

FINANCIAL SERVICES COMMISSION

**FLORIDA OFFICE OF INSURANCE REGULATION
MARKET INVESTIGATIONS**

MARKET CONDUCT FINAL EXAMINATION REPORT

OF

SUNSHINE MEDICAL NETWORK II, INC.

AS OF

MARCH 30, 2006

FLORIDA COMPANY CODE: 56012



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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 Sunshine Medical Network II, Inc. (SMN II or Company) was performed. The scope of this examination was April 7, 2005 through November 30, 2005. The examination began March 27, 2006 and ended March 30, 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 825 SW 87th Street, Suite B, Miami, FL 33174.

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

This domestic corporation was organized in Florida on February 9, 2005, and was licensed as a Discount Medical Plan Organization (DMPO) in Florida on April 7, 2005.

On or about April 7, 2005, Sunshine Medical Network (SMN), owned and operated by the same individuals owning and operating Sunshine Medical Network II, Inc., transferred its business, including marketers and providers, to Sunshine Medical Network II, Inc. Documentation regarding the transfer of business between Sunshine Medical Network and Sunshine Medical Network II, Inc. was requested, however, the Company advised there was no documentation available.

The Company offers dentistry, chiropractic, physical therapy, diagnostic radiology, primary care medicine, physical/occupational therapy, proctology, wound care center, pharmacy, cardiology, endocrinology, otolaryngology, dermatology, urgent care center, pediatrics, ophthalmology, optometry, gynecology, obstetrics, podiatry, dermatology, psychiatry, psychology, orthopedic, and urology discounts. The plan is only offered in the Miami-Dade and Broward County areas.

Chapter 636, Part II, Florida Statutes does not regulate pharmaceutical supplies, prescriptions, and medical information storage and retrieval services.

PROVIDER NETWORK AGREEMENT REVIEW

The Company uses its own network of medical service providers which it contracts with directly.

PROVIDER AGREEMENT REVIEW

A list of the Company's providers was requested in order to select a sample for review for compliance with Sections 636.214 and 636.226, Florida Statutes. The documentation supplied by the Company included a provider list given to members at enrollment and the list of providers maintained on the Company's website at www.sunmedplan.net. These two sources combined contained 63 providers that were subject to regulation pursuant to Chapter 636, Florida Statutes.

A sample of 15 providers was selected for review. However, prior to the examination the Company had a flood and many of its records sustained heavy damage and some of the records selected could not be produced. Those samples that could be provided were and those that could not were replaced with available files. Due to this issue, an additional 13 samples were selected from the undamaged provider files making a final sample of 28 provider agreements reviewed.

All of the agreements reviewed contained a fee schedule, a list of services to be provided at a discount, and an agreement that the provider will not charge the members more than the discounted rates, as required by Sections 636.214(2)(a), (b) and (c), Florida Statutes. No violations were noted.

MARKETER AGREEMENT REVIEW

SMN II has agreements with 4 independent contractors to sell the discount medical plan to Florida residents. All of the agreements were reviewed for compliance with Section 636.228, Florida Statutes. The following violation was noted:

- 4 agreements did not prohibit the marketer from using marketing materials, brochures, and discount cards without the approval in writing by the Company as required by Section 636.228(2), Florida Statutes.

Corrective Action: The Company's agreement with marketers should prohibit the marketer from using any marketing materials, brochures, and discount cards without the approval in writing by the Company.

ACTIVE MEMBERSHIP REVIEW

As of November 30, 2005, the Company had 1,594 active memberships. A random sample of 50 files with membership effective dates on or after April 7, 2005, was reviewed. Each file contained the original handwritten application and a printout of all fees paid since the member enrolled in SMN II. The following violation was noted:

- 50 files contained an enrollment application form with a form number differing from the enrollment application form filed with and approved by the Office. Section 636.216(3) Florida Statutes, requires all forms to be filed with and approved by the Office prior to use.

Corrective Action: The Company should ensure all forms are filed with and approved by the Office prior to the form being used.

Enrollment and Fulfillment Procedures

SMN II handles enrollment, billing, fulfillment, and customer service for all members. Customers enroll by completing a paper enrollment form. The Company does not offer internet or telephone enrollment.

Memberships prior to April 7, 2005

The Company advised the Office that they did not have any members prior to licensure on April 7, 2005. A review of Form OIR-B2-1507, rev 10/2004, that was completed by the Company and submitted to the Office as part of the DMPO licensing process, stated that the Company does not currently “have in force business on this plan in Florida”. On April 7, 2005, 3,342 members of SMN were transferred to SMN II and the fees paid by SMN members were collected by SMN II.

The review revealed that these 3,342 members were not provided to the Office as members for purposes of this examination.

In July 2005, after SMN II’s forms had been approved by the Office, SMN II sent these members an SMN II handbook and application form to enroll in SMN II. The SMN members were to sign and return the completed application. This step was repeated again in February 2006. The Company advised the remaining 254 members that had not converted that charges would no longer be accepted and they would no longer be enrolled in the plan without completing a new application. At the time of the examination, the Company was holding seven checks and one cash payment from members who remitted charges but failed to complete the new application process. The following violation was noted:

- 8 membership files contained evidence of the collection of charges by the Company without a written agreement between the Company and the member specifying the benefits and disclosure requirements under the plan as required by Section 636.216(2), Florida Statutes.

Corrective Action: The Company should ensure the existence of a written agreement between the Company and the member specifying the benefits and disclosure requirements under the plan. The Company should refund all charges to members with whom they have no written agreement.

Subsequent to the review, the Company advised they had obtained written agreements from 3 members who remitted payment by check and 1 member who paid in cash. The Company advised the 4 remaining member's checks were never deposited and have been returned to the member.

FORMS/CHARGES REVIEW

The Office approved the membership application, membership agreement, and description of benefits on June 2, 2005. A review of the forms and charges was completed. The following violations were noted:

- 68 members enrolled prior to June 2, 2005 on forms that had been filed with, but not approved by, the Office as required by Section 636.216(3), Florida Statutes.

Corrective Action: The Company should ensure that they use only forms that have been filed with and approved by the Office.

A sample membership welcome packet that is mailed to each member once enrolled in the plan was reviewed. Each packet contains two membership agreements, one in English, and one in Spanish, and a membership card. The following violations were noted:

- The Spanish language membership agreement had not been filed with and approved by the Office as required by Section 636.216(3), Florida Statutes.
- The membership agreement failed to include cancellation conditions as required by Rule 690-203.202(1)(g), Florida Administrative Code.
- The Company acknowledged that all new members receiving the welcome packet since licensure failed to receive a copy of the "benefits description" that was approved by the Office as part of the membership agreement as required by Section 636.216(2), Florida Statutes.

Corrective Action: The Company should ensure all forms have been filed with and approved by the Office. The Company should ensure that all members receive a membership agreement at renewal that includes all required elements.

CANCELLATION REVIEW

During the scope period, the Company reported 34 members cancelled their memberships within the first 30 days after the effective date of their enrollment. All cancellation files were reviewed. The following violation was noted:

- 2 members did not receive a reimbursement of all periodic charges as required by Section 636.208(2), Florida Statutes.

Corrective Action: The Company should ensure that all members who cancel their membership within the first 30 days after the effective date of their enrollment receive a full refund of all periodic charges.

COMPLAINT/GRIEVANCE REVIEW

The Company recorded 2 complaints related to its discount medical plan since licensure. A review of the 2 complaints demonstrated that the Company is following its policies and procedures that 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 for licensure, a discount medical plan is required to establish an internet website page on which it is to maintain an up-to-date list of the names and addresses of its providers in order to comply with Section 636.226, Florida Statutes. Viewers can access the provider directories from the Company's website: www.SunMedPlan.net. Prospective members are instructed to telephone the Company, if interested, as there are no online enrollment forms.

A review of the website was completed. The following violations were noted:

- The first page of the website does not contain the address of the licensed discount medical plan organization as required by Section 636.212(5), Florida Statutes; and
- 17 providers were not included on the Company's website; therefore, the list was not up-to-date as required by Section 636.226, Florida Statutes.

Corrective Action: The Company should ensure that the first page of its website contains all required disclosures. The Company should also ensure an up-to-date list of the names and addresses of its providers is maintained on its website.

The prices and discounts on the website differ from those listed on the "Description of Member Benefits" approved by the Office as part of the membership agreement. The use of these deceptive words, phrases, or illustrations is prohibited by Rule 69O-203.203(2)(a) and (b), Florida Administrative Code.

- The website discloses discounts of up to 60% on Specialty Care, 50-75% discount on General Surgery Major and Ambulatory, and Ultrasound at a price of \$60; however, these benefits are not included on the approved "Description of Member Benefits."
- Some benefits are listed by price on the website but are listed by range of discount on the approved "Description of Member Benefits."
- Some benefits are listed as a specific percentage of the discount on the website and by a range of discount on the approved "Description of Member Benefits."

Corrective Action: The Company's list of discounts on its website should be the same as the discounts provided to the member on the "Description of Member Benefits" found in the membership agreement.

ADVERTISING REVIEW

The Company certified that they had no advertising or marketing materials. However, a review of one of the provider files revealed a brochure advertising SMN II. A review of the brochure advertising SMNII was completed. The following violations were noted:

- The brochure did not contain any of the required disclosures as required by Section 636.212, Florida Statutes;
- The brochure was not approved for use by the Company as required by Section 636.228(1), Florida Statutes; and
- The brochure failed to contain the address of the website required by Section 636.226, Florida Statutes.

Corrective Action: The Company should ensure that all advertising materials involving the discount medical plan are approved prior to use, contain the appropriate disclosures and that the advertisements contain the Company's website address.

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.