party registrations can establish that a portion common to the marks involved in a proceeding has a normally understood and well-known meaning. The Trademark Office supports this by registering marks containing such a common feature for the same or closely related goods where the remaining portions of the marks, such as Applicant's use of the word "Card", are sufficient to distinguish the marks as a whole, even where such remaining differences contain only the slightest difference from the cited registrations.

22. A search of the records of the Trademark Office reveals numerous registrations for marks similar to Opposer's cited registrations including services in International Class 036. Indeed, 620 results are returned for live registrations and applications using the word "Advantage" in International Class 036. Narrowing this to include results limited to health and medical services, 92 records remain. See, for example, the following registrations of marks including the word "Advantage" in International Class 036, constituting a portion of the results returned, and generally relating to a combination of insurance services and consultancy, medical practice and healthcare. Status and title copies of the registrations are attached as Exhibit A.

<u>Registration No.</u>	<u>MARK</u>
1470004	CAPITAL ADVANTAGE
2197835	COMMUNITY ADVANTAGE NETWORK
3174382	PRINCIPAL ADVANTAGE

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3685710	ADVANTAGE PLAN VALUE
4032554	PRIMARY ADVANTAGE
4045142	ADVANTAGE
4105550	PARTNERS ADVANTAGE
4266537	SUPREME ADVANTAGE
4342200	ADVANTAGE PLUS
4433227	EXPRESS ADVANTAGE NETWORK
4477334	SELECTHEALTH ADVANTAGE
4544890	LIVE LIFE ADVANTAGE
4544891	TRUE LIFE ADVANTAGE
4631978	ADVANTAGE INSURANCE NETWORK
4694337	LEAD ADVANTAGE

23. Thus, the third-party registrations for marks including the term “Advantage” for services in International Class 036 are additional evidence that the “Advantage” portion of the marks has a normally understood and well-known meaning as used in the field of providing insurance and health care services. Referring in particular to the copies of registrations attached, it will be seen that of those listed, Reg. Nos. 3685710, 4045142, 4105550, 4266537, 4631978, and 4694337 each disclaim all but the word “Advantage” in their registrations, making the word “Advantage” a dominant portion in at least eight (8) registrations, inclusive of Opposer’s marks, in International Class 036 alone. Three (3) of those listed, namely Reg. Nos. 2197835, 4433227, and 4631978 even further include the common, but disclaimed and therefore non-dominant, word “Network.”

24. In view of the weakness, even the slightest difference between the marks will eliminate any likelihood of consumer confusion. The word “Advantage” is so diluted even with regard to insurance and health and medical services that no entity should have exclusive rights to that word, particularly as relates to health care services and health insurance benefits. As such, additionally owing to the differences between Applicant’s and Opposer’s services, Applicant’s mark is no more likely to cause confusion with the cited marks than the cited marks are likely to cause confusion

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with the number of aforementioned registrations, which themselves constitute only a portion of the results returned from the Principle Register.

No Likelihood of Confusion - Dissimilar Services

25. Applicant further denies likelihood of confusion, mistake or deception because, *inter alia*, services identified by Applicant's mark and the pleaded marks of Opposer are dissimilar.

26. Opposer's marks under Reg. Nos. 4545064. and 4748611 appear on the Federal Register for "health insurance benefits, namely, providing benefits for health care services through a network of multiple physician practices offering primary care services working in association with other health care providers, such as specialists and hospitals."

27. Applicant's mark distinguishably relates to "financial advisory and consultancy services, namely, the creation of personalized strategies to achieve financial independence; financial consultancy services in the area of healthcare; financial information and advisory services; financial planning and investment advisory services; insurance and financial information and consultancy services; insurance consultancy services, namely, providing advice in the field of property and casualty insurance; on-line financial planning services; providing counseling and consulting in the field of healthcare benefits; providing information about healthcare insurance plans." Applicant's mark identifies services in the field of healthcare only insofar as healthcare and information about healthcare and healthcare benefits are a financial concern. Applicant' does not claim to provide health insurance benefits or benefits for health care services. Applicant's consultancy services then, are unlikely to confuse a consumer concerned with obtaining health insurance benefits for health and primary care services from medical professionals, as identified by Opposer's marks.

28. As and for Affirmative Defenses, Applicant states as follows:

FIRST AFFIRMATIVE DEFENSE

29. One or more of Opposer's claims fail to state a claim upon which relief may be granted.

SECOND AFFIRMATIVE DEFENSE

30. One or more of Opposer's claims are barred by the equitable defenses of unclean hands, fraud, laches, acquiescence, waiver, or estoppel.

THIRD AFFIRMATIVE DEFENSE

31. Applicant asserts that it is at least entitled to a registration of its mark for financial advisory and consultancy services as applicable to healthcare benefits and insurance plans.

FOURTH AFFIRMATIVE DEFENSE

32. Opposer's pleaded marks are not used in commerce and are therefore invalid federal registrations.

33. As and for Counterclaims, Applicant states as follows:

COUNTERCLAIM TO CANCEL REGISTRATIONS PLEADED BY OPPOSER

Applicant believes that it is and will continue to be damaged by Opposer's pleaded Reg. Nos. 4545064 and 4748611 and hereby asserts the following Counterclaims for cancellation of said registrations against Opposer:

Reg. No. 4545064

34. On June 29, 2013, Opposer filed an intent-to-use application, serial number 85/973,645, to register the mark INDEPENDENT HEALTH'S NETWORK ADVANTAGE under 15 U.S.C. §1051(b) for use with "health insurance benefits, namely, providing benefits for health care services through a network of multiple physician practices offering primary care

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services working in association with other health care providers, including specialists and hospitals” in international Class 036.

35. The mark in serial number 85/973,645 registered as Reg. No. 4545064 on June 3, 2014.

36. On March 28, 2013 Opposer submitted a Statement of Use for Reg. No. 4545064 to the United States Patent and Trademark Office (“USPTO”) alleging a date of first use in commerce at least as early as October 1, 2013.

37. Attached to Opposer’s Statement of Use for Reg. No. 4545064 were Specimens of Use comprising graphic advertisements for services rendered by Opposer under such mark.

38. Specimens attached to Opposer’s Statement of Use for Reg. No. 4545064 advertise restrictions that limit purchase of services identified by the mark to residents of Erie County, New York and Niagara County, New York.

39. Upon information and belief, services provided by Opposer under Reg. No. 4545064 are rendered only within the geographic region of New York state.

40. Opposer’s Specimen of Use, which it submitted to the USPTO in support of its application for registration for Reg. No. 4545064 is insufficient to demonstrate use of Reg. No. 4545064 in interstate commerce.

41. Upon information and belief, the false statement made in Opposer’s Statement of Use submitted for Reg. No. 4545064 was false, was made knowing it was false, and was material.

42. Upon information and belief, Opposer falsely, knowingly, and materially claimed that the mark in Reg. No. 4545064 is actively being used in interstate commerce.

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43. Upon information and belief, the false statement made in Opposer's Statement of Use submitted for Reg. No. 4545064 was made to deceive the USPTO into issuing a certificate of registration. Such representation constituted inequitable conduct on the USPTO.

44. Opposer is using the pleaded mark in Reg. No. 4545064 to attempt to prevent Applicant from registering its mark. Therefore, Applicant will be damaged by Opposer's continued registration thereof.

Reg. No. 4748611

45. On August 2, 2013 Opposer filed an intent-to-use application, serial number 86/026,948, to register the mark NETWORK ADVANTAGE under 15 U.S.C. §1051(b) for use with "health insurance benefits, namely, providing benefits for health care services through a network of multiple physician practices offering primary care services working in association with other health care providers, including specialists and hospitals" in international Class 036.

46. The mark in serial number 86/026,948 registered as Reg. No. 4748611 on June 3, 2014.

47. On March 3, 2015, Opposer submitted a Statement of Use for Reg. No. 4748611 to the USPTO alleging a date of first use in commerce at least as early as October 1, 2013.

48. Attached to Opposer's Statement of Use for Reg. No. 4748611 were specimens of use comprising graphic advertisements for services rendered by Opposer under such mark.

49. Specimens attached to Opposer's Statement of Use for the mark in Reg. No. 4748611 advertise restrictions that limit purchase of services identified by the mark only to residents of Erie County, New York and Niagara County, New York.

50. Upon information and belief, services provided by Opposer under Reg. No. 4748611 have been and are at the time of filing this Counterclaim advertised as available for

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purchase only by consumers who are residents of Erie County, New York and Niagara County, New York.

51. Upon information and belief, services provided by Opposer under Reg. No. 4748611 are rendered only within the geographic region of New York state.

52. Opposer's Specimen, which it submitted to the USPTO in support of its application for registration for Reg. No. 4748611 is insufficient to demonstrate use of Reg. No. 4748611 in interstate commerce.

53. Upon information and belief, Opposer's statement in its Statement of Use submitted for Reg. No. 4748611 was false, was made knowing that it was false, and was material.

54. Upon information and belief, Opposer falsely, knowingly, and materially claimed that the mark in Reg. No. 4748611 is actively being used in interstate commerce.

55. Upon information and belief, the false statement made in Opposer's Statement of Use submitted for Reg. No. 4748611 was made to deceive the USPTO into issuing a certificate of registration. Such representation constituted inequitable conduct on the USPTO.

56. Opposer is using the pleaded mark in Reg. No. 4748611 to attempt to prevent Applicant from registering its mark. Therefore, Applicant will be damaged by Opposer's continued registration thereof.

57. As and for Arguments in Support of the Counterclaims, Applicant states as follows:

ARGUMENTS IN SUPPORT OF THE COUNTERCLAIMS

No Use in Commerce - 15 U.S.C. § 1051

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57. For Opposer's mark to qualify for registration on the principal register, services identified thereby must be rendered in interstate commerce. Opposer's pleaded marks, Reg. Nos. 4545064 and 4748611, should be cancelled because such marks are not used in interstate commerce. Statements of Use and Specimens submitted the for Reg. Nos. 4545064 (attached as Exhibit B) and 4748611 (attached as Exhibit C) explicitly limit rendering of services under the marks as "Available for Erie and Niagara County Residents Only." Erie County and Niagara County are both located wholly within the state of New York, which, upon information and belief constitutes, intrastate commerce that is not regulable by Congress and thus insufficient to afford Federal Trademark protection. This intrastate rendering of services was also reflected on their website as of the filing of this Amended Answer as well as in freely available "Summary of Benefits" that provide

*To join **Independent Health's Network Advantage (HMO)**, you must ... live in our service area. Our service area includes the following counties in New York: Erie, and Niagara*

(Exhibit D).

58. Other specimens for unpleaded registrations owned by Opposer fail to demonstrate requisite interstate commerce as well. For example, the Specimen (attached as Exhibit E) electronically submitted on March 12, 2007 for Reg. No. 2078405 for "INDEPENDENT HEALTH'S ENCOMPASS" for "health care in the nature of a health maintenance organization" in international class 042 explicitly limits rendering of services to "Allegany, Cattaraugus, Chautauqua, Erie, Genesee, Niagara, Orleans and Wyoming counties," all of which are located within the geographic region of New York state. This indicates repeated knowingly false and material assertions of intrastate activity that is insufficient to support federal registration.

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WHEREFORE, Applicant respectfully requests that the Notice of Opposition be rejected, that Opposer's pleaded claims be cancelled, and that Applicant's mark be allowed to proceed to registration.

Respectfully submitted,

By: /OEK/
Omid E. Khalifeh
Attorney for Applicant
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DATED: March 11, 2016

CERTIFICATION UNDER 37 C.F.R. §1.8

I hereby certify that this AMENDED ANSWER is being filed electronically with the United States Patent and Trademark Office utilizing the *Electronic System for Trademark Trials and Appeals* on this 11th day of March, 2016.

 /OEK/

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TEL: (310) 276-6664
FAX: (310)305-1550
EMAIL: omid@omnilegalgroup.com

CERTIFICATE OF SERVICE

I certify that a true copy of this AMENDED ANSWER was served upon the Opposer by depositing a copy thereof with the U.S. Postal Service, via first class mail, postage prepaid, directed to Opposer:

Ellen S. Simpson
Simpson & Simpson, PLLC
5555 Main Street
Williamsville, New York 14221

Dated: March 11, 2016

By: _____/OEK/

Omid E. Khalifeh
Attorney for Applicant
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EMAIL: omid@omnilegalgroup.com

EXHIBIT A

Int. Cl.: 36

Prior U.S. Cl.: 102

United States Patent and Trademark Office **Reg. No. 1,470,004**
Registered Dec. 22, 1987

**SERVICE MARK
PRINCIPAL REGISTER**

CAPITAL ADVANTAGE

CAPITAL BLUE CROSS (PENNSYLVANIA
CORPORATION)
100 PINE STREET
HARRISBURG, PA 17101

FOR: HEALTH RELATED AND LIFE INSUR-
ANCE SERVICES INCLUDING INSURANCE
ADMINISTRATION, BROKERAGE AND UN-

DERWRITING SERVICES, IN CLASS 36 (U.S.
CL. 102).

FIRST USE 11-9-1986; IN COMMERCE
11-9-1986.

SER. NO. 638,677, FILED 1-7-1987.

MARY I. SPARROW, EXAMINING ATTORNEY

Int. Cl.: 36

Prior U.S. Cls.: 100, 101 and 102

Reg. No. 2,197,835

United States Patent and Trademark Office

Registered Oct. 20, 1998

**SERVICE MARK
PRINCIPAL REGISTER**

COMMUNITY ADVANTAGE NETWORK

COTTINGHAM & BUTLER INSURANCE SERVICES, INC. (IOWA CORPORATION)
300 SECURITY BUILDING, 151 W. 8TH STREET
DUBUQUE, IA 52001

FOR: ADMINISTRATION OF AND ORGANIZING PREFERRED PROVIDER PROGRAMS IN THE FIELD OF HEALTH CARE PRODUCTS AND SERVICES, NAMELY, NEGOTIATING DISCOUNTED FEES FOR MEDICAL AND OTHER HEALTH CARE PRODUCTS AND SERVICES WITH HEALTH CARE PROFES-

SIONALS AND BUSINESSES, IN CLASS 36 (U.S. CLS. 100, 101 AND 102).

FIRST USE 5-23-1997; IN COMMERCE 5-23-1997.

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "NETWORK", APART FROM THE MARK AS SHOWN.

SER. NO. 75-335,505, FILED 8-4-1997.

ALEXANDER L. POWERS, EXAMINING ATTORNEY

Int. Cl.: 36

Prior U.S. Cls.: 100, 101, and 102

Reg. No. 3,174,382

United States Patent and Trademark Office

Registered Nov. 21, 2006

**SERVICE MARK
PRINCIPAL REGISTER**

PRINCIPAL ADVANTAGE

PRINCIPAL LIFE INSURANCE COMPANY
(IOWA CORPORATION)
711 HIGH STREET
DES MOINES, IA 50392

FOR: LIFE, HEALTH, ACCIDENT AND CASUALTY INSURANCE UNDERWRITING AND BROKERAGE SERVICES, INVESTMENT MANAGEMENT SERVICES, UNDERWRITING, ADMINISTERING AND MANAGING ANNUITIES, MUTUAL FUNDS, PENSIONS AND INCOME PROGRAMS FOR OTH-

ERS, REGISTERED INVESTMENT ADVISORY SERVICES AND MANAGEMENT OF SECURITIES AND SECURITIES BROKERAGE SERVICES, IN CLASS 36 (U.S. CLS. 100, 101 AND 102).

FIRST USE 10-1-2000; IN COMMERCE 10-1-2000.

SN 75-463,886, FILED 4-7-1998.

JENNIFER WILLISTON, EXAMINING ATTORNEY

United States of America

United States Patent and Trademark Office

ADVANTAGE PLAN VALUE

Reg. No. 3,685,710 MEDICAL MUTUAL OF OHIO (OHIO CORPORATION)
Registered Sep. 22, 2009 2060 EAST NINTH STREET
CLEVELAND, OH 44115

Int. Cl.: 36 FOR: HEALTH INSURANCE UNDERWRITING, HEALTH INSURANCE ADMINISTRATION,
IN CLASS 36 (U.S. CLS. 100, 101 AND 102).

SERVICE MARK FIRST USE 10-1-2008; IN COMMERCE 10-1-2008.
PRINCIPAL REGISTER

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

OWNER OF U.S. REG. NO. 3,282,290.

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "PLAN VALUE", APART FROM THE MARK AS SHOWN.

SER. NO. 77-683,192, FILED 3-4-2009.

JOHN GARTNER, EXAMINING ATTORNEY



David J. Kyffers

Director of the United States Patent and Trademark Office

United States of America

United States Patent and Trademark Office

PRIMARY ADVANTAGE

Reg. No. 4,032,554

Registered Sep. 27, 2011

Int. Cls.: 35, 36, and 44

SERVICE MARK

PRINCIPAL REGISTER

UNITEDHEALTH GROUP INCORPORATED (MINNESOTA CORPORATION)
MN008-T202
9900 BREN ROAD EAST
MINNETONKA, MN 55343

FOR: HEALTH CARE COST MANAGEMENT SERVICES FOR HEALTH CARE BENEFIT PLANS AND HEALTH CARE SERVICE PLANS OF OTHERS; HEALTH CARE UTILIZATION MANAGEMENT SERVICES; HEALTH CARE UTILIZATION, REVIEW AND COST CONTAINMENT SERVICES, IN CLASS 35 (U.S. CLS. 100, 101 AND 102).

FIRST USE 3-1-2011; IN COMMERCE 3-1-2011.

FOR: ORGANIZATION AND ADMINISTRATION OF HEALTH CARE BENEFIT PLANS AND HEALTH CARE SERVICE PLANS; INSURANCE SERVICES, NAMELY, CLAIMS ADMINISTRATION OF HEALTH CARE BENEFIT PLANS AND HEALTH CARE SERVICE PLANS; INSURANCE UNDERWRITING IN THE FIELD OF HEALTH CARE; ORGANIZATION AND ADMINISTRATION OF PRE-PAID HEALTH CARE PLANS; ORGANIZATION AND ADMINISTRATION OF NETWORKS OF PREFERRED HEALTH CARE PROVIDERS, IN CLASS 36 (U.S. CLS. 100, 101 AND 102).

FIRST USE 3-1-2011; IN COMMERCE 3-1-2011.

FOR: MANAGED HEALTH CARE SERVICES; HEALTH CARE IN THE NATURE OF HEALTH MAINTENANCE ORGANIZATIONS (HMOS), PREFERRED PROVIDER ORGANIZATIONS (PPOS) AND CONSUMER DIRECTED HEALTH PLANS, IN CLASS 44 (U.S. CLS. 100 AND 101).

FIRST USE 3-1-2011; IN COMMERCE 3-1-2011.

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

SN 85-082,242, FILED 7-12-2010.

ANDREA HACK, EXAMINING ATTORNEY



David J. Kappas

Director of the United States Patent and Trademark Office

United States of America
United States Patent and Trademark Office

Advantage

Reg. No. 4,045,142

Registered Oct. 25, 2011

Int. Cl.: 36

SERVICE MARK

PRINCIPAL REGISTER

VIRTUS BENEFITS, INC. (TENNESSEE CORPORATION)
SUITE 200
102 WOODMONT BLVD.
NASHVILLE, TN 37205

FOR: ADVISORY SERVICES IN THE FIELD OF EMPLOYEE BENEFITS FOR GROUP HEALTHCARE AND BUSINESS INSURANCE OFFERED TO EMPLOYEES IN ADDITION TO STANDARD BENEFITS SUCH AS MEDICAL, DENTAL, LIFE INSURANCE INCLUDING SHORT TERM DISABILITY, LONG TERM DISABILITY, CANCER INSURANCE, ACCIDENTAL DEATH AND DISMEMBERMENT, IN CLASS 36 (U.S. CLS. 100, 101 AND 102).

FIRST USE 12-1-2010; IN COMMERCE 12-1-2010.

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

SER. NO. 85-280,565, FILED 3-29-2011.

JACLYN KIDWELL WALKER, EXAMINING ATTORNEY



David J. Kyffers

Director of the United States Patent and Trademark Office

United States of America

United States Patent and Trademark Office

Partners Advantage

Reg. No. 4,105,550

PARTNERS ADVANTAGE, LLC (NORTH DAKOTA LIMITED LIABILITY COMPANY)
944 VIA LATA

Registered Feb. 28, 2012

COLTON, CA 92324

Int. Cls.: 36 and 41

FOR: FINANCIAL CONSULTANCY AND INSURANCE CONSULTANCY, IN CLASS 36 (U.S. CLS. 100, 101 AND 102).

SERVICE MARK

FIRST USE 10-24-2007; IN COMMERCE 10-24-2007.

PRINCIPAL REGISTER

FOR: WORKSHOPS AND SEMINARS IN THE FIELD OF INSURANCE, FINANCIAL PLANNING, AND RETIREMENT STRATEGIES, IN CLASS 41 (U.S. CLS. 100, 101 AND 107).

FIRST USE 10-24-2007; IN COMMERCE 10-24-2007.

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "PARTNERS", APART FROM THE MARK AS SHOWN.

SER. NO. 85-375,223, FILED 7-19-2011.

KIMBERLY PERRY, EXAMINING ATTORNEY



David J. Kyffers

Director of the United States Patent and Trademark Office

United States of America

United States Patent and Trademark Office

SUPREME ADVANTAGE

Reg. No. 4,266,537

Registered Jan. 1, 2013

Int. Cls.: 35 and 36

SERVICE MARK

PRINCIPAL REGISTER

MDADVANTAGE INSURANCE COMPANY OF NEW JERSEY (NEW JERSEY CORPORATION)
TWO PRINCESS ROAD, SUITE 2
LAWRENCEVILLE, NJ 08648

FOR: PROVIDING BUSINESS INFORMATION IN THE FIELD OF RISK MANAGEMENT AGAINST IMPROPER EMPLOYMENT PRACTICES, PRIVACY AND DATA SECURITY, AND MEDICAL PRACTICE ADMINISTRATION, IN CLASS 35 (U.S. CLS. 100, 101 AND 102).

FIRST USE 9-16-2010; IN COMMERCE 9-16-2010.

FOR: COMBINATION INSURANCE PRODUCTS AND SERVICES FOR MEDICAL PROFESSIONALS, NAMELY, EMPLOYMENT PRACTICE LIABILITY INSURANCE, PRIVACY AND DATA SECURITY INSURANCE, AND MEDICAL PRACTICE ADMINISTRATION INSURANCE; INSURANCE CONSULTANCY IN THE FIELD OF EMPLOYMENT PRACTICE LIABILITY INSURANCE, PRIVACY AND DATA SECURITY INSURANCE, AND MEDICAL PRACTICE ADMINISTRATION INSURANCE, IN CLASS 36 (U.S. CLS. 100, 101 AND 102).

FIRST USE 9-16-2010; IN COMMERCE 9-16-2010.

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "SUPREME", APART FROM THE MARK AS SHOWN.

SER. NO. 85-342,278, FILED S.R. 6-9-2011 AM. P.R. 9-6-2012.

ANGELA DUONG, EXAMINING ATTORNEY



David J. Kyjars

Director of the United States Patent and Trademark Office

United States of America

United States Patent and Trademark Office

Partners Advantage

Reg. No. 4,105,550

PARTNERS ADVANTAGE, LLC (NORTH DAKOTA LIMITED LIABILITY COMPANY)
944 VIA LATA

Registered Feb. 28, 2012

COLTON, CA 92324

Int. Cls.: 36 and 41

FOR: FINANCIAL CONSULTANCY AND INSURANCE CONSULTANCY, IN CLASS 36 (U.S. CLS. 100, 101 AND 102).

SERVICE MARK

FIRST USE 10-24-2007; IN COMMERCE 10-24-2007.

PRINCIPAL REGISTER

FOR: WORKSHOPS AND SEMINARS IN THE FIELD OF INSURANCE, FINANCIAL PLANNING, AND RETIREMENT STRATEGIES, IN CLASS 41 (U.S. CLS. 100, 101 AND 107).

FIRST USE 10-24-2007; IN COMMERCE 10-24-2007.

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "PARTNERS", APART FROM THE MARK AS SHOWN.

SER. NO. 85-375,223, FILED 7-19-2011.

KIMBERLY PERRY, EXAMINING ATTORNEY



David J. Kyffers

Director of the United States Patent and Trademark Office

United States of America

United States Patent and Trademark Office

EXPRESS ADVANTAGE NETWORK

Reg. No. 4,433,227

EXPRESS SCRIPTS, INC. (DELAWARE CORPORATION)
ONE EXPRESS WAY

Registered Nov. 12, 2013

ST. LOUIS, MO 63121

Int. Cls.: 35 and 36

FOR: BUSINESS CONSULTING IN THE FIELD OF PHARMACY BENEFITS, IN CLASS 35
(U.S. CLS. 100, 101 AND 102).

SERVICE MARK

FIRST USE 4-16-2012; IN COMMERCE 4-16-2012.

PRINCIPAL REGISTER

FOR: PHARMACY BENEFIT MANAGEMENT SERVICES; PROVIDING INFORMATION
AND ANALYSIS TO CLIENTS IN THE FIELD OF PHARMACY BENEFITS AND MEMBERS'
ACCESS TO PRESCRIPTIONS, IN CLASS 36 (U.S. CLS. 100, 101 AND 102).

FIRST USE 4-16-2012; IN COMMERCE 4-16-2012.

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PAR-
TICULAR FONT, STYLE, SIZE, OR COLOR.

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "NETWORKS", APART FROM
THE MARK AS SHOWN.

SN 85-548,013, FILED 2-21-2012.

PRISCILLA MILTON, EXAMINING ATTORNEY



Lisa Street Lee

Deputy Director of the United States Patent and Trademark Office

United States of America

United States Patent and Trademark Office

ADVANTAGE PLUS

Reg. No. 4,342,200

Registered May 28, 2013

Int. Cl.: 36

SERVICE MARK

PRINCIPAL REGISTER

GUARANTEE TRUST LIFE INSURANCE COMPANY (ILLINOIS CORPORATION)
1275 MILWAUKEE AVENUE
GLENVIEW, IL 60025

FOR: UNDERWRITING, CLAIMS AND ADMINISTRATION SERVICES OF A CASH BENEFIT, SUPPLEMENTAL HEALTH CARE INSURANCE PLAN, IN CLASS 36 (U.S. CLS. 100, 101 AND 102).

FIRST USE 5-0-2006; IN COMMERCE 5-0-2006.

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

SER. NO. 85-742,408, FILED 10-1-2012.

EMILY CARLSEN, EXAMINING ATTORNEY



Sean Street Lee

Acting Director of the United States Patent and Trademark Office

United States of America

United States Patent and Trademark Office

LIVE LIFE ADVANTAGE

Reg. No. 4,544,890

Registered June 3, 2014

Int. Cls.: 35, 36, and 44

SERVICE MARK

PRINCIPAL REGISTER

AMIDA CARE INC. (NEW YORK CORPORATION)
248 W. 35TH STREET, 7TH FLOOR
NEW YORK, NY 10001

FOR: PROVIDING OPERATIONAL BUSINESS ASSISTANCE AND BUSINESS CONSULTATION TO CORPORATE CLIENTS IN THE FIELD OF HEALTH CARE, IN CLASS 35 (U.S. CLS. 100, 101 AND 102).

FIRST USE 10-0-2013; IN COMMERCE 10-0-2013.

FOR: ADMINISTRATION OF PRE-PAID HEALTH CARE PLANS, IN CLASS 36 (U.S. CLS. 100, 101 AND 102).

FIRST USE 10-0-2013; IN COMMERCE 10-0-2013.

FOR: PROVIDING HEALTH CARE INFORMATION BY TELEPHONE AND OVER THE INTERNET, IN CLASS 44 (U.S. CLS. 100 AND 101).

FIRST USE 10-0-2013; IN COMMERCE 10-0-2013.

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

SN 85-913,546, FILED 4-24-2013.

LINDA MICKLEBURGH, EXAMINING ATTORNEY



Michelle K. Lee

Deputy Director of the United States
Patent and Trademark Office

United States of America

United States Patent and Trademark Office

TRUE LIFE ADVANTAGE

Reg. No. 4,544,891

Registered June 3, 2014

Int. Cls.: 35, 36, and 44

SERVICE MARK

PRINCIPAL REGISTER

AMIDA CARE INC. (NEW YORK CORPORATION)
248 W. 35TH STREET, 7TH FLOOR
NEW YORK, NY 10001

FOR: PROVIDING OPERATIONAL BUSINESS ASSISTANCE AND BUSINESS CONSULTATION TO CORPORATE CLIENTS IN THE FIELD OF HEALTH CARE, IN CLASS 35 (U.S. CLS. 100, 101 AND 102).

FIRST USE 10-0-2013; IN COMMERCE 10-0-2013.

FOR: ADMINISTRATION OF PRE-PAID HEALTH CARE PLANS, IN CLASS 36 (U.S. CLS. 100, 101 AND 102).

FIRST USE 10-0-2013; IN COMMERCE 10-0-2013.

FOR: PROVIDING HEALTH CARE INFORMATION BY TELEPHONE AND OVER THE INTERNET, IN CLASS 44 (U.S. CLS. 100 AND 101).

FIRST USE 10-0-2013; IN COMMERCE 10-0-2013.

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

SN 85-913,638, FILED 4-24-2013.

LINDA MICKLEBURGH, EXAMINING ATTORNEY



Michelle K. Lee

Deputy Director of the United States
Patent and Trademark Office

United States of America

United States Patent and Trademark Office

SELECTHEALTH ADVANTAGE

Reg. No. 4,477,334

SELECTHEALTH, INC. (UTAH CORPORATION)
5381 GREEN STREET
MURRAY, UT 84123

Registered Feb. 4, 2014

Int. Cl.: 36

FOR: UNDERWRITING AND ADMINISTRATION OF MEDICAL, HEALTH AND PRESCRIPTION DRUG INSURANCE PLANS, IN CLASS 36 (U.S. CLS. 100, 101 AND 102).

SERVICE MARK

FIRST USE 9-30-2012; IN COMMERCE 9-30-2012.

PRINCIPAL REGISTER

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

OWNER OF U.S. REG. NOS. 3,565,776, 3,847,847, AND 4,318,840.

SER. NO. 85-933,627, FILED 5-16-2013.

LINDA MICKLEBURGH, EXAMINING ATTORNEY



Michelle K. Lee

Deputy Director of the United States
Patent and Trademark Office

United States of America

United States Patent and Trademark Office

LEAD ADVANTAGE

Reg. No. 4,694,337

SENIOR MARKET SALES, INC. (NEBRASKA CORPORATION)
8420 W. DODGE RD., 5TH FLOOR
OMAHA, NE 68114

Registered Mar. 3, 2015

Int. Cls.: 36 and 42

FOR: INSURANCE BROKERAGE SERVICES, IN CLASS 36 (U.S. CLS. 100, 101 AND 102).

SERVICE MARK

FIRST USE 9-0-2007; IN COMMERCE 9-0-2007.

PRINCIPAL REGISTER

FOR: PROVIDING ON-LINE NON-DOWNLOADABLE SOFTWARE FOR USE IN MANAGING OF A CUSTOMER PROSPECT DATABASE, IN CLASS 42 (U.S. CLS. 100 AND 101).

FIRST USE 9-0-2007; IN COMMERCE 9-0-2007.

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "LEAD", APART FROM THE MARK AS SHOWN.

SER. NO. 86-151,892, FILED 12-24-2013.

JAY FLOWERS, EXAMINING ATTORNEY



Michelle K. Lee

Deputy Director of the United States
Patent and Trademark Office

United States of America

United States Patent and Trademark Office

Advantage Insurance Network

Reg. No. 4,631,978

Registered Nov. 4, 2014

Int. Cl.: 36

SERVICE MARK

PRINCIPAL REGISTER

ADVANTAGE INSURANCE NETWORK, LLC (CALIFORNIA LIMITED LIABILITY COMPANY), DBA ADVANTAGE INSURANCE NETWORK
SUITE 350
2801 TOWNSGATE RD
WESTLAKE VILLAGE, CA 91361

FOR: INSURANCE BROKERAGE AND UNDERWRITING SERVICES, NAMELY, PROVIDING INSURANCE PRODUCTS FROM VARIOUS LIFE INSURANCE COMPANIES TO INSURANCE GENERAL AGENTS, IN CLASS 36 (U.S. CLS. 100, 101 AND 102).

FIRST USE 12-13-1993; IN COMMERCE 12-13-1993.

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "INSURANCE NETWORK", APART FROM THE MARK AS SHOWN.

SER. NO. 86-230,522, FILED 3-24-2014.

KELLY BOULTON, EXAMINING ATTORNEY



Michelle K. Lee

Deputy Director of the United States
Patent and Trademark Office

EXHIBIT B

Trademark/Service Mark Statement of Use
(15 U.S.C. Section 1051(d))

To the Commissioner for Trademarks:

MARK: INDEPENDENT HEALTH'S NETWORK ADVANTAGE(Standard Characters, see <http://tsdr.uspto.gov/img/85973645/large>)

SERIAL NUMBER: 85973645

The applicant, Independent Health Association, Inc., having an address of

511 Farber Lakes Drive
Buffalo, New York 14221
United States

is submitting the following allegation of use information:

For International Class 036:

Current identification: Health insurance benefits, namely, providing benefits for health care services through a network of multiple physician practices offering primary care services working in association with other health care providers, including specialists and hospitals

The mark is in use in commerce on or in connection with all of the goods/services, or to indicate membership in the collective organization listed in the application or Notice of Allowance or as subsequently modified for this specific class.

The mark was first used by the applicant, or the applicant's related company, licensee, or predecessor in interest at least as early as 10/01/2013, and first used in commerce at least as early as 10/01/2013, and is now in use in such commerce. The applicant is submitting one specimen for the class showing the mark as used in commerce on or in connection with any item in the class, consisting of a(n) Advertising, namely, brochures and website printouts describing services.

Original PDF file:

[SPN0-1-5075187138-123657175 . Network Advantage Card.pdf](#)

Converted PDF file(s) (2 pages)

[Specimen File1](#)

[Specimen File2](#)

Original PDF file:

[SPN0-2-5075187138-123657175 . Network Advantage SS.pdf](#)

Converted PDF file(s) (2 pages)

[Specimen File1](#)

[Specimen File2](#)

Original PDF file:

[SPN0-1-5075187138-135904792 . Network Advantage Plan Summary.pdf](#)

Converted PDF file(s) (2 pages)

[Specimen File1](#)

[Specimen File2](#)

The applicant is not filing a Request to Divide with this Allegation of Use form.

A fee payment in the amount of \$100 will be submitted with the form, representing payment for the allegation of use for 1 class.

Declaration

Applicant requests registration of the above-identified trademark/service mark in the United States Patent and Trademark Office on the Principal Register established by the Act of July 5, 1946 (15 U.S.C. Section 1051 et seq., as amended). Applicant is the owner of the mark sought to be registered, and is using the mark in commerce on or in connection with the goods/services identified above, as evidenced by the attached specimen(s) showing the mark as used in commerce.

The undersigned, being hereby warned that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. Section 1001, and that such willful false statements may jeopardize the validity of the form or any resulting registration, declares that he/she is properly authorized to execute this form on behalf of the applicant; he/she believes the applicant to be the owner of the trademark/service mark sought to be registered; and that all statements made of his/her own knowledge are true; and that all statements made on information and belief are believed to be true.

Signature: /Ellen S. Simpson/ Date Signed: 03/28/2014
Signatory's Name: Ellen S. Simpson
Signatory's Position: Attorney of record, New York State bar member
Signatory's Phone: 716-626-1564

RAM Sale Number: 85973645
RAM Accounting Date: 03/31/2014

Serial Number: 85973645
Internet Transmission Date: Fri Mar 28 14:52:10 EDT 2014
TEAS Stamp: USPTO/SOU-XX.XX.XXX.XXX-2014032814521092
6316-85973645-500c9b41fd4f22796d199d3d45
63b9c725c9920439df3108ce0d2655c75a1d7aee
-CC-1106-20140328135904792824

Thank you for enrolling in Independent Health's Network Advantage™ HMO plan!

While we process your enrollment application, you can expect to receive the following from us:

- **An Acknowledgment Confirmation Letter** – Within 7 calendar days of Medicare approving your enrollment request. Your Independent Health identification number will be on this letter.
- **New Member Welcome Call or Letter** – You will receive a call or letter welcoming you to Independent Health within 15 calendar days from the receipt of your completed enrollment application.
- **Your Independent Health Member ID Card.**
- **If you do not select a primary care physician at the time of enrollment,** Independent Health will be contacting you to help you choose a physician that participates with the Network Advantage plan.



What's next? 

ONCE YOU BECOME A MEMBER:

Referral Coordination Period

(the first six months after enrollment, January – June)

- **During the first six months after enrollment, you should discuss your overall health care needs with your primary care physician (PCP).** Your PCP will review your list of specialists, if any, to determine if you are getting the care that's best for your needs and will provide you with a Guided Referral for any specialist care that is needed.
- **Your doctor will submit your Guided Referral** electronically to your specialists – there is nothing you need to do.
- **You can now visit your specialists** and present your member ID card as you normally would. There is no paperwork or documentation that you need to present at the specialist's office.

If you have questions, please call Member Services:

(716) 250-4401 or 1-800-665-1502

(TTY users call 1-800-432-1110):

October 1 – February 14: Monday – Sunday, 8 a.m. – 8 p.m.

February 15 – September 30: Monday – Friday, 8 a.m. – 8 p.m.



Independent Health is a Medicare Advantage organization with a Medicare contract offering HMO, HMO-SNP, HMO-POS and PPO plans. Enrollment in Independent Health depends on contract renewal. Y0042_C3057_1 Accepted 10062013

Introducing Independent Health's Network Advantage™ HMO Plan

Available for Erie and Niagara County Residents Only

FOCUSED ON YOUR HEALTH CARE NEEDS

This unique Medicare Advantage plan was designed to help you receive the quality care you deserve. Created with the help of physicians, this plan aims to put you and your primary care doctor at the forefront of your health, so together, you can enjoy a better overall care experience. Your doctor will also work together with dedicated care coordinators and specialists to form a more complete picture of your health care needs. This comprehensive approach helps to enhance your care through:

- Better communication and coordination between your doctors.
- Better patient-physician relationships.
- More efficient primary doctor and specialist office visits.
- More appropriate treatments tailored to your health care needs.

YOUR GUIDED REFERRAL

In addition, to help provide an even greater level of quality care, you'll receive a "Guided Referral" before seeking care from a specialist. Here's how it works:

- This Guided Referral offers the opportunity for you and your primary care physician (PCP) to review and discuss your health care needs and determine if specialist care is right for you.
- It is your responsibility to complete this Guided Referral with your PCP before receiving care from a specialist.
- Once your Guided Referral is complete, your doctor will submit referrals electronically directly to your specialists.

Thanks to the Guided Referral review, you'll have peace of mind knowing your physician is guiding you toward the specialist who's right for you and who will provide you with the high quality care you deserve.

NETWORK ADVANTAGE PHYSICIANS

In order to enroll in this plan, your primary doctor needs to participate with our Network Advantage plan. Speak with your RedShirt® representative to confirm that your current primary doctor participates with the plan network. If your doctor does not participate, your RedShirt representative will be happy to help you find and select a new physician who is accepting new patients.



Independent Health's Network Advantage HMO plan simply offers you more for less!

You'll enjoy:

- \$5 copays for primary care doctor visits
- In-patient hospital copays as low as \$400
- A plan premium of \$37.20 a month (If you qualify for EPIC or Full Extra Help your premium may be \$0)

Independent
 Health.

FREQUENTLY ASKED QUESTIONS ABOUT THE NETWORK ADVANTAGE HMO PLAN

What if I am already seeing a specialist?

If you are already seeing a specialist, you may continue to see them as you normally would during the first six months (from January to June) after you have enrolled in the Network Advantage plan. This time frame is known as the "Referral Coordination Period." During this time, while you may keep your specialist appointments, you are also required to complete your "Guided Referral." This Guided Referral is the discussion you and your PCP will have to review your health care needs and determine if specialist care is right for you. Once you have your guided referrals in place (on or before July 1), you will be required to speak with your PCP on an ongoing basis to continue your care coordination and ensure any specialists you see are appropriate for your care needs.

What if I need a new specialist?

In order to determine if specialist care is right for you, you must discuss your care first with your PCP through the Guided Referral process. Together, you will review your care needs and determine whether seeking care from a specialist is best for your needs.

How will I know that my specialist received the Guided Referral from my PCP?

Once you complete your Guided Referral with your primary doctor, your specialist will receive electronic notification that your referral is in place. You can now visit your specialists and present your member ID card as you normally would. There is no paperwork or documentation that you need to present at the specialist's office. Your specialists will be aware of this new Guided Referral and will be looking out for them in your file to ensure you have had the discussion with your PCP.

How long does my Guided Referral last for?

Your primary doctor will determine the length of your referral and will communicate this timing to you at the time of your Guided Referral.

What happens if I forget to get my Guided Referral, but visit my specialist anyway?

You are responsible for obtaining a referral from your PCP before you receive care from a specialist. Your specialist will be looking for the referral on your file, so they will be going back to the PCP to check that the referrals are in place – they are not required to see you unless the referral has been submitted. If you do not have a referral in place, you will receive a letter and phone call from Independent Health.

How can I find a primary doctor that is accepting new patients and is part of this network?

If you need help finding a primary care doctor who participates in the Network Advantage plan, you can call Independent Health. Our RedStarts™ will help guide you to the participating primary care physicians who are accepting new patients.

For more information, please call (716) 635-4900 or toll-free at 1-800-958-4405 (TTY users call 1-888-357-9167).

October 1 – February 14: Monday – Sunday, 8 a.m. – 8 p.m.

February 15 – September 30: Monday – Friday, 8 a.m. – 8 p.m.

Independent Health is a Medicare Advantage organization with a Medicare contract offering HMO, HMO-SNP, HMO-POS and PPO plans. Enrollment in Independent Health depends on contract renewal.

The benefit information provided is a brief summary, not a complete description of benefits. For more information contact the plan. Limitations, copayments, and restrictions may apply. Benefits, formulary, pharmacy network, provider network, premium and/or copayments/coinsurance may change on January 1 of each year. You must continue to pay your Part B premium.

Y0042_CJ058-Approved 09/01/2013

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[My Account](#)
[Login](#)
[Find A Health Plan](#) | [Medicare](#) | [Find A Doctor](#) | [Tools, Forms & More](#)

Network Advantage HMO

2014 Medicare Plans

[Encompass HMO Standard HMO-POS](#)
[Network Advantage HMO](#)
[Encompass HMO Basic HMO](#)
[Medicare Passport Advantage HMO](#)
[Encompass HMO \(without POS\)](#)
[Dual Coverage HMO-DMP](#)
[Family Choice HMO-DMP](#)

Medicare Member Resources

[Prescription Coverage](#)
[Enroll Now](#)
[Find a Medicare Provider](#)
[Find A RedDial](#)
[Fitness, Dental & Vision](#)
[Star Ratings](#)
[Home](#) | [Welcome](#) | [2014 Medicare Plans](#) | [About Medicare HMO](#)

2 Independent Health's Network Advantage™ HMO Plan

This unique plan was created with the help of physicians and puts you and your primary care doctor at the forefront of your health. This plan is designed to help make the coordination of your care more effective, while keeping your out-of-pocket costs.

This plan provides:

- Better communication and coordination between your doctors.
- Strong patient-physician relationships.
- Efficient primary doctor and specialist office visits.
- Teamwork aligned to your health care needs.

Here are some of the other great benefits you receive with Independent Health's Network Advantage HMO plan:

Please note: This plan is for Erie and Niagara County residents only.

ENH011

Monthly Plan Premium	\$17.00
Monthly Plan Premium with EPIC or PACE Extra Help (Varies based on level of Extra Help)	\$0
Prescription Benefit Tier 1 (20%)	No Deductible, \$15/900 \$1000% to initial coverage level of \$2,000
Priority Copy	\$5 (Must use an In-network PCP)
Specialty Copy	\$30 (PCP referral required for most services)
Preventive Health	\$0 (Separate office visit copay may apply)
Inpatient Copay**	Tier A: \$400 per admission Tier B: \$800 per admission
Worldwide Emergency Room Coverage (without P admited)	\$0
Urgent Care (U.S. only)	\$00
Ambulance	\$200
Lab Copy	\$0
X-Ray Copy	\$20 general X-ray \$125 advanced radiology
Outpatient Surgery**	Tier A: \$100 Tier B: \$200
Skilled Nursing Facility (with Health)	\$25 per day (Days 1-90)
Home Health	\$0
Physical, Speech, Occupational Therapy	\$10
% You Pay for Part B Medications	25% of the cost of the medication**
Annual Out-of-Pocket Maximum for Medicare Covered Services (with Health)	\$6,700



Enroll Now

[Network Advantage HMO Plan Resources](#)
[Summary of Benefits](#)
[Evidence of Coverage](#)

Contact Us

Phone: (716) 639-4000 or
1-800-650-4400
TTY: 1-800-307-9107

Hours:

October 1 – February 14
Monday – Sunday,
8 a.m. – 8 p.m.

February 15 – September 30
Monday – Friday,
8 a.m. – 8 p.m.

Visit Us

Visit the Medicare Information Center nearest you.

	Healthy Benefits Eye Membership (\$25 activation fee)
Vision	\$0 routine eye exam \$100 for routine eyewear
Dental	Not covered

Independent Health is a Medicare Advantage organization with a Medicare contract offering HMO, HMO-DNP, HMO-POS and PPO plans. Enrollment in Independent Health depends on contract renewal. Limitations, copayments, and restrictions may apply. Benefits, formulary, pharmacy network, provider network, premium and/or copayments/re-insurance may change on January 1 of each year. You must continue to pay your Medicare Part B premium. Benefits vary by plan. Restrictions apply. The benefit information provided is a brief summary, not a complete description of benefits. Additional information about benefits is available to assist you in making a decision about your coverage. For more information, contact the plan. See Evidence of Coverage for complete details.

*Not all preventive services are medically appropriate every year. Independent Health uses the frequency guidelines adopted by CMS and the U.S. Preventive Services Task Force.

**Hospitals and outpatient surgery fees for Independent Health's Network Advantage Plan.

Tier A

Berkland Chiropractic
 Bylin
 Buffalo General
 Buffalo Medical
 DeGroot Memorial
 Eastern Niagara
 Kenmore Mercy
 Mount Pilgrim
 Mount St. Mary's
 Roswell Park Cancer Institute
 Sisters of Charity
 Sisters of Charity - St. Joe's Campus
 Women's & Children's
 All Outpatient Ambulatory Surgical Centers (in Erie and Niagara County)

Tier B

ECMC
 Niagara Falls Memorial
 Network Hospitals and Outpatient Ambulatory Surgical Centers outside of Erie and Niagara County

**Member pays 85% of the cost of the Part B medication (e.g., insulin and chemotherapy) plus applicable office visit copay or the applicable hospital copay.

Y0042_03075 Approved
 Last Updated: 1/2014



EXHIBIT C

**Trademark/Service Mark Statement of Use
(15 U.S.C. Section 1051(d))**

To the Commissioner for Trademarks:

MARK: NETWORK ADVANTAGE(Standard Characters, see <http://tsdr.uspto.gov/img/86026948/large>)

SERIAL NUMBER: 86026948

The applicant, Independent Health Association, Inc., having an address of
511 Farber Lakes Drive
Buffalo, New York 14221
United States

is submitting the following allegation of use information:

For International Class 036:

Current identification: Health insurance benefits, namely, providing benefits for health care services through a network of multiple physician practices offering primary care services working in association with other health care providers, including specialists and hospitals

The mark is in use in commerce on or in connection with all of the goods/services, or to indicate membership in the collective organization listed in the application or Notice of Allowance or as subsequently modified for this specific class.

The mark was first used by the applicant, or the applicant's related company, licensee, or predecessor in interest at least as early as 10/01/2013, and first used in commerce at least as early as 10/01/2013, and is now in use in such commerce. The applicant is submitting one specimen for the class showing the mark as used in commerce on or in connection with any item in the class, consisting of a(n) Copy of brochure advertising services and materials distributed as part of services.

Original PDF file:

[SPN0-5075187138-20150303112912233932_ . Network Advantage_ 12-18-14.pdf](#)

Converted PDF file(s) (1 page)

[Specimen File1](#)

Original PDF file:

[SPN0-5075187138-20150303112912233932_ . Network Advantage_ 12-18-14.pdf](#)

Converted PDF file(s) (2 pages)

[Specimen File1](#)

[Specimen File2](#)

The applicant is not filing a Request to Divide with this Allegation of Use form.

A fee payment in the amount of \$100 will be submitted with the form, representing payment for the allegation of use for 1 class.

Declaration

STATEMENTS: The signatory believes that: if the applicant is filing the amendment to allege use under 15 U.S.C. Section 1051(c) or a statement of use under 15 U.S.C. Section 1051(d), the applicant is the owner of the trademark/service mark sought to be registered; the applicant or the applicant's related company or licensee is using the mark in commerce on or in connection with all the goods/services in the application or notice of allowance, or as subsequently modified, and such use by the applicant's related company or licensee inures to the benefit of the applicant; that to the best of the signatory's knowledge and belief, no other person has the right to use the mark in commerce, either in the identical form or in such near resemblance as to be likely, when used on or in connection with the goods/services of such other person, to cause confusion or mistake, or to deceive; and the specimen(s) shows the mark as used on or in connection with the goods/services in commerce.

DECLARATION: The signatory being warned that willful false statements and the like are punishable by fine or imprisonment, or both, under 18 U.S.C. Section 1001, and that such willful false statements and the like may jeopardize the validity of the application or submission or any registration resulting therefrom, declares that all statements made of his/her own knowledge are true and that all statements made on information

and belief are believed to be true.

Signature: /Ellen S. Simpson/ Date Signed: 03/03/2015
Signatory's Name: Ellen S. Simpson
Signatory's Position: Attorney of record, New York State bar member
Signatory's Phone: 716-626-1564

RAM Sale Number: 86026948
RAM Accounting Date: 03/04/2015

Serial Number: 86026948
Internet Transmission Date: Tue Mar 03 19:17:25 EST 2015
TEAS Stamp: USPTO/SOU-XX.XX.XXX.XXX-2015030319172598
8663-86026948-530361ce666655689595133846
15c7ef75cb415c68753f68c9ba287540e6ce5b4-
CC-5990-20150303191125246250

Independent Health's Network Advantage® HMO Plan

Available for Erie and Niagara County Residents Only

INDEPENDENT HEALTH'S NETWORK ADVANTAGE HMO PLAN SIMPLY OFFERS YOU MORE FOR LESS!

You'll enjoy:

- \$5 copays for primary care doctor visits
- In-patient hospital copays as low as \$400*
- A plan premium of \$36.90 a month (If you qualify for EPIC subsidy or Full Extra Help your premium may be \$0)

FOCUSED ON YOUR HEALTH CARE NEEDS

This Medicare Advantage plan was designed to lower your out-of-pocket costs, while continuing to make the coordination of your care more effective. With low copays for primary care doctor visits, as well as in-patient hospital stays, accessing the high-quality care you deserve is easy. In addition, this plan – created with the help of physicians – emphasizes the importance of taking the time to review and discuss your health care needs with your primary care doctor.

NETWORK ADVANTAGE PHYSICIANS

The Network Advantage network includes doctors from the Primary Connection® and Catholic Medical Partners – a group of select WNY primary physician practices dedicated to providing greater coordination of care and better quality care. In order to enroll in this plan, your primary doctor needs to participate with this network. Speak with your RedShirt® representative to confirm that your current primary doctor participates with the plan network. If your doctor does not participate, your RedShirt representative will be happy to help you find and select a new physician who is accepting new patients.

For more information, please call (716) 635-4900 or toll-free at 1-800-958-4405 (TTY users call 1-888-357-9167):

October 1 – February 14: Monday – Sunday, 8 a.m. – 8 p.m.;

February 15 – September 30: Monday – Friday, 8 a.m. – 8 p.m.



Independent Health is a Medicare Advantage organization with a Medicare contract offering HMO, HMO-SNP, HMO-POS and PPO plans. Enrollment in Independent Health depends on contract renewal.

The benefit information provided is a brief summary, not a complete description of benefits. For more information contact the plan. Limitations, copayments, and restrictions may apply. Benefits, formulary, pharmacy network, provider network, premium and/or copayments/coinsurance may change on January 1 of each year. You must continue to pay your Part B premium. *For Tier A hospitals.

Y0042_C5201 Approved 09172014

DA-6401-6862.15
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Thank you for enrolling in Independent Health's Network Advantage[®] HMO plan!



While we process your enrollment application, you can expect to receive the following from us:

- **An Acknowledgment Confirmation Letter** – Within 7 calendar days of Medicare approving your enrollment request. Your Independent Health identification number will be on this letter.
- **New Member Welcome Letter.**
- **Your Independent Health Member ID Card.**
- **If you did not select a primary care physician at the time of enrollment,** Independent Health will be contacting you to help you choose a physician that participates with the Network Advantage plan.

Questions? 

**If you have questions,
please call Member Services:**

(716) 250-4401 or 1-800-665-1502

(TTY users call 1-800-432-1110):

October 1 – February 14:

Monday – Sunday, 8 a.m. – 8 p.m.

February 15 – September 30:

Monday – Friday, 8 a.m. – 8 p.m.



Independent Health is a Medicare Advantage organization with a Medicare contract offering HMO, HMO-SNP, HMO-POS and PPO plans. Enrollment in Independent Health depends on contract renewal. Y0042_C5180 Accepted 09212014

EXHIBIT D



- My Account
- Log In
- Find A Health Plan
- Medicare
- Find A Doctor
- My Health
- Tools, Forms & More

Home > Medicare > 2016 Medicare Plans > Network Advantage® HMO

Independent Health's Network Advantage® HMO

Please note: this plan is for Erie and Niagara County residents only.

This plan may be right for you if you want a plan with a low monthly plan premium and low copayments for benefits like Primary Care visits and inpatient hospital as well as wellness benefits like Fitness, Dental and Vision.



- [PDF Summary of Benefits »](#)
- [PDF Annual Notice of Change/Evidence of Coverage »](#)

[Enroll in This Plan Now »](#)

Plan Highlights

Monthly Premium	Primary/Specialty Copay (In-Network)	Inpatient Hospital Copay (In-Network)	Part D Prescription Benefit
\$50	\$0 (must use a Network Advantage PCP) / \$30	Tier A: \$400 per admission Tier B: \$900 per admission	Tier 1 / 2 / 3 / 4 / 5 No deductible \$4 / \$10 / \$45 / \$90 / 33% to initial coverage limit of \$3,310

Plan Details

Reference your Annual Notice of Change/Evidence of Coverage for full benefit information. (IN) In-Network

Monthly Plan Premium	\$50
Premium with assistance from EPIC or FULL Extra Help (Varies based on level of Extra Help)	\$10.30
Part D Prescription Benefit Tier 1 / 2 / 3 / 4 / 5	No deductible \$4 / \$10 / \$45 / \$90 / 33% to initial coverage limit of \$3,310 Note: Most Medicare drug plans have a coverage gap (also called the "donut hole"). This means that there's a temporary change in what you will pay for your drugs. Learn More »
Primary Copay	\$0 (must use a Network Advantage PCP)
Specialty Copay	\$30
Preventive Health*	\$0 (separate office visit copay may apply)
Inpatient Hospital Copay	Tier A: \$400 per admission Tier B: \$900 per admission

EXHIBIT E



Participating

Physician/Provider

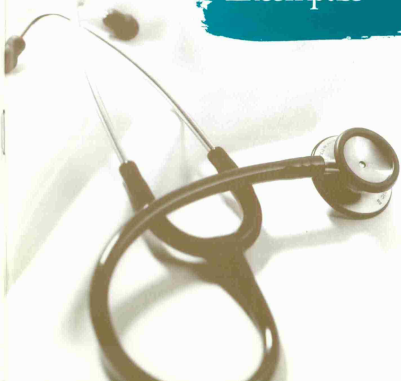
Directory

Independent Health's
EncompassSM

INDEPENDENT
HEALTH
Quality coverage you can depend on.

511 FARDER LAKES DRIVE / BUFFALO, NY 14221 / (716) 631-5392 / (800) 453-1910
Serving Allegany, Cattaraugus, Chautauque, Erie, Genesee, Niagara, Orleans and Wyoming counties

ENCOMPASS 9/96/504



PHYSICIAN / PROVIDER DIRECTORY

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Introduction

Important Things to Remember

Please note: The health care providers listed here were participating with Independent Health as of **March 25, 1996.**

Independent Health makes every attempt to provide you with as accurate a listing of participating providers as possible. However, the list of participating providers can change on a daily basis. Since the printing of this directory, providers who are NOT listed here may have joined the plan, and providers who ARE listed here may have discontinued their participation.

Providers may discontinue participation in the plan at any time due to relocation, retirement, death, termination or other reasons. Therefore, the providers who are participating with Independent Health when you join may not always be participating in the plan.