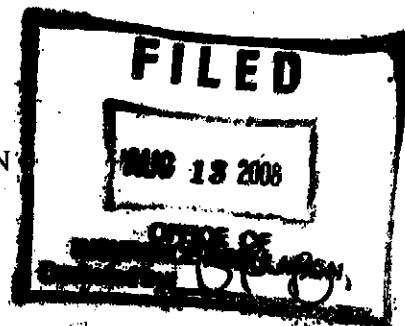




OFFICE OF INSURANCE REGULATION



KEVIN M. McCARTY  
COMMISSIONER

IN THE MATTER OF:

NATIONAL BENEFIT ADVISORY  
ASSOCIATION, INC.

CASE NO.: 95244-08

2006 Market Conduct Examination

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CONSENT ORDER

THIS CAUSE came on for consideration upon the agreement between NATIONAL BENEFIT ADVISORY ASSOCIATION, INC. (hereinafter referred to as "NBAA") and the OFFICE OF INSURANCE REGULATION (hereinafter referred to as the "OFFICE"). Following a complete review of the entire record, and upon consideration thereof, and being otherwise fully advised in the premises, the OFFICE hereby finds as follows:

1. The OFFICE has jurisdiction over the subject matter of, and parties to, this proceeding.
2. NBAA is a foreign discount medical plan organization authorized to transact discount medical plan business in Florida and is subject to the jurisdiction and regulation of the OFFICE pursuant to Chapter 636, Part II, Florida Statutes.
3. The OFFICE conducted a market conduct examination of NBAA in 2006 pursuant to Section 636.206, Florida Statutes. As a result of such examination, the OFFICE has determined that NBAA has violated the following provisions of the Florida Insurance Code and Florida Administrative Code:

- a. Section 636.214(3)(c), Florida Statutes – Failure of the provider agreement between the discount medical plan organization and the provider network to require the provider network to have agreements with its providers which require the network to maintain an up-to-date list of its contracted providers and to provide that list on a monthly basis to the discount medical plan organization.
- b. Section 636.214(3)(a), Florida Statutes – Failure of the provider agreement between the discount medical plan organization and provider network to require the agreements between the provider network and providers to contain a list of the services and products to be provided at a discount; the amount or amounts of discounts, or alternatively, a fee schedule which reflects the provider's discounted rates; and that the provider will not charge members more than the discounted rates.
- c. Section 636.214(1), Florida Statutes – Failure to have a provider agreement either between the discount medical plan organization and the provider or between the discount medical plan organization and the provider network to which the provider belongs.
- d. Section 636.216(2), Florida Statutes – Failure to have a written agreement between the discount medical plan organization and the member specifying the benefits under the discount medical plan.
- e. Rule 69O-203.202(1)(d), Florida Administrative Code – Failure of the enrollment form to contain the effective date and term of the contract.

- f. Rule 69O-203.202(1)(g), Florida Administrative Code – Failure of the enrollment form to contain renewal conditions.
- g. Rule 69O-203.202(1)(j), Florida Administrative Code – Failure of the enrollment form to contain provisions for adding new family members.
- h. Section 636.216(3), Florida Statutes – Failure of form to contain a unique form number in the lower left corner of each form.
- i. Section 636.210(1)(b), Florida Statutes – Use of words or illustrations in a manner that could reasonably deceive or mislead a person about the contract benefits.
- j. Section 636.208(2), Florida Statutes - Failure to make refunds to members who cancelled their membership in the discount medical plan organization within the first 30 days after the effective date of their enrollment.

4. NBAA expressly waives a hearing in this matter, the making of Findings of Fact and Conclusions of Law by the OFFICE, and all further and other proceedings herein to which the parties may be entitled by law or rules of the OFFICE. NBAA hereby knowingly and voluntarily waives all rights to challenge or to contest this Order, in any forum now or in the future available to it, including the right to any administrative proceeding, circuit or federal court action, or any appeal.

5. NBAA agrees that upon the execution of this Consent Order it shall be subject to the following terms and conditions:

- a. NBAA shall pay an administrative penalty of Five Thousand Dollars (\$5,000) and administrative costs of Three Thousand Dollars (\$3,000) on or before the thirtieth (30<sup>th</sup>) day after this Consent Order is executed.

b. NBAA shall, within thirty (30) days of the execution of this Consent Order, provide to the OFFICE a certification signed by an officer of the Company that the corrective actions outlined in the examination report have been completed. The certification shall include a detailed list of all fees returned, itemized by member name, member number, and the amount refunded.

6. NBAA is hereby placed on notice of the requirements of the above referenced sections of law and rules, and agrees that any future violations of these sections and rules by NBAA may be deemed willful, subjecting NBAA to appropriate penalties.

7. NBAA agrees that the failure to adhere to one or more of the above terms and conditions of this Consent Order shall constitute a violation of a lawful order of the OFFICE, and shall subject NBAA to such administrative action as the OFFICE may deem appropriate.

8. Except as noted above, each party to this action shall bear its own costs and attorney's fees.

THEREFORE, the agreement between NBAA and the OFFICE, the terms and conditions of which are set forth above, is APPROVED.

FURTHER, all terms and conditions above are hereby ORDERED.

DONE AND ORDERED this 13TH day of AUGUST 2008.



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KEVIN M. McCARTY  
Commissioner  
Office of Insurance Regulation

