

FINANCIAL SERVICES COMMISSION

**FLORIDA OFFICE OF INSURANCE REGULATION
MARKET INVESTIGATIONS**

MARKET CONDUCT FINAL EXAMINATION REPORT

OF

AMERICAN DENTAL CARE PARTNERS, LTD.

AS OF

OCTOBER 24, 2007

FLORIDA COMPANY CODE: 56047



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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 American Dental Care Partners, Ltd. (ADC or Company) was performed by Greenfield Consultants, LLC. The scope of this examination was November 15, 2006 through September 30, 2007. The examination began October 22, 2007 and ended October 24, 2007.

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, provide 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 11221 Katy Freeway, Suite 100 Houston, TX 77079.

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 foreign company was licensed as a Discount Medical Plan Organization ("DMPO") in Florida effective November 15, 2006. American Dental Care Partners, LTD was established in July 2006. American Dental Care, Inc. handles administrative functions for the Company. The Company offers the following 2 plans: The first plan combines a dental and optical plan that the forms have been filed and approved by the Office (Plan 1), and a plan that includes a discount prescription card which has not been submitted to the Office for approval (Plan 2). The ADC discount plan is sold directly by ADC and, in Florida, by marketers who have entered into contracts with ADC.

PROVIDER NETWORK AGREEMENT REVIEW

The Company advised that it does not utilize any provider networks.

PROVIDER AGREEMENT REVIEW

The Company entered into agreements with approximately 300 doctors which are listed on the Company's website. A sample of 7 provider agreements was reviewed for compliance with Section 636.214, Florida Statutes. The following violations were noted:

- All 7 agreements referred to an "Exhibit A" which would contain a listing of services and products; however, none of the agreements reviewed contained this exhibit. All agreements should contain a list of the services and products to be provided at a discount as required by Section 636.214(2)(a), Florida Statutes; and
- All 7 agreements failed to contain the amount or amounts of the discount or alternatively, a fee schedule which reflects the provider discounted rates as required by Section 636.214(2)(b), Florida Statutes.

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

MARKETER AGREEMENT REVIEW

The Company has written agreements with 9 marketers to sell its product in Florida. All 9 marketer agreements were reviewed and determined to be in compliance with Section 636.228(2), Florida Statutes.

The Company reported that it did not utilize any private label marketers during the scope of the examination.

ACTIVE MEMBERSHIP REVIEW

As of September 30, 2007, the Company had 2,064 active members, 1,260 of which had enrollment effective dates on or after November 15, 2006.

Enrollment Procedures

The Company enrolls members by phone, paper enrollment or electronically over the Internet. The phone enrollment script was reviewed with the following violation noted:

- The phone enrollment script contained the term "coverage" which is prohibited by Section 636.210(1)(b), Florida Statutes and Rule 69O-203.203(2)(a), Florida Administrative Code.

Corrective Action: The Company should ensure that all forms, advertising, and marketing materials do not contain prohibited language, or use words, phrases, or illustrations in a manner through which they mislead or have the capacity to deceive or mislead.

Memberships after November 15, 2006

A sample of 35 memberships with effective dates on or after November 15, 2006 was reviewed. The membership files consisted of enrollment forms (when available), call logs, subscriber history and payment history. No violations were noted.

Memberships prior to November 15, 2006

Between April 1, 2005, the effective date of Chapter 636, Florida Statutes, and November 15, 2006, the date ADC was permitted to operate as a licensed DMPO, it enrolled 1,178 members. Enrolling members in a discount medical plan without a license violates Section 636.204(1), Florida Statutes. This issue was addressed in Consent Order # 87844-06 executed on November 15, 2006 as a condition of licensure.

Corrective Action: All members enrolled prior to November 15, 2006 should be provided Florida approved enrollment forms and written agreements upon renewal.

FORMS/CHARGES REVIEW

On October 15, 2006, the Office approved one form filed by the Company for its Plan 1 product offered in Florida. ADC provided a sample of the membership kit sent to new members for review. The kit contained the enrollment forms, the membership agreement which stated the charges and fees, a list of participating dentists/opticians in the State, and the membership card. The materials were not the forms that have been filed with and approved by the Office as required by Section 636.216(3), Florida Statutes.

The approved form and membership kits were reviewed and the following violations were noted:

- The Company has not filed Spanish language enrollment forms and internet enrollment forms as required by Section 636.216(3), Florida Statutes, and Rule 690-203.204(1)(a), Florida Administrative Code;
- The Company is using Spanish enrollment forms that partially translate the approved English form. These forms do not disclose that the plan is not insurance on the first page as required by Section 636.212(1), Florida Statutes;
- The translated pages indicate a different percentage for "savings". On the English approved form the savings are indicated to be 35% to 80%; in the translated to Spanish pages the savings are 25% to 80%. The translated pages violate Rule 690-203.203(2)(b), Florida Administrative Code; and
- 6 members were sold Plan 2, which included a prescription drug discount. The forms and charges for this plan were not approved in Florida as required by Sections 636.216(1) and 636.216(3), Florida Statutes, and Rules 690-203.204(1) and 690-203.204(1)(a), (Florida Administrative Code. The Company corrected this error by October 15, 2007, but did not issue any refunds as the member had the benefit of the discount drug card from the time of enrollment. The Company notified these 6 members that they would not be able to use

the card in Florida for prescription drugs and that going forward the monthly fee would be decreased to the approved plan charge.

Corrective Action: The Company should file the Spanish language forms, including internet enrollment forms, all revised forms and all charges with the Office for approval prior to use. The Company should also ensure that its forms contain the proper disclosures and do not contain false or misleading information as to the contract benefits or charges.

CANCELLATION REVIEW

The Company reported 115 membership cancellations between November 15, 2006, and September 30, 2007. A sample of 10 cancellations was reviewed for compliance with Section 636.208(2), Florida Statutes. The statute requires a full refund of the membership fee if the member cancels within 30 days and returns the membership card. All members who cancelled within 30 days received a full refund, including the \$25 processing fee. The refunds were either as credits to the charge card or refund checks. The Company provided confirmation of the refunds. No violations were noted.

COMPLAINT/GRIEVANCE REVIEW

The Company's complaint policy states that the member who complains, "will be asked what the complaint is and if they would send it in writing," for the Company to investigate. Since the Company's complaint procedure did not formally log the date of complaint, nature of the complaint, and did not have notes or an explanation as to how the complaint was resolved, the logs provided by the Company were incomplete and not maintained according to the procedures filed with the Office as required by Section 636.205(1)(d), Florida Statutes.

There was 1 formal complaint filed with the Office by a member who questioned the charges she received from one of the providers. For this complaint, additional details including access to the member file and the phone recording of the member's complaint was provided by ADC. There was no formal log and it could not be determined if the member accepted the billing.

Corrective Action: The Company should establish formal procedures to properly log all complaints and maintain them according to their internal policies and procedures.

WEBSITE REVIEW

A review of the Company's website, www.americandentalcareinc.com, was conducted prior to the onsite examination to determine compliance with Section 636.226, Florida Statutes. The site is updated as information becomes available. No violations were noted.

ADVERTISING REVIEW

ADC provided a yellow page advertisement, TV commercial and brochure for review. All 3 advertising pieces were reviewed to determine compliance with Sections 636.210, 636.212 and 636.228, Florida Statutes, with the following violation noted:

- The TV commercial indicated a charge of \$3 for an office visit and \$1 for x-rays. It did not disclose there were additional costs as outlined in the brochure. This could be misleading to consumers as prohibited by Rule 69O-203.203(2)(b), Florida Administrative Code.

The yellow page advertisement failed to contain all the proper disclosures as required by Section 636.212, Florida Statutes, however, this advertisement was contracted prior to the effective date of DMPO licensing. The Company reports that it has responded to inquiries from the ad by sending the approved brochure which contains the required disclosures.

Corrective Action: The Company should ensure that all advertising and marketing materials contain the required disclosures and are truthful and not misleading as to the contract benefits or charges.

EXAMINATION FINAL REPORT

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.