

COMMONWEALTH OF VIRGINIA
STATE CORPORATION COMMISSION

AT RICHMOND, MARCH 1, 2017

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2017 MAR -1 P 3:08

COMMONWEALTH OF VIRGINIA, *ex rel.*

STATE CORPORATION COMMISSION

v.

CASE NO. INS-2016-00221

OPTIMUM CHOICE, INC.,
Defendant

SETTLEMENT ORDER

Based on a target market conduct examination performed by the Bureau of Insurance ("Bureau"), it is alleged that Optimum Choice, Inc. ("Defendant"), duly licensed by the State Corporation Commission ("Commission") to transact the business of a health maintenance organization in the Commonwealth of Virginia ("Virginia"), violated: §§ 38.2-316 A, 38.2-316 B, and 38.2-316 C of the Code of Virginia ("Code") by failing to comply with policy and form filing requirements; § 38.2-502 (1) of the Code by misrepresenting the terms of the policy; §§ 38.2-503 and 38.2-4312 of the Code, as well as 14 VAC 5-90-50 B, 14 VAC 5-90-55 A, 14 VAC 5-90-60 B (1), 14 VAC 5-90-60 B (3), 14 VAC 5-90-120 A, 14 VAC 5-90-130 A, and 14 VAC 5-90-170 A of the Commission's Rules Governing Advertisement of Accident and Sickness Insurance, 14 VAC 5-90-10 *et seq.*, by failing to comply with advertising requirements; §§ 38.2-510 A (15) and 38.2-4306.1 B of the Code by failing to comply with claim settlement practices; § 38.2-1812 A of the Code by paying commissions for services as an agent to persons who were not properly licensed and appointed; § 38.2-1822 A of the Code by knowingly permitting unlicensed persons to act as agents; § 38.2-1833 A (1) of the Code by failing to comply with agent appointment requirements; § 38.2-3407.3 A of the Code by failing to comply with calculation of cost-sharing provisions;

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§ 38.2-3407.4 B of the Code by failing to comply with explanation of benefits requirements; §§ 38.2-3407.15 B (1), 38.2-3407.15 B (2), 38.2-3407.15 B (3), 38.2-3407.15 B (5), 38.2-3407.15 B (7), 38.2-3407.15 B (8), and 38.2-3407.15 B (10) of the Code by failing to comply with ethics and fairness requirements for business practices; § 38.2-3439 A (2) of the Code by failing to comply with dependent coverage for individuals to age 26 provisions; § 38.2-4306 A (2) of the Code by failing to comply with policy and form requirements; § 38.2-4313 of the Code by failing to comply with licensing of agents provisions; § 38.2-5804 A of the Code by failing to comply with procedures to establish and maintain an approved complaint system for each of its Managed Care Health Insurance Plans; and 14 VAC 5-211-60 A,¹ 14 VAC 5-211-80 B, 14 VAC 5-211-90 B, and 14 VAC 5-211-150 A of the Commission's Rules Governing Health Maintenance Organizations, 14 VAC 5-211-10 *et seq.*, by failing to comply with provisions related to health maintenance organizations.

The Commission is authorized by §§ 38.2-218, 38.2-219, and 38.2-1040 of the Code to impose certain monetary penalties, issue cease and desist orders, and suspend or revoke a defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that a defendant has committed the aforesaid alleged violations.

The Defendant has been advised of its right to a hearing in this matter whereupon the Defendant, without admitting any violation of Virginia law, has made an offer of settlement to the Commission wherein the Defendant has tendered to Virginia the sum of Forty-nine Thousand Dollars (\$49,000), waived its right to a hearing, and agreed to comply with the corrective action plan contained in the target market conduct examination report as of June 30, 2013.

¹ 14 VAC 5-211-60 was repealed effective January 1, 2015. See Virginia Register Volume 31, Issue 03.

The Bureau has recommended that the Commission accept the offer of settlement of the Defendant pursuant to the authority granted the Commission in § 12.1-15 of the Code.

NOW THE COMMISSION, having considered the record herein, the offer of settlement of the Defendant, and the recommendation of the Bureau, is of the opinion that the Defendant's offer should be accepted.

Accordingly, IT IS ORDERED THAT:

(1) The offer of the Defendant in settlement of the matter set forth herein is hereby accepted.

(2) This case is dismissed, and the papers herein shall be placed in the file for ended causes.

AN ATTESTED COPY hereof shall be sent by the Clerk of the Commission to:
Joseph Stangl, Director, Regulatory Affairs – Market Conduct, Optimum Choice, Inc.,
4 Research Drive, 5th Floor, Shelton, Connecticut 06484; and a copy shall be delivered to the
Commission's Office of General Counsel and the Bureau of Insurance in care of Deputy
Commissioner Althelia P. Battle.