STATE OF OREGON

DEPARTMENT OF CONSUMER AND BUSINESS SERVICES

INSURANCE DIVISION

REPORT OF FOLLOW-UP MARKET CONDUCT EXAMINATION

OF

ODS HEALTH PLAN, INC.
PORTLAND, OREGON

NAIC COMPANY CODE 47098

AS OF SEPTEMBER 30, 2004

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June 9, 2005

Honorable Cory Streisinger, Director
State of Oregon
Department of Consumer and Business Services
350 Winter Street, NE, Room 440
Salem, OR 97301-3883

Dear Director:

In accordance with your instructions and pursuant to ORS 731.300, we have examined the business affairs of

ODS Health Plan, Inc.
ODS Tower
601 SW 2nd Avenue
Portland, Oregon 97204-3156

NAIC Company Code 47098

hereinafter referred to as the "Company." The following report of examination is respectfully submitted.

EXECUTIVE SUMMARY

The focus of this examination was limited to a review of selected items on which recommendations were made during the follow-up market conduct examination for the examination period ending September 30, 2001.

The following report is intended to provide a comprehensive summary of the findings discovered during this examination of the Company's efforts to comply with recommendations made from the prior follow-up market conduct examination.

To measure the Company's compliance, the following recommendations were applied to the Company's operation:

Recommendation #7 - I recommend the Company determine the number of employees working 17.5 or more hours per week at the time of issuance and annually thereafter in keeping with the requirements of ORS 743.730(12).

Recommendation #9 - I recommend the Company insure only associations that have been filed and approved in compliance with ORS 743.524 and ORS 743.526.

Recommendation #10 - I recommend the Company provide an explanation of portability coverage directly to all eligible individuals who lose group coverage within 10 days after taking administrative action to initiate or document the loss of coverage, as required by OAR 836-053-0750(1) and (2).

Recommendation #12 - I recommend all negotiated contracts be amended to include the applicable mandates in compliance with the mandates to be found generally in Chapter ORS 743.

Recommendation #13 - I recommend all agreements to provide "insurance against the risk of economic loss assumed under a less than fully insured employee health benefit plan" be revised to comply with the requirements of ORS 742.065. In the alternative, I recommend that any such agreements that do not comply with ORS 742.065 be revised to comply with all requirements of ORS chapter 743, including the provision of all mandated benefits.

Recommendation #14 - I recommend the Company provide employees covered under self-funded plans for which ODS provides administration services with information indicating that ODS is just administering the plan and that their employer is liable for benefits in compliance with ORS 746.240.

To determine the Company's compliance with the above recommendations a review of the following materials was performed: a sample of contracts was selected from listings provided by the Company; Company procedure manuals and/or memorandum were evaluated; and the Company responded to a series of questions regarding the recommendations being examined.

Recommendation #5 – I recommend the Company respond to first appeals of decisions to deny treatment or payment of services as not medically necessary or experimental in compliance with OAR 836-053-1140(1)(a).

The examination of Patient Protection Act, Recommendation #5, was waived as the Company's Medical Review and Appeals Unit revised the Company's process to track the Company's timelines for responding to complaints. This action taken by the Company was a direct result of the initial findings of the Market Conduct examination.

The results of the examination are:

The Company passed all recommendations examined.

SCOPE OF EXAMINATION

This follow-up market conduct examination of the Company was conducted as of September 30, 2004, covering the period of April 1, 2004 through September 30, 2004. The examination was limited to a review of selected items on which recommendations were made during the follow-up market conduct examination for the examination period ending September 30, 2001.

The examination of the Company was conducted pursuant to ORS 731.300 and in accordance with procedures and guidelines established by the Oregon Insurance Division Market Conduct Program. The program generally follows the Market Conduct Examination Handbook as adopted by the National Association of Insurance Commissioners (NAIC) to the extent that it is consistent with Oregon law. The purpose was to determine the Company's ability to fulfill and manner of fulfillment of its obligations, the nature of its operations, whether it has given proper treatment to policyholders, and its compliance with the Oregon Insurance Code and Administrative Rules.

In order to determine the practices and procedures of the Company's operations, one or more of the following procedures was performed:

1. A sample of files was selected from listings provided by the Company. The examiner then reviewed each file.
2. The procedure manuals and/or memorandum were evaluated.
3. The Company responded to a series of questions regarding the phase being examined.

The examiner used the following three classifications to disclose the examination results:

Passed	The recommendations the Company passed are included in this classification.
Passed with Comment	Recommendations the Company passed with some errors noted are included in this classification. Items in this category are not considered to be indicative of a general business practice of noncompliance. Usually, a recommendation is not warranted, but in certain instances a recommendation might be made.
Failed	The Company has not demonstrated compliance with standards that fall into this category. A recommendation for compliance is usually made for each standard the Company fails.

Information regarding some items might be noted in the examination without remarks.

Other areas of concern discovered during the examination that do not fall within the scope of the recommendations might appear in the report as the last section of each phase and titled Additional Findings and Procedures.

Certain unacceptable or non-complying practices might not have been discovered in the course of this examination. Failure to identify or criticize specific Company practices does not

constitute acceptance by the Oregon Insurance Division. Examination findings may result in administrative action or further inquiry by the Oregon Insurance Division.

COMPANY DESCRIPTION AND HISTORY

The Company was incorporated in 1988 as a stock life and health insurance company under the laws of the State of Oregon. On December 28, 1988, the Oregon State Insurance Commissioner issued a Certificate of Authority authorizing the Company to transact life and health insurance. On January 5, 1993, the Company's Certificate of Authority was amended to change its authorized business to solely health insurance. As a result, the Company began reporting their financial statements on the NAIC property casualty annual statement blank.

On October 8, 1999, the Company was licensed as a Health Care Service Contractor and became part of the insurance holding company system. Effective October 19, 1999, the Company acquired the assets and liabilities and insurance in force of ODS Health Plan, Inc., an Oregon insurance corporation through merger. Control of the Company by the Oregon Dental Association is maintained through the ownership of all of its common stock by Health Services Group, Inc., which is wholly owned by the Oregon Dental Association.

FOLLOW-UP MARKET CONDUCT EXAMINATION RECOMMENDATIONS

Findings

The Company passed the following recommendations:

Recommendation #7

I recommend the Company determine the number of employees working 17.5 or more hours per week at the time of issuance and annually thereafter in keeping with the requirements of ORS 743.730(12).

Effective April 1, 2004, the Company has implemented the following policy and procedures to comply with ORS 743.730(12):

- To verify group size the Company utilizes a questionnaire titled "Group Size Verification Questionnaire." This form is used at issuance and annually during renewal to determine an employer's group size and the appropriate plan design.
- The Company utilizes SpeedRates, an online quoting system, to generate 100% of Oregon Small Employer Health Insurance (SEHI) quotes. The following disclaimer is printed on the rate sheet: "ODS reserves the right at issuance to revise the plan design(s) and rates proposed, if it is later determined that your plan does not meet the State and Federal definitions respectively for "SEHI" plans."
- The Company provides rates to employer groups with 2-50 employees on the basis and with the following disclaimer printed on the rate sheet: "ODS reserves the right at issuance to revise the plan design(s) and rates proposed, if it is later determined that your plan does not meet the State and Federal definitions respectively for "SEHI" or "HIPAA" plans."
- The Company provides rates to employer groups with 51-99 employees on the basis and with the following disclaimer printed on the rate sheet: "ODS reserves the right at issuance to revise the plan design(s) and rates proposed, if it is later determined that your plan qualifies respectively under the State and Federal definitions respectively for "SEHI" or "HIPAA" plans."

- The Company has implemented a two level audit process to ensure the appropriate verification of employer's group size. The first level audit utilizes a new and renewal group checklist to ensure that the Company is requesting the verification and to track the timely receipt of the Group Size Verification Questionnaires. The use of these forms requires the Company to document the completion and receipt of the requested information prior to closing the file and finalizing the enrollment/issuance or renewal of the account. The second level audit requires underwriting to generate a report by the 15th of each month. The report lists all new and renewal groups processed during the previous month. Groups listed in the report are reviewed to ensure the Group Size Verification Questionnaire was completed during the enrollment/issuance process and properly filed in the Company's marketing correspondence file.
- The Company retains copies of the Group Size Verification Questionnaire in the Marketing correspondence file.

Recommendation #9:

I recommend the Company insure only associations that have been filed and approved in compliance with ORS 743.524 and ORS 743.526.

The Company insures three associations or trusts and all three have been filed and approved in compliance with ORS 743.525 and ORS 743.526.

Recommendation #10:

I recommend the Company provide an explanation of portability coverage directly to all eligible individuals who lose group coverage within 10 days after taking administrative

action to initiate or document the loss of coverage, as required by OAR 836-053-0750(1) and (2).

The Company's Portability Procedure effective January 2004 and revised March 2004 complies with applicable statutes and rules. The procedure includes the mailing of portability information within ten calendar days following the date of any administrative action taken by the Company to initiate or document the loss of coverage. Portability information is sent to all eligible members even if they reside outside of the State of Oregon. The procedure provides for Portability information to be sent to all eligible members regardless of how far back the loss of eligibility occurred. Review of a sample of files in which individuals lost group coverage showed that each member was sent portability information as required by OAR 836-053-0750(1) and (2).

Recommendation #12:

I recommend all negotiated contracts be amended to include the applicable mandates in compliance with the mandates to be found generally in Chapter ORS 743.

The Company provided a list of forty-four contracts that it considered to be exempt from filing with the Oregon Insurance Division because they were negotiated contracts. From this list an interval sample of eleven contracts were selected. Examiners reviewed ten contracts while the eleventh was to be used as a replacement if needed.

All contracts reviewed included the applicable mandates in compliance with the mandates to be found generally in Chapter ORS 743.

Recommendation #13:

I recommend all agreements to provide "insurance against the risk of economic loss assumed under a less than fully insured employee health benefit plan" be revised to comply with the requirements of ORS 742.065. In the alternative, I recommend that any such agreements that do not comply with ORS 742.065 be revised to comply with all requirements of ORS chapter 743, including the provision of all mandated benefits.

This recommendation did not apply to one of the self-funded ASO accounts reviewed because the Company did not provide stop-loss insurance on the self-funded plan. All of the remaining self-funded ASO accounts reviewed passed this recommendation.

Recommendation #14:

I recommend the Company provide employees covered under self-funded plans for which ODS provides administration services with information indicating that ODS is just administering the plan and that their employer is liable for benefits in compliance with ORS 746.240.

The ten units reviewed were in compliance with ORS 746.240 as they each contained Summary Plan Descriptions (SPD) which disclosed to employees that the plan was self-funded and that the Company only provided administrative services.

CONCLUSIONS/RECOMMENDATIONS

Rec. #	Recommendation	Page
7	I recommend the Company determine the number of employees working 17.5 or more hours per week at the time of issuance and annually thereafter in keeping with the requirements of ORS 743.730(12).	8
9	I recommend the Company insure only associations that have been filed and approved in compliance with ORS 743.524 and ORS 743.526.	10
10	I recommend the Company provide an explanation of portability coverage directly to all eligible individuals who lose group coverage within 10 days after taking administrative action to initiate or document the loss of coverage, as required by OAR 836-053-0750(1) and (2).	10
12	I recommend all negotiated contracts be amended to include the applicable mandates in compliance with the mandates to be found generally in Chapter ORS 743.	11
13	I recommend all agreements to provide "insurance against the risk of economic loss assumed under a less than fully insured employee health benefit plan" be revised to comply with the requirements of ORS 742.065. In the alternative, I recommend that any such agreements that do not comply with ORS 742.065 be revised to comply with all requirements of ORS chapter 743, including the provision of all mandated benefits.	12
14	I recommend the Company provide employees covered under self-funded plans for which ODS provides administration services with information indicating that ODS is just administering the plan and that their employer is liable for benefits in compliance with ORS 746.240.	12

ACKNOWLEDGMENT

The cooperation and assistance rendered by the officers and employees of the Company during this examination is hereby acknowledged and appreciated.

A special thanks is extended to the examination coordinator for her courtesy and assistance providing, correlating, or coordinating all requested documents and statistics necessary to ensure a smooth transition during the overall examination process. The responsibilities that were undertaken during this examination were in addition to the scope of her regular assigned duties.

In addition to the undersigned, Gary Stephenson, AIE, AIRC and Cliff Nolen, Market Analyst, participated in this examination.

Respectfully submitted,

_____

Cindy J. Jones, AIE, CPCU, CRM
Manager, Market Surveillance
Insurance Division
Department of Consumer and Business Services
State of Oregon

AFFIDAVIT

STATE OF OREGON }
} ss
County of Marion }

Cindy J. Jones, being duly sworn, deposes and says that the foregoing Report of Follow-up Market Conduct Examination subscribed by her is true to the best of her knowledge and belief.

_____
Cindy J. Jones, AIE, CPCU, CRM
Manager, Market Surveillance
Insurance Division
Department of Consumer and Business Services
State of Oregon

Subscribed and sworn to before me on the _____ day of _____, 2005.

_____
Linda J. Rothenberger
Notary Public for the State of Oregon
My Commission Expires: March 22, 2009

APPENDIX

ODS Health Plan, Inc.

Follow-up Market Conduct Examination

Rec. #	Recommendation	Findings
7	I recommend the Company determine the number of employees working 17.5 or more hours per week at the time of issuance and annually thereafter in keeping with the requirements of ORS 743.730(12).	Passed
9	I recommend the Company insure only associations that have been filed and approved in compliance with ORS 743.524 and ORS 743.526.	Passed
10	I recommend the Company provide an explanation of portability coverage directly to all eligible individuals who lose group coverage within 10 days after taking administrative action to initiate or document the loss of coverage, as required by OAR 836-053-0750(1) and (2).	Passed
12	I recommend all negotiated contracts be amended to include the applicable mandates in compliance with the mandates to be found generally in Chapter ORS 743.	Passed
13	I recommend all agreements to provide "insurance against the risk of economic loss assumed under a less than fully insured employee health benefit plan" be revised to comply with the requirements of ORS 742.065. In the alternative, I recommend that any such agreements that do not comply with ORS 742.065 be revised to comply with all requirements of ORS chapter 743, including the provision of all mandated benefits.	Passed
14	I recommend the Company provide employees covered under self-funded plans for which ODS provides administration services with information indicating that ODS is just administering the plan and that their employer is liable for benefits in compliance with ORS 746.240.	Passed