

**STATE OF OREGON  
DEPARTMENT OF CONSUMER AND BUSINESS SERVICES  
INSURANCE DIVISION**

In the Matter of **ODS Health Plan, Inc.** ) **STIPULATION** and  
 ) **FINAL ORDER**  
 ) Case No. INS 03-08-014

**STIPULATION**

The Director of the Department of Consumer and Business Services (director) commenced this administrative proceeding, pursuant to Oregon Revised Statutes (ORS) 731.256, to take enforcement action against ODS Health Plan, Inc. (ODS) as a result of a market conduct examination of ODS by the Insurance Division.

ODS enters into this Stipulation, pursuant to ORS 183.415(5), to conclude this proceeding without further administrative or judicial proceedings.

ODS waives the right to receive a notice of proposed action, to receive a notice of the rights of a party and procedures in contested cases, to have a hearing pursuant to both ORS 183.415 and 731.312(3), to be represented by an attorney at the hearing, to receive a proposed order, to file exceptions to the proposed order, and to judicial review of the Final Order.

ODS admits and agrees to the following facts, conclusions, and action.

**Facts and Conclusions**

Licensing Information

ODS has been licensed in Oregon as a health care service contractor since 10/8/99, and as an insurer since 12/28/88. ODS's Oregon Insurance Division company number is 158 and its NAIC identification number is 47098. ODS's principal business address is in Portland, Oregon.

Market Conduct Examinations

The Insurance Division conducted a standard market conduct examination of ODS as of 9/30/97 to determine whether ODS was generally complying with the Oregon Insurance Code and related administrative rules relating to complaint handling, claims handling, and underwriting. As a result, the Insurance Division

found that ODS violated or did not comply with 31 provisions of the Insurance Code and related rules, expressed as recommendations. ODS promised to comply with the recommendations.

The Insurance Division also conducted a special target market conduct examination of ODS as of 3/31/99 to determine whether ODS was complying with the Patient Protection Act of 1997 (Oregon Laws 1997, Chapter 343 (Senate Bill 21)). As a result, the Insurance Division found that ODS violated or did not comply with 13 provisions of the Insurance Code and related rules, expressed as recommendations. ODS promised to comply with the recommendations.

The Insurance Division conducted a follow up market conduct examination of ODS as of 9/30/01 to determine if ODS had complied with the recommendations of the prior examinations. On 3/19/03, the Insurance Division filed a final report of the follow up examination which is incorporated herein by this reference. In the report, the Insurance Division found that ODS did not comply with 14 of the 31 recommendations made as a result of the standard examination, and did not comply with two of the 13 recommendations made as a result of the special target examination. The 16 recommendations that ODS failed to comply with related to (1) failing to timely send proper notice of portability rights, (2) contracting with unapproved associations, (3) issuing negotiated policies that did not include mandated benefits, and (4) other administrative violations. A description of the recommendations that ODS failed to comply with are listed in [Exhibit A](#) which is attached hereto and incorporated herein by this reference.

### **Action**

Pursuant to ORS 731.988, ODS shall be assessed a civil penalty of \$37,500.

Of the amount assessed, \$17,500 shall be paid as follows. The payment shall be made in the form of a check payable to the "Department of Consumer and Business Services" for the full amount due. The payment shall be delivered to the Insurance Division at 350 Winter Street NE, Room 440, Salem, OR 97301-3883, or mailed to the Insurance Division at PO Box 14480, Salem, OR 97309-0405. The payment shall be received by the Insurance Division by the date of the Final Order.

Of the amount assessed, \$20,000 is suspended, and shall be either withdrawn or reinstated upon the following conditions. The Insurance Division shall conduct another follow up market conduct examination in about six months after the date of the Final Order to determine whether ODS has complied with the following selected recommendations listed in [Exhibit A](#):

- Standard Emphasis Examination, Recommendations #7, 9, 10, 12, 13, and 14.
- Patient Protection Act Examination, Recommendation #5.

If the Insurance Division finds that ODS has complied with all of the recommendations listed above, then the suspended portion of the civil penalty shall be withdrawn. However, if the Insurance Division finds that ODS has not complied with all of the recommendations listed above, then the suspension of civil penalty will be terminated and the suspended portion of the civil penalty shall be reinstated. The payment of reinstated civil penalty shall be made in form of a check payable to the “Department of Consumer and Business Services” for the full amount due. The payment shall be delivered Insurance Division at 350 Winter Street NE, Room 440, Salem, OR 97301-3883, or mailed to the Insurance Division at PO Box 14480, Salem, OR 97309-0405. The payment shall be received by the Insurance Division by the 30th calendar day after the date that ODS receives the final report of the follow up examination.

Dated October 10, 2003

/s/ Robert G. Gootee  
[Signature of Representative]

Robert Gootee  
[Printed Name of Representative]

President and CEO  
[Printed Title of Representative]

ODS Health Plan, Inc.

**FINAL ORDER**

The director adopts, and incorporates herein by this reference, the above Stipulation as the director's final decision in this proceeding.

Dated October 24, 2003

/s/ Cory Streisinger  
Cory Streisinger  
Director  
Department of Consumer and Business Services

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