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On January 26, 2005, Seeger • Salvas LLP filed a class action lawsuit against Kaiser Foundation Health Plan, Inc. to stop Kaiser from revoking its members' health insurance based on the member's response to a hopelessly ambiguous application question.

Question No. 9 on Kaiser's standard application asks "Do you have any unexplained and/or undiagnosed symptoms such as:" and then lists 14 specific "symptoms" such as chest pain, shortness of breath, and loss of consciousness, followed by boxes for "Other," and "None of the above." Kaiser members who do not suffer from any of the specifically listed "symptoms" and check "None of the above" may not realize that Kaiser has used Question No. 9 to **retroactively revoke** health care coverage. After a member is diagnosed with a significant medical condition, Kaiser's insurance people have poured through the member's medical history – using 20/20 hindsight – trying to find something that might have been a "symptom" of that disorder. Once such a "preexisting symptom" is found, Kaiser revokes the member's health care insurance, claiming that the member intentionally misrepresented his or her health status by not checking "Other" on Question No. 9.

An example of Kaiser's conduct is found in the case of Steven, a Kaiser member from Napa, California. When Steven suffered a seizure for the first time on September 11th 2004, he didn't know what had happened. After undergoing several tests and after suffering from four more similar episodes, Steven's neurologist diagnosed him with seizures in November 2004. The neurologist prescribed anti-seizure medication and warned Steven of the importance of frequent medical monitoring.

While Steven was facing the reality of having seizures, Kaiser's insurance people were looking for a way out of paying for his medical treatment. They obtained a copy of his medical records and found that while Steven and his neurologist were desperately trying to find the origin of the seizures, Steven recalled intermittent "hot flashes" that he had experienced for over 12 years. Over a decade earlier, Steven's doctor advised him that these heat spells were of no concern. But Kaiser's insurance people, without even consulting with Steven's neurologist, decided that Steven should have known that these hot flashes were a "symptom" of seizures. Despite the fact that Kaiser's own neurologist told Steven that he could not have known the implications of these hot flashes, Kaiser's insurance people decided that by not answering "Other" to Question No. 9, Steven made an intentional misrepresentation. Kaiser revoked

Steven's health insurance and informed him that he would have to pay for all services Kaiser had provided. Adding insult to injury, Kaiser also threatened to have Steven prosecuted for ***criminal fraud***.

"Kaiser's question is a trap and is hopelessly vague," said Ken Seeger, a partner with Seeger · Salvas LLP. "It cannot be used as a basis to revoke someone's health insurance."

If you or a loved one have been treated similarly by Kaiser, contact Ken Seeger or Brian Devine at 800-396-1519, or send an e-mail to bdevine@seegersalvas.com

ABOUT SEEGER · SALVAS LLP

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