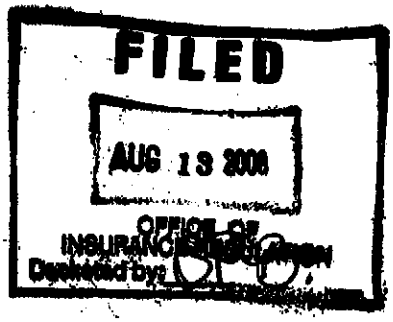
OFFICE OF INSURANCE REGULATION



KEVIN M. MCCARTY
COMMISSIONER

IN THE MATTER OF:

CASE NO.: 93827-08

NEWBN, INCORPORATED

2006 Market Conduct Examination
_____/

CONSENT ORDER

THIS CAUSE came on for consideration upon the agreement between NEWBN, INCORPORATED (hereinafter referred to as "NEWBN") 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. NEWBN is a foreign 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 the Chapter 636, Part II, Florida Statutes.

3. The OFFICE conducted a market conduct examination of NEWBN in 2006 pursuant to Section 636.206, Florida Statutes. As a result of such examination, the OFFICE has determined that NEWBN has violated the following provisions of the Florida Insurance Code:

a. Section 636.214(3)(a), Florida Statutes – Failure of the provider network agreements 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 network agreements to 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 636.214(4), Florida Statutes – Failure to maintain a copy of a provider agreement.

d. Section 636.214(2)(a), Florida Statutes – Failure of the provider agreement to contain a list of the services and products to be provided at a discount.

e. Section 636.214(2)(b), Florida Statutes – Failure of the provider agreement to contain the amount or amounts of the discounts or, alternatively, a fee schedule which reflects the provider's discounted rates.

f. Section 636.228(2), Florida Statutes – Failure to have executed written agreements with marketers.

g. Section 636.216(3), Florida Statutes – Use of forms that have not been filed with and approved by the Office.

h. Rule 69O-203.204(1)(a), Florida Administrative Code – Failure to file forms for approval by the Office before use.

i. Section 636.226, Florida Statutes – Failure to contain a website address on advertising materials.

j. Section 636.216(1), Florida Statutes – Failure to file charges and fees with the Office prior to use.

k. Section 636.210(2), Florida Statutes – DMPO prohibited from collecting or accepting money from a member for payment to a provider for specific medical services.

l. Rule 69O-203.202(1)(h), Florida Administrative Code – Failure to accurately reflect the benefits to be provided in the member handbooks and the provider and provider network agreements.

m. Section 636.206(1), Florida Statutes – Failure to produce all records as requested by the Office.

n. Section 636.208(2), Florida Statutes – Failure to make a full refund for a membership cancelled within 30 days of the effective date.

o. Section 636.212(1)-(5), Florida Statutes – Failure to have all of the required disclosures on its website and on advertising materials.

p. Section 636.212, Florida Statutes – Failure to have the required disclosures in not less than 12-point type.

q. Section 636.210(1)(a) and (b), Florida Statutes – Use of prohibited language on website.

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

a. NEWBN shall pay an administrative penalty of Eleven Thousand Dollars ($11,000) and administrative costs of Three Thousand Dollars ($3,000) on or before the thirtieth (30th) day after this Consent Order is executed.

b. NEWBN 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. NEWBN 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 NEWBN may be deemed willful, subjecting NEWBN to appropriate penalties.

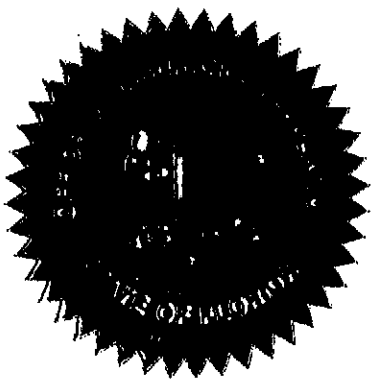
7. NEWBN agrees that the failure to adhere to one or more of the above terms and conditions of this Consent Order shall constitute a violation of a lawful order of the OFFICE, and shall subject NEWBN to such administrative action as the OFFICE may deem appropriate.

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

THEREFORE, the agreement between NEWBN 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 13TH day of AUGUST, 2008.



KEVIN M. McCARTY
Commissioner
Office of Insurance Regulation

By execution hereof, NEWBN, INCORPORATED consents to entry of this Order, agrees without reservation to all of the above terms and conditions, and shall be bound by all provisions herein. The undersigned represents that he or she has the authority to bind NEWBN INCORPORATED to the terms and conditions of this Consent Order.

NEWBN, INCORPORATED

Corporate Seal

By: _____

Title: President

Date: 07/23/2008

STATE OF Texas)
COUNTY OF Dallas)

The foregoing instrument was acknowledged before me this 23rd day of July, 2008, by Terry Tullo (Name of person) as President (Type of authority.... e.g. officer, trustee, attorney in fact) for Newbn, Inc. dba New Benefits, Ltd. (Company name).

Personally Known ✓ or Produced Identification _____

Type of Identification Produced _____

(Signature of the Notary)

Notarial Seal

(Print, Type or Stamp Commissioned Name of Notary)

My Commission Expires: 07/16/2011

J M P CURRY
NOTARY PUBLIC
State of Texas
Comm. Exp. 07-16-2011

COPIES FURNISHED TO:

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