



NEW YORK STATE DEPARTMENT OF FINANCIAL SERVICES

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In the Matter of

**Oscar Insurance Corporation**

No. 2018-0151-S

Respondent.

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**CONSENT ORDER**

**WHEREAS**, the Department of Financial Services (the "Department") conducted a financial and market conduct examination (the "Examination") of the affairs of Oscar Insurance Corporation (hereinafter "Respondent") for the period from January 12, 2013 through December 31, 2015 and issued its Report on the Examination dated January 31, 2018.

**WHEREAS**, this Consent Order contains the Department's findings and the relief agreed to by the Department and Respondent.

**WHEREAS**, the Department and Respondent are willing to resolve the matters cited herein in lieu of proceeding by notice and hearing.

**NOW, THEREFORE**, this Consent Order contains the Department's findings and the relief agreed to by the Department and Respondent.

2. The Department conducted a market conduct examination of the manner in which the Respondent conducted their business practices and fulfilled their obligations to policyholders and claimants.

### **FINDINGS**

3. Respondent, for the time period January 12, 2013 through December 31, 2015 had the following findings:
  - a. Failure to make a determination for prospective utilization reviews within three business days;
  - b. Failure to make a determination for concurrent utilization reviews within one business day;
  - c. Failure to include an accurate and detailed explanation of the clinical rationale for the denials in the adverse determination notices; and
  - d. Failure to include forfeiture language in the explanation of benefit statements.
4. Respondent's violations during the aforementioned time period contravened New York Insurance Law and Regulations.

### **VIOLATIONS**

5. By reason of the foregoing, Respondent violated: New York Insurance Law Sections 3234(b)(7), 4903 (b), 4903 (c), 4903(e), and 4904(c).

### **AGREEMENT**

**IT IS HEREBY UNDERSTOOD AND AGREED** by Respondent, and all of its subsidiaries, affiliates, successors, assigns, agents, representatives, and employees, shall comply with the following:

6. Respondent will correct the violations cited herein, including but not limited to:

- a. Revise explanation of benefit statements to include the appropriate forfeiture language;
  - b. Revise adverse determination notices to include a detailed explanation of the clinical rationale for denials; and
  - c. Review and revise all procedures, if necessary, related to utilization review in order that timely determinations are made.
7. Respondent will also take all necessary steps to comply with the New York Insurance Law and Regulations with respect to its insurance products in the future. Within 90 days from the date of Respondent's execution of this Consent Order, Respondent shall provide an up-to-date detailed summary of the corrective actions taken, or proposed to be taken, in full compliance with this Consent Order.

#### **MONETARY PENALTY**

8. Within seven (7) days of the execution of this Consent Order, Respondent shall pay a civil penalty of Five hundred seventy six thousand nine hundred fifty dollars (\$576,950). Respondent agrees that it will not claim, assert, or apply for a tax deduction or tax credit with regard to any U.S. federal, state or local tax, directly or indirectly, for any portion of the civil monetary penalty paid pursuant to this Consent Order.
9. The above referenced payment shall be payable to the New York State Department of Financial Services account at JPMorgan Chase Bank, N.A. via electronic transfer in accordance with the Department's instructions.

#### **BREACH OF THE CONSENT ORDER**

10. In the event that the Department believes that Respondent has breached this Consent Order ("Breach"), the Department will provide written notice of such Breach to Respondent and Respondent must, within ten (10) business days from the date of receipt of said notice, or on a later date if so determined in the sole discretion of the Department, appear before the Department and have an opportunity to rebut the evidence, if any, on the issue of whether a Breach has occurred and, to the extent pertinent, to demonstrate that any such Breach is not material or has been cured.

11. The Department and Respondent understand and agree that Respondent's failure to appear before the Department to make the required demonstration within the period set forth herein is presumptive evidence of Respondent's Breach. Upon a finding of Breach, the Department has all the remedies available to it under New York or other applicable laws and may use any and all evidence available to the Department for all ensuing examinations, hearings, notices, orders, and other remedies that may be available under New York or other applicable laws.

#### **OTHER PROVISIONS**

12. If Respondent defaults on any of its obligations under this Consent Order, the Department may terminate the Consent Order at its sole discretion, upon ten (10) days' written notice to Respondent. In the event of such termination, Respondent expressly agrees and acknowledges that this Consent Order shall in no way bar or otherwise preclude the Department from commencing, conducting, or prosecuting any investigation, action, or proceeding, however denominated, related to the Consent Order, against Respondent, or from using in any way the statements, documents, or other materials produced or provided by Respondent prior to or after the date of this Consent Order, including, without limitation, such statements, documents, or other materials, if any, provided for purposes of settlement negotiations.
13. The Department has agreed to the terms of this Consent Order based on, among other things, representations made to the Department by Respondent and the Department's own factual examination. To the extent that representations made by Respondent are later found to be materially incomplete or inaccurate, this Consent Order or certain provisions thereof are voidable by the Department in its sole discretion.
14. Upon request by the Department, Respondent shall provide all documentation and information reasonably necessary for the Department to verify compliance with this Consent Order.
15. All notices, reports, requests, certifications, and other communications to the Department regarding this Consent Order shall be in writing and shall be directed as follows:

If to the Department:

New York State Department of Financial Services  
One State Street, 19<sup>th</sup> Floor  
New York, NY 10004-1511  
Attention: Laura Evangelista, Executive Deputy Superintendent for Insurance

If to the Respondent:

**Oscar Insurance Corporation**  
**295 Lafayette Street, 6<sup>th</sup> Floor**  
**New York, NY 10001**  
**Attention: Mr. Hank Greenberg (Legal)**

16. This Consent Order and any dispute thereunder shall be governed by the laws of the State of New York without regard to any conflicts of laws principles.
17. Respondent waives its right to further notice and hearing in this matter as to any allegations of past violations up to and including December 31, 2015 and agrees that no provision of the Consent Order is subject to review in any court or tribunal outside the Department.
18. This Consent Order may not be amended except by an instrument in writing signed on behalf of all parties to this Consent Order.
19. This Consent Order constitutes the entire agreement between the Department and Respondent relating to the violations identified herein and supersedes any prior communication, understanding, or agreement, whether written or oral, concerning the subject matter of this Consent Order. No inducement, promise, understanding, condition, or warranty not set forth in this Consent Order has been relied upon by any party to this Consent Order.
20. In the event that one or more provisions contained in this Consent Order shall for any reason be held invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision of this Consent Order.

21. Upon execution by the parties to this Consent Order, no further action will be taken by the Department against Respondent for the conduct set forth in this Consent Order, subject to the terms of this Consent Order.
22. This Consent Order may be executed in one or more counterparts, and shall become effective when such counterparts have been signed by each of the parties hereto and So Ordered by the Superintendent of Financial Services.

**Oscar Insurance Corporation**

By:  Dated: 11/09/18

**Mario Schlosser**  
**Chief Executive Officer**

NEW YORK STATE DEPARTMENT OF FINANCIAL SERVICES

By:  Dated: 11/27/18

Laura Evangelista  
Executive Deputy Superintendent for Insurance

**THE FOREGOING CONSENT ORDER IS HEREBY APPROVED.**

By:  Dated: 12/12/2018

Maria T. Vullo  
Superintendent of Financial Services