

FINANCIAL SERVICES COMMISSION

**FLORIDA OFFICE OF INSURANCE REGULATION
MARKET INVESTIGATIONS**

MARKET CONDUCT FINAL EXAMINATION REPORT

OF

CINERGY HEALTH, INC.

AS OF

AUGUST 3, 2006

FLORIDA COMPANY CODE: 56021



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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 Cinergy Health, Inc. (Cinergy or Company) was performed by Market Examinations, LLC. The scope of this examination was May 26, 2005 through April 30, 2006. The onsite examination began July 31, 2006 and ended August 3, 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 19495 Biscayne Boulevard., Ste. 604, Aventura, FL 33180.

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 May 26, 2005. Cinergy is also licensed or registered in Illinois, Nevada, Oklahoma, Utah, Connecticut, and Minnesota.

Cinergy's discount medical plans offer dental, medical, vision, hearing, behavioral health, complimentary alternative medicine, long term care, a nurse and physician hotline, medical records storage, pharmacy, durable medical equipment, diabetic supplies, and chiropractic discounts to members. In addition, the Company offered members discounts for pets.

Chapter 636, Part II, Florida Statutes does not regulate pharmaceutical supplies, prescriptions, medical information storage and retrieval services, and discounts for pets.

PROVIDER NETWORK AGREEMENT REVIEW

The Company has written agreements with the following providers and medical service networks:

1. Nicoletta Pallotta – medical (Tel-A-Doc);

2. Joseph Preziosi – dental (Tel-A-Dentist);
3. Independent Living Products – durable medical equipment (“DME”);
4. Diabetic Plus – diabetic supplies;
5. Protective Marketing Enterprises, Inc. (Protective) - vision, medical, long term care, hearing, dental, behavioral health, physician and nurse hotline, chiropractic, and complimentary alternative medicine; and
6. New Health Care Management Group – predecessor to Protective. No longer providing services as of December 1, 2005.

Upon request, the Company produced executed agreements for each of the above provider networks as required by Section 636.214(4), Florida Statutes. In addition, a sample agreement between the provider network and its providers was furnished. The following violations were noted:

- The agreement with New Health Care Management Group failed to have provisions in the provider network agreement that requires the provider network to have written agreements with its providers that contain a list of services and products to be provided at a discount, or the amount or amounts of the 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 as required by Section 636.214(3)(a), Florida Statutes; and
- The agreement with Protective Marketing failed to contain a provision that requires the network to maintain an up-to-date list of its contracted providers on a monthly basis to the Company as required by Section 636.214(3)(c), Florida Statutes. It should be noted that while the contract does not contain the required language, the providers available from Cinergy’s website are maintained by Protective and are updated real-time as needed.

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

Cinergy provided a list of 3 marketers that have marketed and sold its discount medical plan to Florida residents:

1. C4 Direct Solutions, LLC;
2. MX Consulting (MedExpress); and
3. Avi Indik/Benefits Marketing.

All 3 agreements were reviewed for compliance with Section 636.228, Florida Statutes. No violations were noted.

ACTIVE MEMBERSHIP REVIEW

As of April 30, 2006, the Company had a total of 388 members enrolled in Florida. The Company reported all 388 members enrolled after May 26, 2005; however, it could not produce any data prior to October 2005. It was impossible to determine if any members were enrolled in Cinergy between the DMPO statutory effective date of April 1, 2005 and May 26, 2005, the date the Company received its DMPO license. The Company's failure to produce the requested information is in violation of Section 636.206(1), Florida Statutes.

Corrective Action: The Company should produce all information requested by the Office.

Enrollment and Fulfillment Procedures

All enrollments are completed over the telephone. Upon enrollment, the Company mails the membership agreement, handbook, and membership cards to the member. Protective Marketing Enterprises, Inc. provides billing and customer service.

Memberships on or after May 26, 2005

A random sample of 50 files for members with effective dates of enrollment on or after May 26, 2005 was reviewed. The Company provided screen shots of the member information from its proprietary system that included member data, payment history, and member notes for review.

All consumers enrolled in Cinergy are enrolled over the telephone. The Office approved a Company telephone script and forms on December 21, 2005. Sixteen (16) members enrolled between October 5, 2005 and December 20, 2005, on forms that had not been filed with and approved by the Office as required by Section 636.216(3), Florida Statutes.

Corrective Action: The Company should ensure all members are enrolled utilizing a telephone script and forms that have been filed with and approved by the Office. All members enrolled prior to the telephone script and forms being approved should be provided approved forms at renewal.

In addition, 16 members enrolled were charged a one-time processing fee that exceeded the fee that was filed with the Office. All charges to members must be filed with the Office as required by Section 636.216(1), Florida Statutes, and Rule 69O-203.204(1), Florida Administrative Code.

Corrective Action: The Company should ensure the use of only those charges and fees that have been filed with the Office. The Company should also review all memberships and make refunds where necessary. Any refund that cannot be returned to a member should be remitted to the Florida Department of Financial Services, Bureau of Unclaimed Property.

FORMS/CHARGES REVIEW

A review of the Company's membership applications, telephone scripts, membership agreements, and handbooks for the Signature Plan was completed. The following violation was noted:

- Form DR002 and telephone scripts utilized by the Company lists the range of discounts as 20% to 60% off the normal fee for services, including general physicians and specialists, hospitals, dentists, chiropractors, vision and hearing professionals, family counseling, ancillary facilities, and pharmacies. A review of the ancillary and hospital benefits shows the minimum discount available as 3%, which is lower than the discount range filed with the Office. The language in the form and telephone scripts relating to hospital and ancillary discounts is untruthful and misleading in fact or implication which is prohibited by Rule 69O-203.203(1), Florida Administrative Code.

Corrective Action: The Company should review all telephone scripts and forms to ensure that all information is presented truthfully and is not misleading in fact or implication.

In addition, the following issues were noted:

- The membership application, DR0005C and membership agreement, FM1100C did not provide the discount medical plan's address in 12-point type as required by Section 636.212, Florida Statutes; and
- The language in the telephone script that states the prices are a promotion and are limited, when the prices reflect the actual prices charged by the Company and do not reflect a promotion is incorrect and is prohibited by Rule 69O-203.203(1), Florida Administrative Code.

Corrective Action: The Company should ensure that the name and address of the discount medical plan is provided in 12-point font as required. In addition, all telephone scripts and forms should be reviewed to ensure that all information is presented truthfully, and is not misleading in fact or implication. Any revision to forms or telephone scripts must be filed with and approved by the Office prior to use.

CANCELLATION REVIEW

During the scope period, the Company reported that 348 members cancelled their membership. Of those:

- 247 members cancelled their membership within the first 30 days after the effective date of enrollment; and
- 101 members cancelled their membership subsequent to the first 30 days after the effective date of enrollment

A sample of 50 members that cancelled their membership within the first 30 days after the effective date of enrollment was reviewed for compliance with Section 636.208, Florida Statutes. The following violations were noted:

- 10 members that cancelled their membership within the first 30 days after the effective date of enrollment did not receive a reimbursement of all periodic charges upon return of the discount card to the discount medical plan as required by Section 636.208(2), Florida Statutes; and
- 1 member that cancelled a membership did not receive a refund for the portion of the one-time processing fee that exceeded \$30.00 per year as required by Section 636.208(4), Florida Statutes.

Corrective Action: The Company should ensure that all members who cancel their membership receive a refund of charges when applicable. The Company should also implement procedures to ensure that appropriate refunds are processed. Any refund that cannot be returned to a member should be remitted to the Florida Department of Financial Services, Bureau of Unclaimed Property.

A sample of 4 members that cancelled their membership subsequent to the first 30 days after the effective date of enrollment was reviewed for compliance with Section 636.208(3), Florida Statutes. No violations were noted.

COMPLAINT/GRIEVANCE REVIEW

Protective has handled customer service since October 2005. The Company provided documentation relating to four consumer complaints. Two of the complaints came in to the call center and were handled by Protective and two complaints originated from the Florida Department of Financial Services, Division of Consumer Services and were handled by Cinergy.

Pursuant to the Company's policy, any complaint that could not be resolved during an initial phone call was entered into an electronic case tracking system. If the case could not be resolved in 5 business days, the consumer was sent a letter advising of the status. Neither of the consumer complaints handled by Protective was sent the 5-day letter. Protective stated that this was an oversight and that procedures were in place to ensure the oversight did not happen again. Protective further advised that, while members were not sent the letter according to procedures, communication with the members was constant.

A review of documentation regarding complaints and grievances revealed that the Company did not follow its policies and procedures to resolve member grievances and complaints as required by Section 636.205(1)(d), Florida Statutes.

Corrective Action: The Company should ensure that it follows its policies and procedures, to resolve member grievances and complaints as required.

WEBSITE REVIEW

A review was conducted of the website that is maintained by the Company, www.cinergyhealth.com. The website contains general information about the Company and its various products and services. The findings are as follows:

- The website contains an online enrollment form for both the Simplicity and Signature plans. The form that was submitted to and approved by the Office was for the Signature plan only. The enrollment form for the Simplicity plan has not been filed with and approved by the Office as required by Section 636.216(3), Florida Statutes.

The enrollment form for the Signature plan, as published on the website, fails to contain the unique form number in the lower left hand corner, as required by Section 636.216(3), Florida Statutes. It should be noted that during the examination, the Company inserted the unique form number in the lower left hand corner of the previously approved Signature plan online enrollment form.

Corrective Action: The Company should immediately file an online enrollment form for the Simplicity Plan. In addition, the Company should also refile the online enrollment form for the Signature plan that includes the unique form number in the lower left hand corner.

Section 636.226, Florida Statutes, requires a DMPO to maintain an up-to-date list of providers on an internet website. The Company's procedures for maintaining its website were reviewed. No violations were noted.

ADVERTISING REVIEW

The Company's advertising was reviewed to determine compliance with Sections 636.210, 636.212, and 636.228, Florida Statutes, and Part 69O-203.203, Florida Administrative Code.

Cinergy submitted 5 advertisements for review with the following violations noted:

- 3 of the advertisements were misleading by stating that plan benefit savings range from 20% to 60%, while actual savings can be as little as 3%, in violation of Rule 69O-203.203(2)(b), Florida Administrative Code;
- 1 advertisement failed to provide the Uniform Resources Locator (URL) address for the provider list as required by Section 636.226, Florida Statutes; and
- 1 advertisement failed to disclose the address of the discount medical plan organization as required by Section 636.212(5), Florida Statutes.

Corrective Action: The Company should immediately change its forms and advertising to accurately reflect the true potential savings of its plan. Any revision to forms must be filed with and approved by the Office prior to use. The Company should also modify its radio ad to insure it includes the URL address to the provider list and the address of the discount medical plan organization.

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.