

FINANCIAL SERVICES COMMISSION

**FLORIDA OFFICE OF INSURANCE REGULATION
MARKET INVESTIGATIONS**

MARKET CONDUCT FINAL EXAMINATION REPORT

OF

**PROFAMILY PLAN, INC.
n/k/a ProMedical Plan, PHC, Inc.**

AS OF

October 20, 2006

FLORIDA COMPANY CODE: 56025



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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 ProFamily Plan, Inc. (Company) was performed. The scope of this examination was July 1, 2005 through July 31, 2006. The onsite examination began October 16, 2006 and ended October 20, 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 8751 West Broward Boulevard, Suite 200, Plantation, FL 33324.

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

ProFamily Plan, Inc. was incorporated in Florida on December 17, 1998. This domestic company was licensed as a Discount Medical Plan Organization (DMPO) in Florida on July 1, 2005. The Company offers a discount medical plan, ProMedical Plan; and a discount dental plan, ProDental Plus. Members of the dental plan also have access to vision, pharmacy, and durable medical equipment discounts at no additional cost. On February 22, 2006, ProFamily Plan, Inc. changed its name to ProMedical Plan, PHC, Inc.

In addition, the Company was licensed as a Prepaid Limited Health Service Organization (PLHSO) in Florida on December 28, 2005 under the same name.

PROVIDER NETWORK AGREEMENT REVIEW

The Company has a provider network agreement with Galaxy Health Network (Galaxy). A review of the provider network agreement was conducted. The following violations were noted:

- The agreement did not require a list of services and products to be provided at a discount as required by Section 636.214(3)(a), Florida Statutes;
- The agreement did not require the amount or amounts of discounts or, alternatively, a fee schedule which reflects the provider's discounted rates as required by Section 636.214(3)(a), Florida Statutes;
- The agreement did not require 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 did not require the network to maintain an up-to-date provider list each month as required by Section 636.214(3)(c), Florida Statutes.

Corrective Action: The Company should ensure that all network provider agreements contain terms as required.

During the onsite examination, the Company provided a letter from Galaxy advising that they update providers on a monthly basis and will provide the updates to the Company. A listing of the providers can only be accessed by calling a toll free number or through Galaxy's website at www.galaxyhealth.net.

PROVIDER AGREEMENT REVIEW

A sample of 23 agreements between the Company and the individual providers was reviewed for compliance with Section 636.214, Florida Statutes. The following violation was noted:

- 23 agreements did not require that the provider will not charge members more than the discounted rates as required by Section 636.214(2)(c), Florida Statutes

Corrective Action: The Company should ensure that all provider agreements contain terms as required.

MARKETER AGREEMENT REVIEW

The Company contracts with 142 individual marketers, 110 of which are licensed insurance agents. A sample of 10 marketer agreements was reviewed for compliance with Section 636.228, Florida Statutes. The following violation was noted:

- 10 agreements did not prohibit a marketer from using marketing materials, brochures and discount cards without written approval of the DMPO as required by Section 636.228(2), Florida Statutes.

Corrective Action: The Company should ensure that there is an executed written agreement that prohibits the use of marketing materials, brochures, and discount cards without the Company's written approval.

The Company did provide a sample letter sent to its marketers advising them that the advertising materials must be approved by the Company prior to use by the marketer.

ACTIVE MEMBERSHIP REVIEW

As of July 31, 2006, the Company had 1,611 active memberships, 994 of which had enrollment effective dates on or after July 1, 2005.

Enrollment Procedures

Enrollments are handled directly by the Company or its marketers. Once enrolled, the member receives a membership handbook that includes a member agreement, membership ID cards, and a cover letter. The effective date for members is the first of the month following the date of the application, unless otherwise requested by the applicant.

Memberships after July 1, 2005

A random sample of 50 active membership files with effective dates on or after July 1, 2005 was reviewed. The following violation was noted:

- 49 files contained enrollment forms that were not filed with and approved by the Office as required by Section 636.216(3), Florida Statutes.

Corrective Action: The Company should only enroll members on forms that have been filed with and approved by the Office.

Memberships prior to July 1, 2005

Between the April 1, 2005 effective date of Chapter 636, Florida Statutes, and the July 1, 2005 date ProFamily Plan, Inc. was permitted to operate as a licensed DMPO, 454 members were enrolled. Enrolling members in a discount medical plan without a license violates Section 636.204(1), Florida Statutes.

Corrective Action: Members enrolled prior to July 1, 2005 should be provided Florida approved enrollment forms and written agreements upon renewal.

For members enrolled before the Company's licensure on July 1, 2005, a set of procedures was developed to bring them into compliance. These procedures consisted of mailing each of the current members an explanatory letter, along with a new member contract, application form, member booklet (containing the member agreement) and membership card(s).

FORMS/CHARGES REVIEW

A review of the forms and charges utilized by the Company was conducted. The forms issues have previously been addressed in the Active Membership Review.

The majority of the Company's sales are for a product with two components, a prepaid component, and a discount component. It is not possible to determine if the discount component contained the correct charge, as the application is not always completed in a manner that separates the discount portion from the total collected for the plan. The fees for the discount medical plan must be provided in writing to the member if the fees exceed \$30 as required by Section 636.230, Florida Statutes.

Corrective Action: The Company should ensure that the DMPO plan charge is separately recorded from the prepaid plan rate to allow confirmation the correct charges and rates are being applied for each plan.

CANCELLATION REVIEW

During the scope of the examination, the Company reported that 1,777 members cancelled their memberships. Sixty (60) of the cancellations were memberships who cancelled within the first 30 days of the enrollment effective date. A review of the 60 member files that cancelled within the first 30 days of the enrollment effective date was conducted to verify that the Company provided full refunds of periodic charges and fees. The following violation was noted:

- 5 members did not receive a reimbursement for any portion of a one-time processing fee that exceeds \$30 per year as required by Section 636.208(4), Florida Statutes.

Corrective Action: The Company should review all cancellations to ensure that refunds of the one time processing fees are made to all eligible members.

COMPLAINT/GRIEVANCE REVIEW

The Company recorded 9 consumer complaints during the scope of the examination. A review of these complaint files revealed that the Company is following its policies and procedures to resolve its member grievances and complaints as required by Section 636.205(1)(d), Florida Statutes and that all complaints were addressed in a timely manner.

Four (4) complaints dealt with charges that were over and above the amount that had been negotiated in the provider agreements. Once the Company brought the complaints to the facilities' attention, they removed the additional charges.

Corrective Action: The Company should ensure that members will not be charged more than the discounted rates negotiated in the provider agreements.

WEBSITE REVIEW

As a condition of licensure, a discount medical plan organization must maintain and establish an internet website page that complies with Section 636.226, Florida Statutes. The Company maintains one website: <http://www.promedicalplan.com>.

The viewer has the ability to enroll online using a form that is called an invoice. This invoice has not been filed with and approved by the Office as required by Section 636.216(3), Florida Statutes.

There is a rate page that does not give an option to purchase the discounted plan without purchasing the prepaid plan. From the rate page, the viewer can go to a link that explains the plan and how it works. The explanation states that the pre-paid component includes the DMPO component on a complementary basis and also uses the term "co-pay", which could be misleading to consumers and is a violation of Section 636.210(1)(b), Florida Statutes and Rule 69O-203.203, Florida Administrative Code.

Corrective Action: The Company should ensure that all forms and rates used to enroll members online are filed with and approved by the Office prior to use. The Company should also discontinue using prohibited terms that may be misleading to consumers. The Company should consider establishing a separate site for the discount medical plan rather than featuring it as a complementary feature of the pre-paid plan.

ADVERTISING REVIEW

The Company provided the following 4 advertisement pieces for review: 1 magazine flyer, 2 brochures and 1 member handbook. The following violations were noted:

- The magazine flyer contains the required disclosures; however, the disclosures are printed in less than 12-point type as required by Section 636.212, Florida Statutes;
- The ProMedical Gold Plan brochure contains the required disclosures; however, the disclosures are on the back page of the brochure rather than the first page and are printed in less than 12-point type as required by Section 636.212, Florida Statutes. The brochure also uses the term "medical plan" which may mislead a person into believing the discount plan is health insurance, which is a violation of Section 636.210(1)(b), Florida Statutes and Rule 69O-203.203, Florida Administrative Code; and
- The ProDental Plus brochure contains the required disclosures; however, the disclosures are listed on the back page of the brochure rather than the first page as required by Section 636.212, Florida Statutes.

Corrective Action: The Company should ensure that all advertisements contain the required disclosures on the first page and that the disclosures are printed in not less than 12-point type. The Company should also ensure that advertisements do not contain misleading words or terms.

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.