

FINANCIAL SERVICES COMMISSION

**FLORIDA OFFICE OF INSURANCE REGULATION
MARKET INVESTIGATIONS**

MARKET CONDUCT FINAL EXAMINATION REPORT

OF

ACCESS ONE CONSUMER HEALTH, INC.

AS OF

October 20, 2006

FLORIDA COMPANY CODE: 56030



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PURPOSE AND SCOPE OF EXAMINATION

Under authorization of the Financial Services Commission, Florida Office of Insurance Regulation (Office), Market Investigations, pursuant to Section 636.206, Florida Statutes, a market conduct examination of Access One Consumer Health, Inc. (Company) was performed. The scope of this examination was September 1, 2005 to July 31, 2006. The onsite examination began October 16, 2006 and ended October 20, 2006.

The purpose of this examination was to review the Company's compliance with Chapter 636, Part II, Florida Statutes as effective on April 1, 2005. Chapter 636, Part II, Florida Statutes regulates discount medical plan organizations, entities which, in exchange for fees, dues, charges, or other consideration, provides access for plan members to providers of medical services and the right to receive medical services from those providers at a discount.

The Company's records were examined at its offices located at 809 East Main Street, Spartanburg, SC 29302.

This Final Report is based upon information from the examiner's draft report, additional research conducted by the Office, and additional information and comments provided by the Company in response to the draft report. Procedures and conduct of the examination were in accordance with the Market Regulation Handbook produced by the National Association of Insurance Commissioners.

DESCRIPTION OF COMPANY

This domestic Company was licensed as a Discount Medical Plan Organization (DMPO) in Florida on July 7, 2005. The Company operates as a compliance and product platform for resellers who wish to make their product available in Florida (and other regulated states) as a stand alone product or in conjunction with additional services and benefits.

The Company contracts with resellers of its product who make the discount available to marketers. Each entity is required to have an agreement with the Company and comply with its rules and regulations.

Resellers are responsible for the financial transactions and the Company is the responsible party for all customer and consumer interface relative to DMPO operations. Consumers and customers interact with the Company for all DMPO related needs and customer service issues. Resellers and marketers are required to make all records and materials available to the Company. The Company approves all marketing and fulfillment materials used in the soliciting of the Company's product.

Marketers and resellers are required to have training by the Company's approved trainers and be certified to sell the Company's product.

PROVIDER NETWORK AGREEMENT REVIEW

Five (5) provider network agreements were reviewed to determine the Company's compliance with Section 636.214, Florida Statutes. The following violations were noted:

- 5 provider network agreements did not contain a list of services or products to be provided at a discount and the amount of the discounts, or alternatively, a fee schedule which reflects the provider's discounted rates as required by Section 636.214(3)(a), Florida Statutes;
- 4 provider network agreements did not specifically state that the provider will not charge members more than the discounted rates as required by Section 636.214(3)(a), Florida Statutes;
- 5 provider network agreements did not 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 DMPO as required by Section 636.214(3)(c), Florida Statutes; and
- 4 provider network agreements did not require the provider network to have written agreements with its providers as required by Section 636.214(3), Florida Statutes.

Corrective Action: The Company should ensure that all provider network agreements contain terms as required.

PROVIDER AGREEMENT REVIEW

The Company does not contract directly with any providers.

MARKETER AGREEMENT REVIEW

The Company initially advised it had agreements with 8 marketers. The Company subsequently advised the existence of, and provided a marketer agreement for, National Trade and Business Alliance of America (NTBAA). The Company also advised it has an agreement with American Life Health Care; however, at the time of the examination, this marketer had not begun marketing the discount medical plan in Florida.

The Company approved the facsimile solicitation for NTBAA on September 8, 2006. The Company also approved NTBAA's member savings program advertisement, which is marketed through Affinity Health Plans of America, a private label marketer.

During the examination 3 additional marketers, Nationwide Benefits, Wholesale Insurance Marketing Group, and Equal Access Health, not previously provided by the Company, were discovered.

The examination evidenced that the Company has executed written marketing agreements, reseller agreements, or joiner agreements with 10 marketers. All 10 agreements required that the printed marketing materials and verbal solicitations receive Company approval prior to use.

Review of the 3 remaining marketers noted the following violations:

- The Company failed to provide evidence of executed marketer agreements with National Health Alliance or Nationwide Benefits as required by Section 636.228(2), Florida Statutes.

The Company stated no Florida residents were ever enrolled through Nationwide Benefits. However, the Company provided an active membership application for Nationwide Benefits in the active membership review sample.

- The Company also failed to provide evidence of an executed marketer agreement with Equal Access Health at the time of the onsite examination as required by Section 636.228(2), Florida Statutes.

Equal Access Health, initially identified by the Company as a provider network, was determined to be a marketer after further review. It should be noted that the Company later provided a marketing agreement for Equal Access Health.

Corrective Action: The Company should ensure that it has executed written agreements with all of its marketers.

ACTIVE MEMBERSHIP REVIEW

The Company advised that it did not enroll members prior to its licensure date of July 7, 2005.

A sample of 50 files with active memberships was provided for review. Forty-four (44) files represent members who were part of the Taxpayers Network group. Members of this group are provided the Company's vision savings plan free of cost. There is no application fee, processing fee, or periodic fee charged to the individual member. The cost is borne by the Taxpayers Network group. Taxpayers Network made the plan available to its members in May 2006, at which time all active members would have been eligible for the plan. The membership is updated each month, wherein members are added and deleted. The Taxpayers Network group makes payments to the Company based on the enrollment each month. The following violations were noted during the review:

- 44 files reviewed did not provide evidence of a written agreement between the DMPO and the member specifying the benefits under the discount medical plan as required in Section 636.216(2), Florida Statutes; and

- 6 files contained application forms that had not been filed with and approved by the Office as required by Section 636.216(3), Florida Statutes.

The Company advised that the membership applications were a combination of the Company's application for the DMPO and the marketer's application for the association benefits. The Company did not pre-approve the application. The Company advised that effective October 18, 2006, the marketer had the correct application.

Corrective Action: The Company should ensure that members are enrolled only on forms that have been filed with and approved by the Office. The Company should also maintain a written agreement with all members. In addition, the Company should establish a procedure to periodically audit each marketer/reseller to ensure they are using only approved forms.

FORMS/CHARGES REVIEW

The Office approved the Application of Membership and the Membership Agreement on August 8, 2005. Of the files examined for active or canceled memberships, no evidence was provided to indicate that the Company is using application forms that have been first filed with and approved by the Office as required by Section 636.216(3), Florida Statutes. The Company has not properly monitored its marketer/resellers in the use of the approved membership application forms. These violations were previously addressed in the Active Membership Review section of this report.

CANCELLATION REVIEW

A sample of 50 files in which members cancelled within the first 30 days of the enrollment effective date was reviewed for compliance with Section 636.208, Florida Statutes. The findings are as follows:

Forty (40) files reviewed were cancellations for members of the Taxpayers Network group previously discussed in the Active Membership Review section. The Taxpayers Network group provides the vision savings program as a free benefit to its members. Taxpayer Network members are automatically enrolled in the vision savings program upon becoming a member of the group. If for any reason the member ceases to be a member of the Taxpayers Network, the vision care benefit is cancelled by the group.

A review of the remaining 10 cancellation files determined that 5 were outside of the scope of the examination and the other 5 members requested cancellation prior to the effective date and no money was paid. No violations were noted during the review.

COMPLAINT/GRIEVANCE REVIEW

Seven (7) complaints were filed directly with the Company during the scope period. A review of the complaint files revealed that the files failed to contain documentation concerning the resolution of the complaints. The Company advised the complaints involved members of National Association Private Enterprise (NAPE) or Smart Healthcare Association of America. At this time there is pending litigation against these two marketers and the Company does not have access to information regarding the resolution of these complaints.

Fifteen (15) complaints that were filed with the Office were not listed on the Company's complaint log. The Company was only able to provide 2 of the 15 complaints for review. A review of those 2 complaints revealed the following:

- 1 complainant had not received his membership kit and was concerned that the kit would not be received prior to the effective date of coverage. The Company contacted the marketer and determined the membership kit had been sent out and the member would receive it prior to the effective date of coverage; and
- 1 complainant requested her plan be cancelled because two different companies were automatically withdrawing payments from her checking account. The complaint file contained a membership enrollment application for American Life and Health. In a letter, dated July 31, 2006, HM Life Insurance Company advised the member to seek her refund from National Trade and Business Alliance of America (NTBAA) or PBC Direct. The complaint file failed to contain any other documents concerning NTBAA or its agent, PBC Direct. The membership card provided with the complaint indicates Affinity Health Plans of America. The complaint file contained a refund check from NTBAA, however, no other correspondence was provided.

The Company advised that 2 of the complaints listed with the Office could not be provided because the complaint files involved members of Smart Healthcare or NAPE and at this time there is pending litigation. The Company does not have access to information regarding the members including the resolution.

Nine (9) of the 15 complaint files filed with the Office could not be reviewed because the Company had no record of the complaint.

The Company has written procedures to facilitate the resolution of consumer/member complaints. The procedures allow for complaints received via the telephone, mail, e-mail, or through the Company's website. Once the complaint is reviewed, the information is entered into an Inquiry/Action log and a response is given to the complainant. The Company follows-up with the provider group or marketer/reseller to assure that the complaint is handled timely. When handling complaints that are received by the telephone, upon resolution of the issue, the member is notified of the results via mail or e-mail, according to the contract instructions. Once the complaint process is

complete and the complaint has been resolved, the Company's Inquiry/Action log is updated to include the resolution of the complaint.

Corrective Action: The Company should follow its complaint procedures that were filed with the Office. The Company should record steps taken in resolving the complaint as well as the resolution. All correspondence including phone notes should be maintained in the complaint files.

Several complaints were filed with the Office after the scope of this examination related to a particular marketer, Affinity Health Plan of America, a private label marketer for NTBAA. The majority of these complaints involved cancellation and refund issues. Several members enrolled under the Affinity plan, and cancelled within the first 30 days after the effective date of enrollment in the plan and did not receive a refund as required by Section 636.208(2), Florida Statutes.

Corrective Action: The Company should review all complaints, cancellations and refunds related to its marketers to ensure that all members who are eligible for a refund receive one. The Company should also implement procedures to monitor the acts of its marketers.

WEBSITE REVIEW

The Company's website, <http://accessonedmpo.info>, was reviewed to determine compliance with Florida Statutes. The provider lists are available on the Company's website and the networks update these lists. The provider lists are linked to the networks and when the networks update the provider lists, the links on the Company's website are updated. The provider name listing is up-to-date as required by Section 636.226, Florida Statutes. No violations were noted.

ADVERTISING REVIEW

The Company provided various advertising and marketing pieces, as well as sales and advertising scripts for review. The following violations were noted:

- The facsimile solicitation approved September 9, 2006 for use by the NTBAA failed to contain the disclosures as required by Section 636.212, Florida Statutes;
- The correct Company address is not listed on the Smart Healthcare or Allied Medsave membership cards as required by Section 636.212(5) Florida Statutes;
- The advertisement titled "Smart GoldRX Plan" was used as a welcome letter for the Allied Medsave Prescription Program by the marketer, Team Health (Wholesale Insurance Group), prior to being approved for use by the Company as required by Section 636.228(1), Florida Statutes;

- The Company failed to provide documentation advising when it approved advertising for Americard Health Network as required by Section 636.228(1), Florida Statutes;
- The brochure and card approved for use by the Company on February 10, 2006, for Taxpayers Network group failed to contain the disclosures as required by Section 636.212, Florida Statutes. It should be noted that the advertisement was updated in April 2006, and is now in compliance with Section 636.212, Florida Statutes; and
- The Company failed to provide documentation advising when it approved advertising for Affinity Health Plans of America as required by Section 636.228 (1), Florida Statutes.

Corrective Action: The Company should ensure that all advertisements and brochures contain the required disclosures and do not contain prohibited language. The Company should approve all advertisements, marketing materials, brochures and discount cards used by the marketers in writing prior to use.

EXAMINATION FINAL REPORT

Subsequent to the examination, the Company advised that the corrective actions outlined in this examination report have been reviewed and are being addressed.

The Office hereby issues this report as the Final Report, based upon information from the examiner's draft report, additional research conducted by the Office, and additional information and comments provided by the Company in response to the draft report.