

# **FINANCIAL SERVICES COMMISSION**

**FLORIDA OFFICE OF INSURANCE REGULATION  
MARKET INVESTIGATIONS**

**MARKET CONDUCT FINAL EXAMINATION REPORT**

**OF**

**STARMARK BENEFITS, INCORPORATED**

**AS OF**

**December 9, 2005**

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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 Starmark Benefits, Inc. (Company or Starmark) was performed. The scope of this examination was April 1, 2005 through August 31, 2005. The examination began December 5, 2005 and ended December 9, 2005.

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 300, Fort Lauderdale, Florida 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 Conduct Examiner's Handbook produced by the National Association of Insurance Commissioners.

## **DESCRIPTION OF COMPANY**

Starmark Benefits was incorporated in Florida on November 17, 2004. This domestic Company was licensed as a Discount Medical Plan Organization (DMPO) in Florida effective March 17, 2005, offering two discount dental plans, Plus Plan One and Plus Plan Two, which offer different levels of discounts. Members of both plans also have access to vision and pharmacy discounts at no additional cost.

In addition to their DMPO license, the Company was licensed as a Prepaid Limited Health Service Organization (PLHSO) in Florida effective July 1, 2005.

On March 31, 2005, the Company entered into an Asset Purchase Agreement with Paragon Dental Services, Inc. (Paragon Dental) whereby the Company purchased the active discount dental benefit contracts and dental provider network from Paragon Dental. Paragon Dental offered discount dental benefits to Florida residents prior to April 1, 2005.

## **PROVIDER NETWORK REVIEW**

The Company uses its own network of dental providers which it contracts with directly. As of December 5, 2005, the Company reported 795 providers participating in their Plus Plan One network and 178 providers participating in their Plus Plan Two network.

Current lists of providers participating in the Plus Plan One and Plus Plan Two networks are available at Starmark's website, [www.starmarkbenefits.com](http://www.starmarkbenefits.com). This directory is updated by Starmark employees whenever the Company adds a provider or is informed by a provider that he no longer wishes to participate in the network. This procedure ensures the list of providers participating in each network is kept up-to-date on the website as required by Section 636.226, Florida Statutes.

## **PROVIDER AGREEMENT REVIEW**

On June 24, 2005, the Company mailed providers who were initially contracted through Paragon Dental a Starmark contract for execution. The Company reported it was contacting providers to seek the return of the executed Starmark contract.

A random sample of 28 provider agreements was reviewed to verify compliance with Section 636.214, Florida Statutes. Nineteen of the contracts reviewed were between the provider and either Paragon Dental or Paragon Benefit Solutions, Inc., an affiliate of Paragon Dental. The remaining 9 contracts were between the provider and Starmark.

The Paragon contracts do not include a list of services to be provided nor do they include the amount of discount or a fee schedule as required by Sections 636.214(2)(a) and (b), Florida Statutes. Starmark's contract specifies a 25% discount for services provided by specialty dentists, but does not include a list of services nor the amount of discount or a fee schedule for general dentists, as required by Sections 636.214(2)(a) and (b), Florida Statutes.

**Corrective Action:** The provider contract should include a list of services and the amount of discount to be provided or a fee schedule.

## **FORMS / CHARGES REVIEW**

Section 636.216(3), Florida Statutes, requires all forms to be filed with and approved by the Office prior to use. On June 17, 2005, the Office approved the enrollment forms, member handbook and schedule of benefits filed by the Company to enroll individuals who are either employees or association group members (hereinafter referred to as "group members"). The Office also approved the application and contract forms to enroll the employer group or association (hereinafter referred to as "group clients").

The member handbook filed with and approved by the Office requires the name of the group, the name of the group member, and the effective date of the contract to be inserted as required by Rule 69O-203.202(1)(c) and (d), Florida Administrative Code. However, the group member is instructed by Starmark to request a copy of the handbook from either their employer or from Starmark, indicating that Starmark is not completing this information as indicated in the form filing.

**Corrective Action:** The Company should provide the group member a copy of the member handbook with the member name, the group name and the group member's contract effective date inserted in the appropriate spaces.

The member handbook does not contain the correct address for Starmark, the correct telephone number for member assistance, and it does not include a space for charges, as required by Rule 69O-203.202(1)(a), (b) and (e), Florida Administrative Code. The Plus Plan One and Plus Plan Two schedules of benefits both list an incorrect telephone number for membership services, and contain a web site address of [www.Starmarkdental.com](http://www.Starmarkdental.com), which the Company's compliance officer reports was an error in the filing.

**Corrective Action:** The Company should file a corrected group member handbook and schedules of benefits with the Office and should provide all current members with the corrected handbook and schedule of benefits.

## **Charges**

The Company is using the group member charges that have been filed with the Office.

## **MEMBERSHIP REVIEW**

As of September 23, 2005, the Company had 6,172 active memberships, 936 of which had enrollment effective dates on or after April 1, 2005. Of the total membership, 81.43% were enrolled as group members, primarily employees of small employers. The remaining 18.57% enrolled as individuals (hereinafter referred to as "individual members") directly with the Company.

Starmark enrolled 298 group members between April 1, 2005 and July 1, 2005 on forms that had been filed but not yet approved by the Office as required by Section 636.216(3), Florida Statutes. The Company enrolled 145 individual members after April 1, 2005, on forms that have been filed with but not approved by the Office, as required by Section 636.216(3), Florida Statutes.

**Corrective Action:** The Company should discontinue enrolling individual members until the Office has approved the individual member enrollment forms and fulfillment materials filed by the Company.

## **Enrollment and Fulfillment Procedure**

Employer groups enroll their employees using group member enrollment forms supplied by Starmark. Upon approval of a group member enrollment, the Company sends the new member a letter with the membership ID card attached, and a schedule of benefits. The letter instructs the member to obtain a copy of the Starmark Member Handbook, which contains the specific plan coverage, either from their group's Human Resource Administrator or by calling Starmark. The letter and schedule of benefits are sent to either the group for delivery to the member, or to the group member's home address if requested by the employer.

Individual enrollments are handled directly with the Company or its marketers. The Company reported that individual members receive the same member handbook, and membership ID card and letter that group members receive, along with a schedule of benefits.

The new member letter states the member handbook can be viewed on the Starmark website, [www.starmarkbenefits.com](http://www.starmarkbenefits.com). However, the website was reviewed and found not to contain a link to the handbook.

**Corrective Action:** The Company should make a copy of the member handbook available via its website or delete the handbook reference from its welcome letter.

As of December 9, 2005, the membership cards attached to the letter sent to members were "Paragon Benefits" cards, and contain a link to [www.paragondental.com](http://www.paragondental.com). Visitors to that link are redirected to [www.starmarkbenefits.com](http://www.starmarkbenefits.com) where members can view providers as required by Section 636.226, Florida Statutes.

**Corrective Action:** The Company should use membership ID cards specific to Starmark Benefits and that contain the correct web site address.

## **Enrollment Effective Date**

The effective date for group members is the first of the month following the date of the application, unless otherwise requested by the employer. Individual members normally become effective on the first of the month following the date of the application, but exceptions can be made when requested by the applicant.

## **Memberships after April 1, 2005**

A random sample of 50 membership files with effective dates on or after April 1, 2005 was reviewed. Of the 50 files reviewed, 3 were employer group clients, 37 were group members, and 10 were individual members. The Company provided the hard copy member files and Member Services log notes for review.

The Company continued accepting group member and individual member discount plan enrollments using Paragon Dental, Shenandoah Life Insurance Company (Shenandoah), and Morgan White Group (marketing United HealthCare Insurance Company products) forms. Paragon marketers, who were licensed insurance agents and appointed by the insurance companies, offered both the insured dental products and Starmark's Plus Plan One and Plus Plan Two to employer groups. Paragon and Shenandoah enrollment forms were retained by the agents and the by the various employers from their original enrollment with Paragon Dental. Of the 47 group and individual member files reviewed, just 3 of the enrollments were on Starmark enrollment forms. The Company enrolled members on forms not filed with and approved by the Office, as required by Section 636.216(3), Florida Statutes.

**Corrective Action:** The Company should discontinue accepting membership enrollments on forms not filed with and approved by the Office.

All 3 employer group client applications were on the Company's approved application form, however 2 of the enrollments were executed prior to the application being approved by the Office.

### **Memberships prior to April 1, 2005**

On August 30, 2005, the Company mailed approved group contract and membership enrollment forms to group clients that had enrolled prior to April 1, 2005. As of December 5, 2005, 35 of the 664 groups had returned the approved enrollment form.

Group members enrolled prior to April 1, 2005 have not been provided the membership agreement and handbook filed with and approved by the Office.

**Corrective Action:** At renewal, all group members enrolled prior to April 1, 2005 should be provided with the member handbook and schedule of benefits filed with and approved by the Office.

## **CANCELLATION REVIEW**

The Company reported 323 membership terminations after April 1, 2005, 71 of which were memberships terminated within the first 30 days of membership. A sample of 30 was reviewed to verify that full refunds of periodic charges were made as required by Section 636.208 (2), Florida Statutes. Of the 30 membership terminations reviewed, 7 group clients did not receive a full refund for group members whose memberships were cancelled within 30 days of the effective date. The Company has agreed to this finding and will be providing the group clients a credit on their February 2006 invoices.

Of the 252 memberships terminated after 30 days of membership, 48 were cancellations by individual members. A sample of 10 individual cancellations was reviewed and no exceptions were found. No additional samples of group members were reviewed.

The active membership review revealed 1 individual member who had requested cancellation within the first 30 days of membership but had not received a full refund of charges, as required by Section 636.208 (2), Florida Statutes. The Company agreed with the finding and will be processing the refund.

**Corrective Action:** The Company should develop procedures to ensure that group clients receive a full refund when a group member cancels within the first 30 days of membership.

### **COMPLAINT / GRIEVANCE REVIEW**

The Company has not recorded any complaints since licensure. There were no complaints reported to the Department of Financial Services, Division of Consumer Services or the Office related to this discount medical plan organization.

Policies and procedures are in place to facilitate the resolution of member grievances and complaints as required by Section 636.205(1)(d), Florida Statutes.

### **WEBSITE REVIEW**

As a condition of licensure, a discount medical plan organization is to establish an internet website page where it must maintain an up-to-date list of the names and addresses of its providers in order to comply with Section 636.226, Florida Statutes. The Company maintains one website: [www.starmarkbenefits.com](http://www.starmarkbenefits.com).

A review of the website was conducted prior to the commencement of the on-site examination. The website contains a general description of Starmark services and the link to the provider directory as required by Section 636.226, Florida Statutes. The website does not specifically inform the viewer that Starmark is a discount medical plan organization and contains terms such as "fee-for-service dental plans", "comprehensive dental benefit", "co-payment", and other terms, in a manner that could reasonably mislead a person into believing the discount plan is health insurance. Use of terms that are misleading is prohibited by Section 636.210(1)(b), Florida Statutes. The website does not contain the disclosures required by Section 636.212,(1), (2), (3), (4) and (5), Florida Statutes.

**Corrective Action:** The Company should ensure that its website contains the necessary disclosures, in 12-point type, and avoid phrases that could lead a person to believe the plan is insurance.

Consumers searching for a discount medical plan provider are taken to a provider list that includes providers contracted for Starmark's prepaid limited health insurance and contains codes that the member cannot use to identify eligible providers.

**Corrective Action:** The Company website provider directory should clearly identify which providers participate in the Plus Plan One and Plus Plan Two discount medical plans.

## **ADVERTISING REVIEW**

The Company advised that they have no advertising other than the website. The Company reported that agents and marketers who solicit the Starmark discount medical plans do so using only the enrollment forms, member handbook and fee schedules provided by Starmark.

## **MARKETER REVIEW**

The Company provided a list of 326 marketers as of December 6, 2005. A sample of 12 written agreements was reviewed to verify compliance with Section 636.228(2), Florida Statutes. One of the marketers did not have a written agreement as required by Section 636.228(2), Florida Statutes; the other 11 marketers had a written agreement only with Paragon Dental. The Paragon written agreement contained the written provisions required by Section 636.228(2), Florida Statutes.

On August 12, 2005, the Company mailed all marketers a Starmark written agreement for execution. The Starmark agreements are compliant with Section 636.228(2), Florida Statutes.

**Corrective Action:** The Company should maintain a written Starmark agreement with each of its marketers.

## **DENTALPLANS.COM**

Starmark's dental discount plans are offered on the website [www.DentalPlans.com](http://www.DentalPlans.com). The Company reported the website is enrolling members under Dentalplans.com's Florida DMPO license, effective May 26, 2005, and that Starmark is providing access to its provider network. However, the only agreement in place is a "Paragon Benefits, Inc. Access Agreement" dated December 16, 2005 between Paragon Benefits and DentalPlans.com.

**Corrective Action:** The Company should enter into a Starmark contract with DentalPlans.com.

## **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.