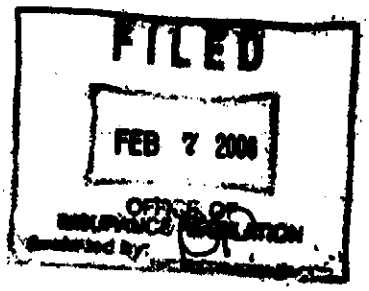
OFFICE OF INSURANCE REGULATION



KEVIN M. MCCARTY
COMMISSIONER

IN THE MATTER OF:

PROFAMILY PLAN, INC.
n/k/a PROMEDICAL PLAN, PHC, INC.
2006 Market Conduct Examination

CASE NO: 93110-07

CONSENT ORDER

THIS CAUSE came on for consideration upon the agreement between PROFAMILY PLAN, INC. n/k/a PROMEDICAL PLAN, PHC, INC. (hereinafter referred to as "PROFAMILY/PROMEDICAL PLAN") 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. PROFAMILY/PROMEDICAL PLAN 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 the Florida Insurance Code.

3. The OFFICE conducted a market conduct examination of PROFAMILY/PROMEDICAL PLAN in 2006 pursuant to Section 636.206, Florida Statutes. As

a result of such examination, the OFFICE has determined that PROFAMILY/PROMEDICAL PLAN 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(2)(c), Florida Statutes – Failure of provider agreements to require the provider to not charge more than the discounted rate.

d. Section 636.228(2), Florida Statutes – Failure of marketer agreements to prohibit a marketer from using marketing materials, brochures, and discount cards without written approval of the discount medical plan organization.

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

f. Section 636.204(1), Florida Statutes – Conducting business as a discount medical plan organization before being licensed by the Office.

g. Section 636.208(4), Florida Statutes – Failure to reimburse the one-time processing fee that exceeds $30 per year to the members that cancelled his or her membership in the discount medical plan organization within the first 30 days after the effective date of enrollment in the plan.

h. Section 636.210(1)(b), Florida Statutes and Rule 69O-203.203, Florida Administrative Code – Use of prohibited or misleading language on its website and in advertising materials.

i. Section 636.212, Florida Statutes – Failure of disclosures to be on the first page of advertising materials and failure to print disclosures in not less than 12-point type.

4. PROFAMILY/PROMEDICAL PLAN 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. PROFAMILY/PROMEDICAL PLAN hereby knowingly and voluntarily waives all rights to challenges or to contest this Consent 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. PROFAMILY/PROMEDICAL PLAN agrees that upon the execution of this Consent Order, it shall be subject to the following terms and conditions:

a. PROFAMILY/PROMEDICAL PLAN shall pay a penalty of Seven Thousand Dollars ($7,000) and administrative costs of Three Thousand Dollars ($3,000) on or before the 30th day after this Consent Order is executed.

b. PROFAMILY/PROMEDICAL PLAN shall, within 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. PROFAMILY/PROMEDICAL PLAN is hereby placed on notice of the requirements of the above referenced sections of law and agrees that any future violations of these sections by PROFAMILY/PROMEDICAL PLAN may be deemed willful, subjecting PROFAMILY/PROMEDICAL PLAN to appropriate penalties.

7. PROFAMILY/PROMEDICAL PLAN 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 PROFAMILY/PROMEDICAL PLAN 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 PROFAMILY/PROMEDICAL PLAN 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 7TH day of FEBRUARY 2008.

KEVIN M. McCARTY
Commissioner
Office of Insurance Regulation

By execution hereof, PROFAMILY PLAN, INC. n/k/a PROMEDICAL PLAN, PHC, INC. 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 PROFAMILY PLAN, INC. n/k/a PROMEDICAL PLAN, PHC, INC. to the terms and conditions of this Consent Order.

PROFAMILY PLAN, INC. n/k/a
PROMEDICAL PLAN, PHC, INC

Corporate Seal

By: _____

Title: PRESIDENT / CEO

Date: 01/21/08

STATE OF FLORIDA)
COUNTY OF BROWARD)

The foregoing instrument was acknowledged before me this 21 day of January, 2008, by JOSE A. VOLOSIN (Name of person) as PRESIDENT / CEO (Type of authority.... e.g. officer, trustee, attorney in fact) for PROMEDICAL PLAN PHC, IN. (Company name).

Personally Known ✓ or Produced Identification –

Type of Identification Produced –

CLEMENCIA OSORNO
Notary Public - State of Florida
My Commission Expires Apr 19, 2010
Commission # DD 642607
Bonded By National Notary Assn.

Notarial Seal

(Signature of the Notary)

CLEMENCIA OSORNO
(Print, Type or Stamp Commissioned Name of Notary)

My Commission Expires: 4/19/2010