



THE TREASURER OF THE STATE OF FLORIDA
DEPARTMENT OF INSURANCE

FILED

JAN 9 2002

TREASURER AND
INSURANCE COMMISSIONER
Decided by: *SYS*

TOM GALLAGHER

IN THE MATTER OF:

CASE NO. 42442-01-CO

FOUNDATION HEALTH,
A FLORIDA HEALTH PLAN, INC.

CONSENT ORDER

THIS CAUSE came on before the undersigned for consideration as the result of an agreement between **FOUNDATION HEALTH, A FLORIDA HEALTH PLAN, INC.**, (hereinafter referred to as "**FOUNDATION**") and the **FLORIDA DEPARTMENT OF INSURANCE**, (hereinafter referred to as the "**DEPARTMENT**"). Following a complete review of the entire record, and upon consideration thereof, and being otherwise fully advised in the premises, the undersigned hereby finds as follows:

1. The Treasurer and Insurance Commissioner, as head of the **DEPARTMENT**, has jurisdiction over the subject matter of, and parties to, this proceeding.
2. **FOUNDATION** is authorized to transact business in this state as a health maintenance organization subject to the jurisdiction and regulation of the **DEPARTMENT** in accordance with the Florida Insurance Code.
3. Pursuant to complaints received by the **DEPARTMENT**, a target market conduct examination was conducted pursuant to Section 641.27, Florida

Statutes. As a result of such investigation and examination, the **DEPARTMENT** determined that **FOUNDATION** violated the following provisions of the Florida Insurance Code, to wit:

1. Section 641.3155(1), Florida Statutes (1999): Failure to Timely Pay claims.
2. Section 641.3155(2), Florida Statutes (1999): Failure to Pay Interest on Late Paid Claims.
3. Section 641.3155(3), Florida Statutes (1999): Failure to Pay Claims Within 120 Days.
4. Sections 641.3901 and 641.3903(5)(c) 1. & 4., Florida Statutes (1999): Failure to Adopt and Implement Standards For Proper Investigation of Personal Injury Protection (PIP) Claims.
5. Section 641.3155 (3), Florida Statutes (1999): Failure to Properly Calculate Interest.

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

5. **FOUNDATION** agrees that the failure to adhere to one or more of the terms and conditions of this Consent Order shall constitute a violation of a lawful order of the **DEPARTMENT**, and shall subject **FOUNDATION** to such administrative action as the Treasurer and Insurance Commissioner may deem appropriate.

6. **FOUNDATION** agrees that upon the execution of this Consent Order it shall be subject to the following terms and conditions:

(a) **FOUNDATION** shall pay a penalty of Forty Three Thousand Dollars (\$43,000) and administrative costs of \$2000 on or before the 30th day subsequent to the execution of this Consent Order:

(b) **FOUNDATION** shall henceforth comply with all of the provisions of the Florida Insurance Code.

(c) **FOUNDATION** is hereby placed on notice of the requirements of Sections 641.3155(1), 641.3155(2), 641.3155(3), 641.3901 and 641.3903(5)(c)1. & 4., Florida Statutes, and agrees that any future violations of these sections by **FOUNDATION** deemed willful by the Department, as defined in Rule 4-191.300(3)(h), Florida Administrative Code, may subject **FOUNDATION** to appropriate penalties.

(d) **FOUNDATION** shall undertake corrective action to establish and implement procedures to assure that all claims are processed in a timely fashion in accordance with Sections 641.3155(2) and 641.3155(3), Florida Statutes, (2000). Further, **FOUNDATION** shall undertake to make certain that all claims by providers are properly coordinated with other insurers and/or self insurers in accordance with all applicable statutes and rules. **FOUNDATION** shall submit for the Department's review a revision to its policies and procedures regarding claims payments that implements the aforementioned corrective action and proper coordination of benefits, no later than thirty (30) days following the issuance of this Consent Order.

7. The parties agree that this Consent Order will be deemed to be executed when the agency head or his designee has signed a copy of this Order

bearing the signature of FOUNDATION or its authorized representative,
notwithstanding the fact that the copy was transmitted to the agency by facsimile
machine.

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

THEREFORE, the agreement between **FOUNDATION HEALTH, A
FLORIDA HEALTH PLAN, INC.** and the **DEPARTMENT**, consisting of the terms
and conditions set forth above, is approved.

FURTHER, all terms and conditions above are hereby ORDERED.

DONE AND ORDERED this 9th day of ANUG, 2007.



KEVIN McCARTY
Deputy Insurance Commissioner

By execution hereof, **FOUNDATION HEALTH, A FLORIDA HEALTH PLAN, INC.** consents to entry of this Consent Order, agrees without reservation to all of the above terms and conditions, and shall be bound by all provisions herein. The undersigned represents, pursuant to Section 624.310, Florida Statutes, that he/she has the authority to bind **FOUNDATION HEALTH, A FLORIDA HEALTH PLAN, INC.** to the terms and conditions of this Consent Order.

FOUNDATION HEALTH, A FLORIDA HEALTH PLAN, INC.

By: _____

Gerald M. Cohen

Print or Type Name

Title: Sr. V.P. - General Counsel

Date: 12/14/11

CORPORATE SEAL

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