

# **FINANCIAL SERVICES COMMISSION**

**FLORIDA OFFICE OF INSURANCE REGULATION  
MARKET INVESTIGATIONS**

**MARKET CONDUCT FINAL EXAMINATION REPORT**

**OF**

**ATLANTIC DENTAL, INCORPORATED**

**AS OF**

**June 8, 2006**

**FLORIDA COMPANY CODE: 56014**

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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 Atlantic Dental, Incorporated, ("ADI" or "Company") was performed by Market Examinations, LLC. The scope of this examination was April 28, 2005 through December 31, 2005. The onsite examination began June 5, 2006 and ended June 8, 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, 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 2100 Ponce de Leon Blvd., Suite 950, Coral Gables, FL 33134.

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 April 28, 2005 and as a Prepaid Limited Health Services Organization on October 1, 1997. On July 15, 2005, the Company merged with HSC, Health and Wellness, assuming HSC's discount medical plan that had been operating without a DMPO license since April 1, 2005.

ADI's response to the Office's call for documentation relating to its discount medical plan only included information relating to the health and wellness product that was assumed from HSC.

During the onsite exam, it was revealed that ADI offered 2 additional discount plans: Ultra Care and Ultra Care by DentalPlans.com.

These plans offer discounts including vision, behavioral health, chiropractic, complimentary alternative medicine ("CAM"), hearing, emergency responder services, as well as Open MRI/MRA discounts to members.

## **PROVIDER NETWORK AGREEMENT REVIEW**

ADI contracts with the following provider networks:

- Allied EyeCare – vision services;
- Comprehensive Behavioral Care (CompCare) – behavioral health services;
- N-CAM – chiropractic services and complimentary alternative medicine;
- HearX – hearing services;
- ResponseLink – emergency responder services;
- Open MRI of South Miami – MRI/MRA services; and
- For Your Eyes – vision services.

The Company was unable to produce a copy of the provider network agreement with For Your Eyes as required by Section 636.214(4), Florida Statutes.

The remaining 6 provider network agreements were reviewed and all failed to 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 Company as required by Section 636.214(3)(c), Florida Statutes. One (1) provider network agreement also failed to contain a list of the services and products to be provided at a discount as required by Section 636.214(3)(a), Florida Statutes.

**Corrective Action:** The Company should ensure that it maintains a copy of each provider network agreement. The Company should ensure the provider network agreements require the provider network to maintain an up-to-date list of its contracted providers and to provide monthly updates of this list to the Company. The provider network agreements should also contain a list of services and products to be provided at a discount.

## **PROVIDER AGREEMENT REVIEW**

In addition to contracting with provider networks for discounted medical services, ADI operates and maintains its own internal provider network that includes dentists, dermatologists, and cosmetologists.

A sample of 23 provider agreements was reviewed for compliance with Section 636.214, Florida Statutes. The following violations were noted:

- 20 agreements failed to contain a list of services and products to be provided at a discount as required by Section 636.214(2)(a), Florida Statutes;
- 6 agreements failed to contain the amount or amounts of the discounts or, alternatively, a fee schedule which reflects the provider's discounted rates as required by Section 636.214(2)(b), Florida Statutes; and
- 6 agreements failed to contain language that the provider will not charge members more than the discounted rates as required by Section 636.214(2)(c), Florida Statutes.

**Corrective Action:** The Company should ensure that all provider agreements contain a list of services and products to be provided at a discount, the amount or amounts of the discounts or, alternatively, a fee schedule which reflects the provider's discounted rates, and language that the provider will not charge members more than the discounted rates.

## **MARKETER AGREEMENT REVIEW**

ADI advised the Office that it did not have any marketers, however, the exam revealed that entities the Company referred to as “groups” were actually marketers.

The following entities were distributing and selling ADI’s discount plans:

- Comprehensive Medical Access, Inc. (“CMA”);
- Careplus Health Plans for Employees of Careplus;
- Careplus Health Plan for members;
- ProMedical (a/k/a “Pro Family”);
- DentalPlans.com; and
- MediAccess.

Agreements with the 6 entities were reviewed with the following violations noted:

- 6 agreements failed to prohibit the marketer from using marketing material and brochures without the approval in writing by the Company as required by Section 636.228(2), Florida Statutes.

**Corrective Action:** ADI should amend its marketer agreements to include a provision that prohibits the marketer from using marketing materials and brochures without the approval in writing by the discount medical plan organization.

## **ACTIVE MEMBERSHIP REVIEW**

ADI advised the Office that as of December 31, 2005, the Company had 53,107 active members in Florida.

In addition to the membership data for the ADI plan, the exam revealed 795 members enrolled in the Ultra Care plan and 12,121 members enrolled in the Ultra Care plan marketed through DentalPlans.com. No charges have been filed with the Office as required by Section 636.216(1), Florida Statutes, and no forms have been filed with and approved by the Office for the Ultra Care plan as required by Section 636.216(3), Florida Statutes.

**Corrective Action:** The Company should only enroll members using charges and forms that have been filed with and approved by the Office prior to use.

## **Enrollment and Fulfillment Procedures**

All enrollment forms are completed via paper. The Company filed an enrollment form and received approval from the Office on June 7, 2005.

## **Memberships after April 28, 2005**

A random sample of 50 membership files with effective dates of enrollment on or after April 28, 2005 was reviewed. The Company provided copies of the registration forms, payment history and customer notes for review. The following violations were noted:

- 50 files contained application forms that were not the same as those filed with and approved by the Office as required by Section 636.216(3), Florida Statutes; and
- 50 files evidenced members were charged fees that differed from those filed with the Office as required by Section 636.216(1), Florida Statutes.

**Corrective Action:** The Company should only use charges filed with the Office and forms filed with and approved by the Office. The Company should also review all membership files and refund all members who were overcharged.

## **Memberships prior to April 28, 2005**

Between the April 1, 2005 effective date of Chapter 636, Florida Statutes, and the April 28, 2005 date Atlantic Dental, Incorporated was permitted to operate as a licensed DMPO, 1,064 members were enrolled. Enrolling members in a discount medical plan without a license violates Section 636.204(1), Florida Statutes.

In May 2006, members enrolled prior to April 28, 2005 were sent an informational letter advising of the plan changes, an updated ID card, member handbook, and directory. The members were not required to sign new Florida approved enrollment forms nor were the members provided Florida approved written agreements.

**Corrective Action:** Members enrolled prior to April 28, 2005 should be provided Florida approved enrollment forms and written agreements upon renewal.

## **FORMS/CHARGES REVIEW**

A review of the forms and charges utilized by the Company and its marketers was conducted. The following violations were noted:

- The handbook provided to members is not the same form that was approved by the Office as required by Section 636.216(3), Florida Statutes;
- The Company created and used a Spanish Handbook that was not filed with and approved by the Office prior to use as required by Section 636.216(3), Florida Statutes; and
- The Company is enrolling members into the Ultra Care plan and the Ultra Care plan through Dentalplans.com without the charges being filed with the Office as required by Section 636.216(1), and without forms being filed with and approved by the Office as required by Section 636.216(3), Florida Statutes.

**Corrective Action:** The Company should ensure all charges to members are filed with the Office and all forms are filed with and approved by the Office prior to use.

### **CANCELLATION REVIEW**

The Company reported 234 cancellations between April 28, 2005 and December 31, 2005. A sample of 11 cancellations was reviewed for compliance with Section 636.208, Florida Statutes. No violations were noted.

### **COMPLAINT/GRIEVANCE REVIEW**

The Company reported no complaints or grievances between April 28, 2005 and December 31, 2005. Policies and procedures are in place to facilitate the resolution of member grievances and complaints as required by Section 636.205(1)(d), Florida Statutes.

### **WEBSITE REVIEW**

As a condition for licensure, a discount medical plan must establish an Internet website page on which it is to maintain an up-to-date list of the names and addresses of its providers as required by Section 636.226, Florida Statutes.

Prior to April 2005, ADI's discount medical plan was called HSC Health and Wellness. The URL [www.hsc-health.com](http://www.hsc-health.com) is the former name of ADI's DMPO website. The [www.hsc-health.com](http://www.hsc-health.com) and the [www.adi-health.com](http://www.adi-health.com) website URLs point to the same virtual location.

The Company maintains 2 websites:

1. [www.adi-health.com](http://www.adi-health.com) is the site used for the plan that ADI submitted to the Office. The following violations were noted:
  - The first page of the website does not contain the name and address of the licensed discount medical plan organization as required by Section 636.212(5), Florida Statutes; and
  - The website's provider list does not include the names and addresses of specialists or "For Your Eyes" providers' names and addresses and, therefore, is not up-to-date as required by Section 636.226, Florida Statutes.
2. [www.adi-dental.com](http://www.adi-dental.com) contains general information about the Company and its various products and services. The following violations were noted:
  - The first page of the website does not contain the name and address of the licensed discount medical plan organization as required by Section 636.212(5), Florida Statutes;

- The website's provider list does not include the names and addresses of specialists and, therefore, is not up-to-date as required by Section 636.226, Florida Statutes;
- The page for services and plans states that the Company is a licensed dental HMO. ADI is not licensed as an HMO. This statement is false and could mislead an individual into believing the plan is insurance, which is prohibited by Rule 69O-203.203(2)(b), Florida Administrative Code and Section 636.210(1)(b), Florida Statutes; and
- The web page for the Ultra Care Dental Plan states that the plan provides coverage and refers to the charges as premiums. These statements could mislead an individual into believing the plan is insurance, which is prohibited by Rule 69O-203.203(2)(a), Florida Administrative Code and Section 636.210(1)(b), Florida Statutes.

**Corrective Action:** The Company should ensure websites contain the name and address of the licensed discount medical plan organization and that provider lists are maintained up-to-date with the names and address of all providers. The Company should also remove any misleading terms and prohibited language from its websites.

### **ADVERTISING REVIEW**

ADI submitted 4 advertisements for review. The following violations were noted:

- 3 advertisements reviewed used terms in a manner that could reasonably mislead a person into believing the discount medical plan was health insurance which is prohibited by Rule 69O-203.203(2)(a), Florida Administrative Code and Section 636.210(1)(b), Florida Statutes; and
- 4 advertisements failed to contain the necessary disclosures as required by Section 636.212(1)-(5), Florida Statutes.

**Corrective Action:** The Company should ensure that all marketing material and advertising contain the required disclosures and does not include any misleading terms or prohibited language.

### **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.