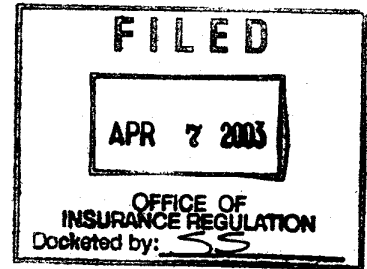




OFFICE OF INSURANCE REGULATION



KEVIN M. McCARTY
DIRECTOR

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APR 14 2003

IN THE MATTER OF:

FOUNDATION HEALTH,
A FLORIDA HEALTH PLAN, INC.

Bureau of Managed Care
Div of Insurer Services

CASE NO.: 64104-02-CO

CONSENT ORDER

THIS CAUSE came on for consideration as the result of an agreement between **FOUNDATION HEALTH, A FLORIDA HEALTH PLAN, INC.** (hereinafter referred to as "**FOUNDATION**") and the **OFFICE OF INSURANCE REGULATION OF THE FINANCIAL SERVICES COMMISSION, WITHIN THE OFFICE OF FINANCIAL SERVICES**, (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 undersigned hereby finds as follows:

1. The **OFFICE** has jurisdiction over the subject matter of, and parties to, this proceeding.
2. **FOUNDATION** is authorized to transact business in this State as a health maintenance organization subject to the jurisdiction and regulation of the **OFFICE** in accordance with the Florida Insurance Code.

3. Pursuant to complaints received by the **OFFICE**, a target market conduct examination was conducted pursuant to Section 641.27, Florida Statutes. As a result of such examination, the **OFFICE** determined that **FOUNDATION** violated the following provisions of the Florida Insurance Code, to wit:

1. Section 641.3155(3), Florida Statutes (2001): Failure to pay Interest on Late Paid Claims.
2. Section 641.3108(2), Florida Statutes (2001): Failure to Provide Proper Notice of Cancellation to the Subscriber.
3. Section 641.315(8), Florida Statutes (2001): Failure to Establish Procedures to Provide Written Notice to Providers Before Changing Authorization For Utilization of Health Care Services.
4. Sections 641.3903(5)(c) 1 and 4, Florida Statutes (2001): Failure to Conduct an Investigation Prior to Denial For Pre-existing Conditions.

4. The **OFFICE** and **FOUNDATION** expressly waive a hearing in this matter, and 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. **FOUNDATION** hereby knowingly and voluntarily waives all rights to challenge or to contest this Order, in any forum now available to it, including the right to any administrative proceeding, circuit or federal court action, or any appeal.

5. **FOUNDATION** 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 **FOUNDATION** to such administrative action as the **OFFICE** may deem appropriate.

6. **FOUNDATION** agrees that upon the execution of this Consent Order it shall be subject to the following terms and conditions:

(a) **FOUNDATION** shall pay a penalty of Nine Thousand Dollars (\$9,000) and administrative costs of Two Thousand Dollars (\$2,000) no later than thirty (30) days following the issuance of this Consent Order.

(b) **FOUNDATION** shall henceforth comply with all of the provisions of the Florida Insurance Code.

(c) **FOUNDATION** 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 **FOUNDATION** may be deemed willful, subjecting **FOUNDATION** to appropriate penalties.

(d) **FOUNDATION** shall undertake corrective action to establish and implement procedures to assure that all claims are processed in accordance with Section 641.3155(3), Florida Statutes (2002). Further, **FOUNDATION** shall make certain proper cancellation notice is provided to subscribers, establish written procedures to provide written notice to providers before changing authorization for utilization of health care services, and conduct an investigation prior to denying a claim for a pre-existing condition. **FOUNDATION** shall submit for the **OFFICE'S** review a revision to its policies and procedures regarding payment of interest, proper notice of cancellation to subscribers, notice to providers before changing authorization for utilization of health care services, and investigation of pre-existing claims prior to denial no later than thirty (30) days following the issuance of this Consent Order.

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

THEREFORE, the agreement between **FOUNDATION HEALTH A FLORIDA HEALTH PLAN, INC.** and the **OFFICE**, consisting of the terms and conditions set forth above, is APPROVED.

FURTHER, all terms and conditions above are hereby ORDERED.

DONE AND ORDERED this *7th* day of *April*, 2003.



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KEVIN M. MCCARTY
DIRECTOR
OFFICE OF INSURANCE REGULATION

By execution hereof, **FOUNDATION HEALTH, A FLORIDA HEALTH PLAN, INC.** consents to entry of this Consent Order, agrees without reservation to all of the above terms and conditions, and shall be bound by all provisions herein. The undersigned represents, pursuant to Section 624.310, Florida Statutes, that he/she has the authority to bind **FOUNDATION HEALTH, A FLORIDA HEALTH PLAN, INC.** to the terms and conditions of this Consent Order.

FOUNDATION HEALTH, A FLORIDA HEALTH PLAN, INC.

By: _____

Ronald J. Berding
Print or Type Name

Corporate Seal

Title: _____

CEO

Date: _____

1.29.03

COPY FURNISHED TO:

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