FINANCIAL SERVICES COMMISSION

FLORIDA OFFICE OF INSURANCE REGULATION
MARKET INVESTIGATIONS

MARKET CONDUCT FINAL EXAMINATION REPORT

OF

AVIA DENTAL PLAN, INC.

AS OF

NOVEMBER 21, 2007

FLORIDA COMPANY CODE: 56032

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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 Avia Dental Plan, Inc. (Avia or Company) was performed by Greenfield Consultants, LLC. The scope of this examination was September 20, 2006 through September 30, 2007. The examination began November 19, 2007 and ended November 21, 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 1025 Main St, Wheeling, WV 26003.

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 September 21, 2006. The Company was established in 1994 as Southeast Dental Care, Inc., and on February 24, 2004 changed its name to Avia Dental Plan, Inc. Initially the Company was operated out of Pittsburgh, PA, the location identified in the approval for a license as a DMPO in Florida. The Company relocated to Wheeling, West Virginia in 2006.

Avia offers 1 discount plan to its members. The plan is additionally marketed by DentalPlans.com and the enrollments through its site are distinguished as "Plan 3". The product is the same but in the direct marketed product, the Company receives the full amount of charges as approved by the Office. For those members who enroll through the DentalPlans.com website, the Company is paid in accordance with the marketing agreement.

The Company's product provides its members with discounts related to dental, vision and pharmaceutical services.

Under a Consent Order issued on January 24, 2006, the Company agreed to a voluntary suspension of its license due to its failure to have the minimum net worth as required by Section

636.220, Florida Statutes. The license was restored via Consent Order on September 20, 2006, when the requisite level of capital was reached.

PROVIDER NETWORK AGREEMENT REVIEW

The Company has agreements with 2 network providers for its discount medical plan. CaremarkPCS Health gives members access to pharmaceutical supplies and Cole Managed Vision provides dental and vision services.

Chapter 636, Part II, Florida Statutes does not regulate pharmaceutical supplies or prescriptions.

The provider network agreement with Cole Managed Vision was reviewed and the following violation was noted:

- The agreement did not require the network to provide an up-to-date list of its contracted providers on a monthly basis to the discount medical plan organization as required by Section 636.214(3)(c), Florida Statutes.

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

PROVIDER AGREEMENT REVIEW

The Company maintains individual agreements with 500 doctors that are listed on the Company's web site. Some of these doctors had multiple locations and offered more than 1 specialty. A sample of 11 provider agreements was reviewed for compliance with Section 636.214, Florida Statutes. No violations were noted.

MARKETER AGREEMENT REVIEW

The Company maintains 1 marketing agreement with DentalPlans.com who, in addition to being a licensed DMPO in Florida, provides a website which markets several DMPO's directly to the public. The prospective member can view details on all the DMPO's in Florida that DentalPlans.com has marketer agreements with and compare information, including membership fees, number of providers and a range of discounted savings. The marketer agreement was reviewed for compliance with Section 636.228, Florida Statutes. The following violation was noted:

- The marketer agreement did not require that all advertisements, marketing materials, and discount cards used by the marketer must be approved in writing by the Company as required by Section 636.228(1), Florida Statutes.

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

Corrective Action: The Company should ensure that all agreements with marketers contain language requiring prior written approval of all marketing and advertising materials.

ACTIVE MEMBERSHIP REVIEW

As of September 30, 2007, the Company had 443 active memberships, 379 of which had enrollment effective dates on or after September 20, 2006.

Enrollment Procedures

Enrollments are handled directly by the Company and its marketer. Members are enrolled via the internet, paper application and the telephone. Those members who apply by phone come to the Company directly from referrals or through reviewing the information available on the Company's website. There is a "sales script" which includes advising the caller of the additional information that is available on the Company's website. Consumers who indicate that they do not have access to the website are asked for their contact information and mailed the information from the website or, if requested by the consumer, emailed the information. The consumers are asked to call back after receiving and reviewing the printed information.

Memberships after September 20, 2006

A random sample of 30 memberships with effective dates on or after September 20, 2006 was reviewed. The membership files consisted of enrollment forms, call logs, subscriber history and payment history. The following violations were noted:

- 15 members were enrolled on forms that had not been filed with and approved by the Office as required by Section 636.216(3), Florida Statutes; and
- 16 members were charged amounts not filed with the Office as required by Section 636.216(1), Florida Statutes.

Corrective Action: The Company should ensure that all members are enrolled using filed charges and on forms that have been filed with and approved by the Office.

Memberships prior to September 20, 2006

Between the April 1, 2005, effective date of Chapter 636, Florida Statutes, and the August 5, 2005 date that the Company was initially permitted to operate as a licensed DMPO, there were no members enrolled. At the time of the exam, there were 15 active members who had enrolled between August 5, 2005 and January 24, 2006, the date the Company's sales were suspended. The Company did not sell its product in Florida until it had complied with the requirements for obtaining a license on September 20, 2006.

Members enrolled prior to April 1, 2005, were not provided enrollment forms, written agreement agreements and fulfillment materials that were filed with and approved by the Office.

Corrective Action: The Company should provide members enrolled prior to April 1, 2005 approved enrollment forms, written agreements and fulfillment materials upon renewal.

FORMS/CHARGES REVIEW

On August 19, 2005, the Office approved 1 form filed by the Company for its Plan product offered in Florida. On April 27, 2007, the Office approved a supplemental filing which expanded on the documents submitted for approval to include website submissions and a change in charges.

The Company provided samples of 2 membership kits, one from Avia and the other from DentalPlans.com, for review. The kits contained the same basic information; terms of membership services agreement, welcome letter, ID card, fees and a list of participating dentists/opticians. The Avia Dental Plan kit also contained an additional brochure on frequently asked questions and answers.

The second kit was provided by the marketer, DentalPlans.com, to those who enrolled through its website. This kit contained the welcome letter identifying the enrollment in the Avia Dental Plan, the member agreement and the ID card.

The Office approved the initial charges on August 19, 2005. On April 27, 2007, the Office approved a rate increase in Filing #07-05937. The initial filing did not include the rates that were charged by the marketer, DentalPlans.com, which were higher than the filed charges. The increased charges were approved for both the Company and DentalPlans.com in the 2007 filing.

Enrollment forms, charges, and membership kits were reviewed. The following violations were noted:

- Enrollment forms used during the scope of the examination differed from the forms filed with and approved by the Office as required by Section 636.216(3), Florida Statutes; and
- The Company was enrolling members using charges that had not been filed with the Office as required by Section 636.216(1), Florida Statutes.

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

CANCELLATION REVIEW

During the scope period, the Company reported that 55 members cancelled their membership within the first 30 days after the effective date of their enrollment. A sample of 10 cancellation

files was reviewed for compliance with Section 636.208(2), Florida Statutes. No violations were noted.

COMPLAINT/GRIEVANCE REVIEW

The Company recorded consumer complaints related to its discount medical plan during the scope of the examination. The Company's complaint policy states that the member will be "asked" what the complaint is and the Company will then investigate. The complaints are tracked by electronic log and a print out of the log was reviewed. There were no formal complaints to the Office regarding this Company. The Company is following its policies and procedures that 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 of licensure, a DMPO must maintain and establish an internet website page that complies with Section 636.204(4), Florida Statutes. The Company maintains 1 website, www.aviadentalplan.com, and their marketer Dental Plans.com sells the Company's product on its website, www.dentalplans.com. Each websites maintain a list of providers that is updated by the Company on a monthly basis as required by Section 636.226, Florida Statutes. A review of both websites was conducted and no violations were noted.

ADVERTISING REVIEW

The Company produced 1 brochure used during the scope of the examination. It does not advertise on TV or in newspapers in the state of Florida. The brochure was reviewed with the following violation noted:

- The brochure failed to contain the disclosures on the first page as required by Section 636.212(1)-(5), Florida Statutes. The disclosures were made on the last page of the brochure and were in the required 12-point type.

Corrective Action: The Company should ensure that all advertising and marketing materials contain the disclosures as required.

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.