

STATE OF OREGON  
DEPARTMENT OF CONSUMER AND BUSINESS SERVICES  
DIVISION OF FINANCIAL REGULATION

In the Matter of:

Case No. INS-23-0035

MODA HEALTH PLAN, INC.,

ORDER TO CEASE AND DESIST,  
FINAL ORDER ASSESSING CIVIL  
PENALTY, AND CONSENT TO  
ENTRY OF ORDER

Respondent.

THIS IS A FINAL ORDER

The Director of the Department of Consumer and Business Services for the State of Oregon (“Director”), acting in accordance with Oregon Revised Statutes (“ORS”) chapters 731, 732, 733, 734, 735, 737, 742, 743, 743A, 743B, 744, 746, 748 and 750 (“Insurance Code”), has conducted an investigation into the insurance related activities of Moda Health Plan, Inc. (“Respondent”) and determined that Respondent engaged in activities constituting violations of the Insurance Code.

Now, therefore, as evidenced by the authorized signatures subscribed on this Order, Respondent hereby CONSENTS to entry of this Order upon the Director’s Findings of Fact and Conclusions of Law as stated hereinafter.

FINDINGS OF FACT

The Director FINDS that:

1. Respondent has been an Oregon-licensed health care service contractor since January 1, 1999. Respondent’s National Association of Insurance Commissioners number is 47098.
2. Respondent’s principal place of business is located at 601 SW Second Avenue, Portland, OR 97204.
3. On September 30, 2019, Respondent and the Director entered into a consent order pursuant to Division of Financial Regulation (“Division”) case number INS-17-0151

Division of Financial Regulation  
Labor and Industries Building  
350 Winter Street NE, Suite 410  
Salem, OR 97301-3881  
Telephone: (503) 378-4387





1 (“Consent Order”). The order found that Respondent committed numerous violations of  
2 the Insurance Code, including, but not limited to:

3 A. Failing to provide delay notification letters to members and providers  
4 when claim determinations were delayed over 30 days; and

5 B. Sending delay notification letters to members and providers which  
6 failed to provide the reason(s) for the delay.

7 4. In April 2021, the Division initiated a review of Respondent’s compliance with  
8 the Consent Order.

9 5. Pursuant to the review, the Division discovered that, from October 1, 2019  
10 through May 31, 2021, Respondent failed to provide timely delay notification letters in  
11 17,443 instances.<sup>1</sup>

12 6. In addition, during that time period, Respondent continued to send delay  
13 notification letters which failed to provide the reason(s) for the claim delay.

14 7. Respondent has provided the Division with a new delay notification letter  
15 template that offers numerous specific reason(s) for claim delays, and represents it will  
16 implement use of this template by July 14, 2023.

17 8. Respondent represents that it currently conducts monthly audits of its delay  
18 notification systems, including reviews to confirm that the number of delay notification  
19 letters matches the number of applicable processed claims.

20 9. Respondent represents that all its staff, including temporary and outsourced  
21 staff, are trained on its processing policies and audited on a regular basis.

22 **CONCLUSIONS OF LAW**

23 The Director CONCLUDES that:

24 10. Under Oregon Administrative Rules (“OAR”) 836-080-0235(4), if an insurer  
25 needs more time to determine whether the claim of a first party claimant should be accepted

26 <sup>1</sup> Moda blamed the failure on a programming error.

1 or denied, it shall so notify the claimant not later than the 30<sup>th</sup> day after receipt of the proofs  
2 of loss, giving the reason more time is needed.

3 11. By failing to provide delay notification letters to members and providers when  
4 claim determinations were delayed over 30 days, as set forth in Paragraph (5), Respondent  
5 violated OAR 836-080-0235(4) in 17,443 instances.

6 12. By sending delay notification letters to members and providers which failed to  
7 provide the reason(s) for the delay, as set forth in Paragraph (6), Respondent violated OAR  
8 836-080-0235(4) from October 1, 2019 through May 31, 2021.

9 13. Because the Director has reason to believe that Respondent has been engaged,  
10 is engaging, or is about to engage in violations of the Insurance Code, the Director may  
11 issue an order to Respondent to cease and desist, pursuant to ORS 731.252(1).

12 14. The Director may impose a civil penalty of up \$10,000 *per violation* upon any  
13 person who violates a provision of the Insurance Code, under ORS 731.988(1).

14 ORDERS

15 The Director issues the following ORDERS:

16 15. As authorized by ORS 731.252(1), the Director ORDERS Respondent to  
17 CEASE AND DESIST from violating OAR 836-080-0235(4).

18 16. Based upon the foregoing and in accordance with ORS 731.988(1), the Director  
19 ORDERS that Respondent be subject to a CIVIL PENALTY of \$50,000 for violating OAR  
20 836-080-0235(4).

21 17. Respondent SHALL notify the Division in writing by August 1, 2023 that it has  
22 implemented the delay notification letter template identified in Paragraph (7).

23 18. For a period of TWO YEARS, Respondent SHALL continue to perform  
24 monthly audits of its delay notifications systems and will provide the Division with  
25 quarterly reports of any and all instances in which delay notification letters required under  
26 OAR 836-080-0235(4) were not timely sent.

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19. The quarterly reports will be due pursuant to the following schedule:
- A. October 16, 2023;
  - B. January 15, 2024;
  - C. April 15, 2024;
  - D. July 15, 2024;
  - E. October 15, 2024;
  - F. January 15, 2025;
  - G. April 15, 2025; and
  - H. July 15, 2025.

20. This Order is binding upon Respondent's successors and assigns.

SO ORDERED this 1<sup>st</sup> day of August, 2023.

ANDREW R. STOLFI, Director  
Department of Consumer and Business Services

/s/ Dorothy Bean  
Dorothy Bean, Chief of Enforcement  
Division of Financial Regulation

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CONSENT TO ENTRY OF ORDER

I, Thomas Bikales, state that I am an officer of Respondent and I am authorized to act on its behalf. I have read the foregoing Consent Order, and I know and fully understand the contents hereof. I have been advised of Respondent’s right to a hearing and of the right to be represented by counsel in this matter. Respondent voluntarily and without any force or duress consents to the entry of this Consent Order expressly waiving any right to a hearing in this matter. Respondent understands that the Director reserves the right to take further actions to enforce this Consent Order or to take appropriate action upon discovery of other violations of the Insurance Code. Respondent will fully comply with the terms and conditions stated herein.

Respondent understands that this Consent Order is a public document.

Signature: /s/ Thomas Bikales

Position Held: General Counsel

State of Oregon

County of Multnomah

Signed or attested before me on this 19<sup>th</sup> day of July, 2023

by Thomas Bikales.

/s/ Rozalyn Larson  
Notary Public

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