

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS  
OFFICE OF THE HEALTH INSURANCE COMMISSIONER  
1511 PONTIAC AVENUE, BLDG. #69-1  
CRANSTON, RHODE ISLAND 02920

In re: Market Conduct Examination of Delta Dental of Rhode Island ) OHIC-2011-07  
)

COMMISSIONER'S DECISION ON RECONSIDERATION  
AND FINAL REVISED ORDER

THIS MATTER comes before the Health Insurance Commissioner (the "Commissioner") as a result of a market conduct examination of Delta Dental of Rhode Island ("Delta Dental"). The examination was conducted on behalf of the Commissioner by Charles C. DeWeese, Linda Johnson, and John A. Cogan, Jr. (the "Examiners").

The Commissioner has considered and reviewed the Market Conduct Examination Report dated June 24, 2011 (the "Examination Report", attached hereto), and the response filed by Delta Dental on July 29, 2011. The Commissioner issued his Final Order on August 17, 2011. On August 26 and August 31, 2011, Delta Dental filed a Request for Reconsideration. The Commissioner issued his Decision on Reconsideration and Revised Final Order on September 12, 2011. On September 26 and September 27, 2011, Delta Dental filed its Second Request for Reconsideration. The requests for reconsideration stayed the running of the time period following the issuance of the Commissioner's final decision, thereby requiring that the Examination Report and the Commissioner's Order be maintained as confidential under R.I. Gen. Laws section 27-13.1-6(e).

After full review and consideration of the aforementioned materials, and in recognition of Delta Dental's agreement to the issuance of this Decision and Order, as set forth below in the

company's Verification of the Agreement, the Commissioner hereby finds as fact, concludes as a matter of law, and issues his Final Revised Order as follows:

**Findings of Fact and Conclusions of Law**

1. The Commissioner hereby adopts as Findings of Fact and Conclusions of Law the facts, conclusions and recommendations of the Examiners as set forth in the Examination Report, attached hereto and incorporated by reference herein, except as hereinafter expressly modified in Para. 6, below.

2. The Commissioner has jurisdiction over this matter pursuant to R.I. Gen. Laws sections 42-14.5-1 et seq., 42-14-5(d), and 27-13.1 et seq.

3. Delta Dental is a dental insurance company organized as a nonprofit dental service corporation, and licensed under R.I. Gen. Laws section 27-20.1.

4. An examination of Delta Dental was commenced by the Office of the Health Insurance Commissioner ("OHIC") pursuant to a warrant issued on May 14, 2010. The examination was conducted in accordance with the standards contained in the Market Conduct Examination Handbook published by the National Association of Insurance Commissioners. A verified Examination Report was filed with the Commissioner on June 24, 2011. Delta Dental was provided an opportunity to file a written response to the Examination Report, which response was filed by Delta Dental on July 29, 2011 ("the Delta Dental Response") and is attached hereto in a form in which personal identifications have been redacted.

5. Delta Dental maintains adequate records and generally has good claims processing and customer service capabilities. Delta Dental prepares and submits the prompt processing, appeals and complaint reports they are required to submit. However, the Examiners noted several

areas in which Delta Dental needs to improve. The recommendations in the Examination Report summarize steps Delta Dental must take to come into full compliance. The recommendations in the Examination Report are made for Delta Dental to come into compliance with applicable statutes and regulations.

6. The Commissioner hereby modifies the Examiners' findings, conclusions and recommendations as follows:

(a) Recommendation 7 recommends that Delta Dental should modify its appeals process to accept verbal appeals. The Commissioner is persuaded that the Department of Health regulation relating to appeals is silent on the question of whether a consumer's initial appeal of the denial of the consumer's complaint must be in writing, and therefore, the Commissioner declines to adopt Recommendation 7 of the Examination Report, except in the case of urgent or emergency care requests.

(b) The Commissioner adopts Recommendation 19 of the Examination Report, but the Commissioner finds that Recommendation 19 should not be construed to require coverage of services explicitly and lawfully excluded by the dental insurance policy. Whether a "medical necessity" external appeal would be appropriate in the circumstances described in Recommendation 19 is a matter that does not need to be determined at this time.

7. During the course of discussions between Delta Dental and OHIC following the Company's Second Request for Reconsideration, Delta Dental presented its plan for implementation of the recommendations of the Examination Report. The Commissioner's Final

Revised Order reflects the Commissioner's satisfaction with Delta Dental's commitment to fully implement the recommendations of the Examination Report.

**Order**

Wherefore, it is hereby ordered:

A. Delta Dental shall fully implement the recommendations of the Examination Report, except as set forth in Para. 6, above, within 90 days of the issuance of this Order.

B. Delta Dental shall carry out an Audit Verification Program. The Audit Verification Program shall be carried out in accordance with the "Audit of Compliance with Recommendations" document attached hereto, including but not limited to the "Audit Procedures" column in said document, and the commitments made by Delta Dental in the "Internal Control Objectives" column of said document. The Audit Verification Program shall also be carried out in accordance with the Memorandum prepared by Patricia North-Martino of Delta Dental dated November 21, 2011 and entitled "Audit Program Sampling Methods", and attached hereto. The Audit Verification Program shall be conducted in the following manner: Acting under the supervision of the Finance and Audit Committee of the Delta Dental Board of Directors ("the FAC") to which they directly report - and with such external assistance as the FAC shall reasonably deem necessary and appropriate - Delta Dental's Director of Internal Audit and Director of Compliance shall jointly report to the Commissioner and to the Delta Dental Board of Directors no less than quarterly on Delta Dental's compliance with this Revised Final Order. This Audit Verification Program shall continue for a period of twelve (12) months following the issuance of this Revised Final Order, unless said period of time is extended at the

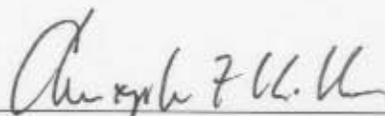
discretion of the Commissioner if necessary to achieve the purposes of this Order. During said period of time the Commissioner may inspect all work papers and supporting documentation prepared by, or collected by, or under the direction of the Director of Internal Audit and the Director of Compliance, and may issue such orders as are necessary to ensure that the Audit Verification Program is adequately and appropriately implemented.

C. Delta Dental shall modify its Quality Management Program in order to address provider-specific quality problems. The Quality Management Committee shall oversee the Quality Management Program, and shall meet at least quarterly, and as necessary. The Chair of the Quality Management Committee and at least a majority of members shall be community dentists not employed by Delta Dental. Delta Dental's Quality Management Program shall incorporate a process separate and distinct from its Utilization Management Program to address substandard care to protect Delta Dental members from providers that Delta Dental have identified as providing substandard quality care.

D. A penalty of \$25,000 is assessed against Delta Dental, to be paid within 10 business days of the issuance of this Revised Final Order. This penalty shall be payable by check made out to the General Treasury of the State of Rhode Island and delivered to OHIC within 10 business days of the issuance of this Final Revised Order.

E. The Commissioner shall retain jurisdiction over this matter to issue any and all further or supplemental Orders necessary to carry out the purposes of this Revised Final Order, and to reach an appropriate conclusion to this matter.

Dated at Cranston, Rhode Island this 23<sup>rd</sup> day of January, 2012.

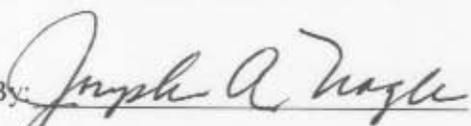


Christopher F. Koller  
Health Insurance Commissioner

**Verification of the Agreement of Delta Dental of Rhode Island**

I. Upon the issuance of the Commissioner's Final Revised Order in this matter, Delta Dental understands and agrees that this Final Revised Order imposes valid obligations on Delta Dental, legally enforceable by the Commissioner. Delta Dental acknowledges and agrees that it consents to the legal obligations imposed by the Commissioner's Final Revised Order, and that it does so knowingly, voluntarily and unconditionally.

II. Delta Dental waives its right to administrative or judicial review with respect to the Commissioner's Final Revised Order; provided, however, Delta Dental shall have a right to a hearing on any charge or allegation brought by OHIC that Delta Dental has failed to adhere to, or has violated any of its obligations under the Final Revised Order, and Delta Dental shall have the right to appeal any adverse determination resulting from such charge or allegation.

By: 

Name: Joseph A. Nagle

Title: President & CEO

Date: 1/23/12