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TREASURER AND
INSURANCE COMMISSIONER
Docketed by: *SS*

THE TREASURER OF THE STATE OF FLORIDA
DEPARTMENT OF INSURANCE

TOM GALLAGHER

IN THE MATTER OF:

CASE NO: 61830-02-CO

**BLUE CROSS & BLUE SHIELD OF FLORIDA, INC. AND
HEALTH OPTIONS, INC.**
Life and Health Target Market Conduct Examination

CONSENT ORDER

THIS CAUSE came on for consideration as the result of an agreement between **BLUE CROSS & BLUE SHIELD OF FLORIDA, INC.**, (hereinafter referred to as "**BCBSF**"), and **HEALTH OPTIONS, INC.**, (hereinafter referred to as "**HOI**"), 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 **DEPARTMENT** hereby finds as follows:

1. The **DEPARTMENT** has jurisdiction over the subject matter of, and parties to, this proceeding.
2. **BCBSF** is a domestic insurer authorized to transact insurance business in Florida and is subject to the jurisdiction and regulation of the **DEPARTMENT** pursuant to the Florida Insurance Code. **HOI** is a domestic health maintenance organization (hereinafter referred to as "**HMO**") authorized to transact HMO business in Florida and is subject to the jurisdiction and regulation of the **DEPARTMENT** pursuant to Chapter 641, Florida Statutes and other applicable provisions of the Florida Insurance Code.

3. The **DEPARTMENT** has conducted an examination of **BCBSF**, pursuant to Section 624.3161, Florida Statutes, and an examination of **HOI**, pursuant to Section 641.27, Florida Statutes. As a result of such examinations, the **DEPARTMENT** determined that **BCBSF** and **HOI** committed the following violations of the Florida Statutes:

- a. Section 641.31(3)(a), Florida Statutes — **HOI** policy forms were not approved by the **DEPARTMENT**.
- b. Section 627.410(2), Florida Statutes — **BCBSF** policy forms were not approved by the **DEPARTMENT**.
- c. Section 624.318(2), Florida Statutes — **BCBSF** did not maintain all records.
- d. Section 626.9541(1)(o), Florida Statutes— **BCBSF** generated invoices reflecting a premium that was in excess of the premium applicable to such insurance.
- e. Section 626.9541(1)(g), Florida Statutes — **BCBSF** unfairly discriminated between people of the same actuarial class in that bills were not always consistent.
- f. Section 627.6699(3)(v), Florida Statutes —In some cases **BCBSF** and **HOI** improperly used the statutory definition of “small employer.”
- g. Section 641.3903(10), Florida Statutes — **HOI** generated invoices reflecting a premium that was in excess of the premium applicable to such insurance.
- h. Section 627.6563, Florida Statutes —In some cases **BCBSF** improperly defined a “full-time” employee in its underwriting manuals.
- i. Section 627.6699(5)(c), Florida Statutes — **BCBSF** and **HOI** underwriting manuals improperly state that products are only available to groups of at least 10

people.

j. Section 627.6699(5)(c) Florida Statutes — **BCBSF** and **HOI** underwriting manuals impose a waiting period prior to reinstating coverage for any group canceled for non-payment of premium within the last 12 months.

4. **BCBSF** is directed to change its underwriting manuals to comply with Section 627.6699(6)(3) and Rule 4-149.037(1)(f), and **HOI** is directed to change its underwriting manuals to comply with Section 627.6699(6)(3) and Rule 4-191.033(1)(b).

5. **BCBSF** and **HOI** assert that they have made substantial internal improvements to reduce the number of policy forms identified in findings 1 and 2 of Part 1 of the report. **BCBSF** will be deemed to be in compliance with F.S. 627.410, Florida Statutes, and **HOI** will be deemed to be in compliance with Section 641.31(3)(a), Florida Statutes, if all forms, still in use, are filed with the **DEPARTMENT** within 90 days of the execution of this consent order.

6. The **DEPARTMENT** and **BCBSF** and **HOI** 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 or rules of the **DEPARTMENT**. **BCBSF** and **HOI** hereby knowingly and voluntarily waive all rights to challenge or to contest this Order, in any forum now available to them, including the right to any administrative proceeding, circuit or federal court action, or any appeal.

7. **BCBSF** and **HOI** agree that the failure to adhere to one or more of the terms and conditions of this Order shall constitute a violation of a lawful order of the **DEPARTMENT**, and shall subject **BCBSF** and **HOI** to such administrative action as the **DEPARTMENT** may deem appropriate.

8. **BCBSF and HOI** agree that upon the execution of this Consent Order they shall be subject to the following terms and conditions:

(a) **BCBSF and HOI** shall pay a penalty of \$36,000.00 and administrative costs of \$2,000.00 on or before the 30th day after this Consent Order is executed.

(b) **BCBSF and HOI** shall henceforth comply with all of the provisions of the Florida Insurance Code and Florida Statutes and shall file all forms for which rate filings are also required.

(c) **BCBSF and HOI** are hereby placed on notice of the requirements of the above referenced sections of law and agrees that any future violations of these sections by **BCBSF and HOI** may be deemed willful, subjecting **BCBSF and HOI** to appropriate penalties.

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

THEREFORE, the agreement between **BCBSF, HOI** and the **DEPARTMENT**, 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 16th day of September, 2002.



KEVIN MCCARTY
Deputy Insurance Commissioner

By execution hereof **BLUE CROSS & BLUE SHIELD OF FLORIDA, INC.** consent to entry of this Order, agree without reservation to all of the above terms and conditions, and shall be bound by all provisions herein. I am authorized to execute this document.

BLUE CROSS & BLUE SHIELD OF FLORIDA, INC.

By: _____

Name: Randy M. Kammer
(Print or type name)

Title: Vice President, Regulatory Affairs & Public Policy

Date: August 21, 2002

CORPORATE SEAL

By execution hereof HEALTH OPTIONS, INC. consent to entry of this Order, agree without reservation to all of the above terms and conditions, and shall be bound by all provisions herein. I am authorized to execute this document.


HEALTH OPTIONS, INC.

By: _____

Name: Randy M. Kammer
(Print or type name)

Title: Vice President, Regulatory Affairs & Public Policy

Date: August 21, 2002

CORPORATE SEAL

COPIES FURNISHED TO:

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