

BEFORE THE INSURANCE COMMISSIONER
FOR THE STATE OF DELAWARE

IN THE MATTER OF:)
)
OPTIMUM CHOICE, INC.) DOCKET NO. 4473
)
NAIC #96940)

STIPULATION AND CONSENT ORDER

THIS STIPULATION AND CONSENT ORDER is entered into as of June 14, 2021, by and between Optimum Choice, Inc. (the "Respondent") and the State of Delaware Department of Insurance (the "Department"). Respondent and the Department are collectively referred to herein as the "Parties."

WHEREAS, Respondent is a health maintenance organization incorporated under Maryland law and authorized to conduct the business of insurance in the State of Delaware; and

WHEREAS, the Department, through its examiners, conducted a target market conduct examination ("Examination") of Respondent's affairs and practices as of June 30, 2019; and

WHEREAS, pursuant to 18 Del. C. 321 (c), the Department provided Respondent with a verified written report of examination under oath (the "Examination Report"); and

WHEREAS, Respondent has reviewed and provided the Department with comments on the Examination Report; and

WHEREAS, after considering Respondent's comments, the Department, through its examiners, has prepared a final report of the Examination, dated as of June 30, 2019 (the "Final Examination Report"); and

WHEREAS, among other findings contained in the Final Examination Report, the

Department concluded that the Respondent's practices and procedures did not comply with the below-listed statutory and regulatory provisions (collectively, the "Violations"):

18 Del. Admin. C. § 902-1.2.1.2 Authority for Regulation; Basis for Regulation;

18 Del. Admin. C. § 902-1.2.1.5 Authority for Regulation; Basis for Regulation;

18 Del. Admin. C. § 1310-6.1.2 Processing of Clean Claim;

18 Del. Admin. C. § 1310-6.2 Processing of Clean Claim;

18 Del. Admin. C. § 1310-6.1.1 Processing of Clean Claim;

18 Del. Admin. C. § 1310-6.1.3 Processing of Clean Claim;

18 Del. C. 3578(b)(1)b. Insurance coverage for serious mental illness;

45 CFR § 146.136(c)(4)(i), (ii) Parity in mental health and substance use disorder;

18 Del. C. 2304(16)(f) Unfair claim settlement practices;

18 Del. Admin. C. 902-1.2.1.3 Authority for Regulation; Basis for Regulation;

18 Del. C. § 2304(16)(a) Unfair claim settlement practices;

18 Del. C. § 3343(d)c. Insurance coverage for serious mental illness, benefit management;

18 Del. C. § 3586(a) Length of pre-authorization;

18 Del. C. § 3337A(a) Prior authorization of prescriptions for chronic or long-term conditions;

and

WHEREAS, following arms-length communications with the Department, Respondent desires to resolve this matter without recourse to any administrative hearing or court action.

NOW, THEREFORE, IT IS AGREED, by and between Respondent and the Department as follows:

1. All of the recitals set forth above are hereby incorporated herein and made a part of this

Stipulation and Consent.

2. Respondent accepts the Final Examination Report as the Department's findings in this examination, waives any right to a hearing thereon, and agrees the Department may file the Final examination Report without any modifications.

3. Upon execution of this Stipulation and Consent Order, Respondent shall pay to the Department an administrative penalty for the Violations in the amount of One Hundred Thousand Dollars (\$100,000.00). Payment shall be in the form of a check made payable to the "State of Delaware."

4. Respondent waives any right to challenge in an administrative or court proceeding any of the terms and conditions of this Stipulation and Consent Order.

5. This Stipulation and Consent Order is the free and voluntary act of Respondent, and its terms are binding upon Respondent and may be admitted into evidence in any judicial or administrative proceeding against Respondent to enforce such terms. Respondent acknowledges that it has had a full opportunity to seek and receive advice of counsel on all matters related to this Stipulation and Consent Order.

6. This Stipulation and Consent Order contains all terms and conditions agreed to by the parties and constitutes the final agreement between Respondent and the Department.

7. No change, amendment, or modification hereto shall be effective or binding unless it is in writing, dated, and signed by the parties.

8. If the Department fails to act on any one or more defaults by Respondent, such failure to act shall not be a waiver of any rights hereunder on the part of the Department to declare Respondent in default and to take such action as may be permitted by this Stipulation and Consent Order or by any applicable law.

9. This Stipulation and Consent Order may be signed in duplicate, and both documents shall be considered originals. The person executing this Stipulation and Consent Order on behalf of Respondent shall acknowledge his or her signature before a Notary Public and, by executing this Stipulation and Consent Order, certifies that he or she is duly authorized to execute this Stipulation and Consent Order on behalf of Respondent. Respondent agrees that an uncertified copy of this Stipulation and Consent Order shall be valid as evidence in any proceeding for purposes of enforcement.

10. This Stipulation and Consent Order shall survive Respondent and be enforceable against its successors, transferors, or assigns.

[Signature Page Follows]

Optimum Choice, Inc.

DELAWARE DEPARTMENT OF INSURANCE

NAIC # 96940

Jessica Zuba

Jessica Zuba
Assistant Secretary
May 26, 2021

Trinidad Navarro

Trinidad Navarro
Insurance Commissioner
June 14, 2021

Witness to Respondent's Signature

Name: Renee Nelson
Title: Sr. Administrative Assistant
Date: May 26, 2021

STATE OF _____)
) SS.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this _____ day of _____ 2021,
by _____, who is personally known to me or who has produced
_____ as identification, and who certified that he or she is duly authorized to
execute this document on behalf of Respondent.

GIVEN under my Hand and Seal of office, the day and year aforesaid.

NOTARY PUBLIC

PRINT NAME

MY COMMISSION EXPIRES