

**STATE OF MICHIGAN
DEPARTMENT OF INSURANCE AND FINANCIAL SERVICES**

Before the Director of the Department of Insurance and Financial Services

In the matter of:

Harbor Health Plan, Inc.
NAIC No. 11081

Enforcement Case No. 14-12047

Respondent.

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Issued and entered
on Nov. 13, 2014
By Teri L. Morante
Chief Deputy Director

ORDER ACCEPTING STIPULATION

Based upon the Stipulation to Entry of Order and the files and records of the Department of Insurance and Financial Services (DIFS) in this matter, the Chief Deputy Director finds and concludes that:

1. Pursuant to Executive Order 2013-1, all authority, powers, duties, functions, and responsibilities of the Commissioner of the Office of Financial and Insurance Regulation (Commissioner) have been transferred to the Director of the Department of Insurance and Financial Services (DIFS).
2. The Chief Deputy Director has jurisdiction and authority to adopt and issue this Order Accepting Stipulation in this proceeding pursuant to the Michigan Administrative Procedures Act of 1969 (APA), as amended, MCL 24.201 *et seq.*, and the Michigan Insurance Code of 1956 (Code), MCL 500.100 *et seq.*
3. All required notices have been issued in this case, and the notices and service thereof were appropriate and lawful in all respects.
4. Acceptance of the Stipulation to Entry of Order is reasonable and in the public interest.
5. All applicable provisions of the APA have been met.
6. At all relevant times, Respondent Harbor Health Plan, Inc. (Respondent) was a licensed Health Maintenance Organization (HMO) and possessed a certificate of authority to conduct business in the state of Michigan.

7. DIFS completed an on-site examination of Respondent, as of December 31, 2012, and noted several violations of the Code.
8. Respondent knew or had reason to know that Section 5256(1) of the Code provides that “Each domestic insurer shall keep under its control all records relating to the insurer's business or affairs at 1 or more of the following locations: (a) The principal place of doing business in this state. (b) One or more locations outside the state approved for that purpose, in writing, by the commissioner.”
9. Respondent further knew or had reason to know that Section 3548(1) of the Code provides that “A health maintenance organization shall keep all of its books, records, and files at or under the control of its principal place of doing business in this state, and shall keep a record of all of its securities, notes, mortgages, or other evidences of indebtedness, representing investment of funds at its principal place of doing business in this state in the same manner as provided for in section 5256.”
10. Respondent’s principal place of business is in the state of Michigan, but DIFS’s examiners found that numerous documents needed for the examination were located in the state of Arizona. Respondent did not request or receive written approval from the Director to keep records relating to its business or affairs at location(s) other than its principal place of business in Michigan.
11. Respondent further knew or had reason to know that Section 222(6) of the Code provides that “Upon an examination under this section, the commissioner, his or her deputy, or any examiner authorized by him or her may examine in person, by writing, and if appropriate, under oath the officers or agents of the insurer or all persons considered to have material information regarding the insurer's property, assets, business, or affairs. ... The insurer and its officers and agents shall produce its books and records and all papers in its or their possession relating to its business or affairs, and any other person may be required to produce any books, records, or papers considered relevant to the examination for the inspection of the commissioner, or his or her deputy or examiners, whenever required. The insurer's officers or agents shall facilitate the examination and aid in making the same so far as it is in their power to do so. ...”
12. Respondent further knew or had reason to know that Section 5256(2) of the Code provides that “A domestic insurer shall produce those records relating to the insurer's business or affairs and personnel knowledgeable about the records at a principal place of doing business in or outside this state for examination within a reasonable time period specified by the commissioner.”
13. Respondent did not timely produce requested records and Respondent’s officers and agents that maintained the books and records did not appear to have a sufficient appreciation and understanding of statutory reporting and regulatory compliance requirements, which caused delays in the completion of the examination.

14. Respondent further knew or had reason to know that Section 3548(3) of the Code provides that “A health maintenance organization shall hold and maintain legal title to all assets, including cash and investments. Health maintenance organization funds and assets shall not be commingled with affiliates or other entities in pooling or cash management type arrangements. All health maintenance organization assets shall be held separate from all other activities of other members in a holding company system.”
15. DIFS’s staff found that Respondent commingled funds with accounts owed by Tenet Healthcare system.
16. Respondent further knew or had reason to know that Section 1341(3)(d) of the Code provides that “A domestic insurer and any person in its holding company system shall not enter into the following transactions with each other unless the insurer has notified the commissioner in writing of its intention to enter into the transaction at least 30 days, or a shorter period as the commissioner allows, prior to entering into the transaction and the commissioner has not disapproved it within that period: (d) Rendering of services on a regular systematic basis.”
17. Respondent did not have written agreements with Advantage Health Care Management Company, LLC and DMC Managed Care Division for shared services and did not have a written agreement with other members of the holding company for tax sharing services.
18. Based upon the actions listed above, Respondent has violated Sections 222(6), 1341(3)(d), 3548(1) & (3), and 5256(1) & (2) of the Code and is subject to the Director ordering payment of a civil fine pursuant to Section 150 of the Code attributed to Respondent’s violation of the Code.

Now therefore, based upon the Stipulation to Entry of Order and the facts surrounding this case, **IT IS ORDERED THAT:**

19. Respondent shall immediately cease and desist from violating Sections 222(6), 1341(3)(d), 3548(1) & (3), and 5256(1) & (2) of the Code.
20. Respondent shall make operational changes required for compliance with Sections 222(6), 1341(3)(d), 3548(1) & (3), and 5256(1) & (2) of the Code.
21. Respondent shall pay to the State of Michigan, a civil fine of One Thousand Dollars (\$1,000.00). Upon acceptance of this Agreement, DIFS will send an invoice to Respondent and Respondent shall pay the civil fine by the due date printed on the Invoice.

22. The Chief Deputy Director retains jurisdiction over the matters contained herein and has the authority to issue such further order(s) as shall be deemed just, necessary, and appropriate in accordance with the Code. Failure to abide by the terms and provisions of the Stipulation to Entry of Order and this Order may result in the commencement of additional proceedings.



Teri L. Morante
Chief Deputy Director

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STIPULATION TO ENTRY OF ORDER

Harbor Health Plan, Inc. (Respondent) stipulates to the following:

1. On or about August 1, 2014, the Department of Insurance and Financial Services (DIFS) served Respondent with a Notice of Opportunity to Show Compliance (NOSC) alleging that Respondent violated provisions of the Michigan Insurance Code of 1956 (Code), MCL 500.100 *et seq.*
2. Specifically, the NOSC contained allegations that Respondent violated Sections 222(6), 1341(3)(d), 3548(1) & (3), and 5256(1) & (2) of the Code, providing justification for sanctions pursuant to Section 150 of the Code.
3. Respondent exercised the right to an opportunity to show compliance pursuant to the Michigan Administrative Procedures Act (APA), MCL 24.201 *et seq.*
4. At all pertinent times, Respondent was a licensed Health Maintenance Organization (HMO) and possessed a certificate of authority to conduct business in the state of Michigan.
5. Respondent admits to the allegations contained in the NOSC that they violated Sections 222(6), 1341(3)(d), 3548(1) & (3), and 5256(1) & (2) of the Code.
6. All parties have complied with the procedural requirements of the APA and the Code.
7. Respondent agrees to make operational changes required for compliance with Sections 222(6), 1341(3)(d), 3548(1) & (3), and 5256(1) & (2) of the Code.
8. Respondent understands and agrees that this Stipulation to Entry of Order will be presented to the Chief Deputy Director for approval.
9. The Chief Deputy Director may, in her sole discretion, decide to accept or reject this Stipulation to Entry of Order. If the Chief Deputy Director accepts the Stipulation to Entry of Order, Respondent waives the right to a hearing in this matter and consents to

the entry of the Order Accepting Stipulation. If the Chief Deputy Director does not accept the Stipulation to Entry of Order, Respondent waives any objection to the Director holding a formal administrative hearing and making her decision after such hearing.

10. Respondent has had an opportunity to review this Stipulation to Entry of Order and the proposed Order Accepting Stipulation and have the same reviewed by legal counsel.

Date Signed: 10/21/2014



Authorized Representative of
Harbor Health Plan, Inc.
NAIC No. 11081

Printed Name: Carrie Harris-Muller

Title: President & CEO

DIFS Staff approve this stipulation and recommend that the Chief Deputy Director issue the above Consent Order.

Dated Signed: 10/31/14



William R. Peattie (P48004)
DIFS Staff Attorney