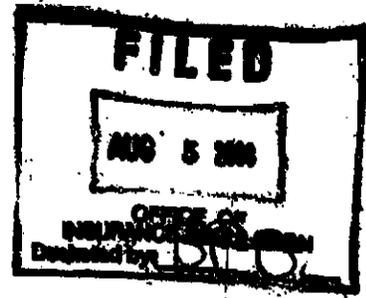




OFFICE OF INSURANCE REGULATION

KEVIN M. McCARTY
COMMISSIONER



IN THE MATTER OF:

CINERGY HEALTH, INC.

CASE NO.: 95236-08

2006 Market Conduct Examination

CONSENT ORDER

THIS CAUSE came on for consideration upon the agreement between CINERGY HEALTH, INC. (hereinafter referred to as "CINERGY") and the OFFICE OF INSURANCE REGULATION (hereinafter referred to as the "OFFICE"). Following a complete review of the entire record, and upon consideration thereof, and being otherwise fully advised in the premises, the OFFICE hereby finds as follows:

1. The OFFICE has jurisdiction over the subject matter of, and parties to, this proceeding.
2. CINERGY is a domestic discount medical plan organization authorized to transact discount medical plan business in Florida and is subject to the jurisdiction and regulation of the OFFICE pursuant to Chapter 636, Part II, Florida Statutes.
3. The OFFICE conducted a market conduct examination of CINERGY in 2006 pursuant to Section 636.206, Florida Statutes. As a result of such examination, the OFFICE has determined that CINERGY has violated the following provisions of the Florida Insurance Code and Florida Administrative Code:

- a. Section 636.214(3)(a), Florida Statutes – Failure of the provider agreement between the discount medical plan organization and the provider network to require the network to have agreements with its providers to contain a list of the services and products to be provided at a discount; the amount of the discounts, or alternatively, a fee schedule which reflects the provider's discounted rates; and a statement that the provider will not charge members more than the discounted rates.
- b. Section 636.214(3)(c), Florida Statutes – Failure of the provider agreement between the discount medical plan organization and the provider network to require the network to have agreements with its providers which 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 discount medical plan organization.
- c. Section 636.206(1), Florida Statutes – Failure to produce all records as requested by the Office.
- d. Section 636.216(3), Florida Statutes – Use of forms that have not been first filed with and approved by the Office, and failure to include a unique form number in the lower left hand corner of a form.
- e. Section 636.216(1), Florida Statutes and Rule 69O-203.204(1), Florida Administrative Code – Use of charges that have not been filed with and approved by the Office.
- f. Rule 69O-203.203(1), Florida Administrative Code – Use of a form and telephone scripts that contain language that is untruthful and misleading in fact or implication.

- g. Section 636.208(2), Florida Statutes – Failure to refund all periodic charges to members that cancelled their membership in the discount medical plan organization within the first 30 days after the effective date of enrollment in the plan
- h. Section 636.208(4), Florida Statutes – Failure to provide reimbursements of the portion of the one-time processing fee that exceeded \$30 per year to members that cancelled their membership in the discount medical plan organization within the first 30 days after the effective date of enrollment in the plan.
- i. Section 636.205(1)(d), Florida Statutes – Failure to follow complaint procedures as filed with the Office.
- j. Section 636.226, Florida Statutes – Failure to contain a website address on advertising materials.

4. CINERGY expressly waives a hearing in this matter, the making of Findings of Fact and Conclusions of Law by the OFFICE, and all further and other proceedings herein to which the parties may be entitled by law or rules of the OFFICE. CINERGY hereby knowingly and voluntarily waives all rights to challenge or to contest this Order, in any forum now or in the future available to it, including the right to any administrative proceeding, circuit or federal court action, or any appeal.

5. CINERGY agrees that upon the execution of this Consent Order, it shall be subject to the following terms and conditions:

- a. CINERGY shall pay a penalty of Seven Thousand Five Hundred Dollars (\$7,500) and administrative costs of Three Thousand Dollars (\$3,000) on or before the thirtieth (30th) day after this Consent Order is executed.

b. CINERGY shall, within thirty (30) days of the execution of this Consent Order, provide to the OFFICE a certification signed by an officer of the Company that the corrective actions outlined in the examination report have been completed. The certification shall include a detailed list of all fees returned, itemized by member name, member number, and the amount refunded.

6. CINERGY is hereby placed on notice of the requirements of the above referenced sections of law and rules, and agrees that any future violations of these sections and rules by CINERGY may be deemed willful, subjecting CINERGY to appropriate penalties.

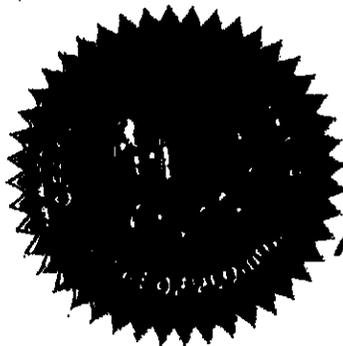
7. CINERGY agrees that the failure to adhere to one or more of the above terms and conditions of this Consent Order shall constitute a violation of a lawful order of the OFFICE, and shall subject CINERGY to such administrative action as the OFFICE may deem appropriate.

8. Except as noted above, each party to this action shall bear its own costs and attorney's fees.

THEREFORE, the agreement between CINERGY and the OFFICE, the terms and conditions of which are set forth above, is APPROVED.

FURTHER, all terms and conditions above are hereby ORDERED.

DONE AND ORDERED this 5TH day of AUGUST 2008.



KEVIN M. McCARTY
Commissioner
Office of Insurance Regulation

COPIES FURNISHED TO:

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