

**STATE OF VERMONT  
DEPARTMENT OF FINANCIAL REGULATION**

IN THE MATTER OF:

MVP Health Plan, Inc. and  
MVP Health Insurance Company

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Docket No. 16-042-I

**STIPULATION AND CONSENT ORDER**

The Insurance Division of the Vermont Department of Financial Regulation ("Department") and MVP Health Plan, Inc. and MVP Health Insurance Company ("Respondents") stipulate and agree as follows:

1. Pursuant to the authority contained in 8 V.S.A. §§ 11-13, 15, and 18 V.S.A. § 9412 the Commissioner of the Department ("Commissioner") is charged with enforcing the insurance laws of the State of Vermont.
2. Respondents offer health insurance products in Vermont and are duly licensed in the State of Vermont. Respondents are located at 625 State Street, Schenectady, NY 12301.
3. The provisions set forth at 8 V.S.A. § 4100g set forth the coverage requirements for colorectal screening and state, in part:
  - (b) Insurers shall provide coverage for colorectal cancer screening, including:
    - (1) Providing an insured 50 years of age or older . . .
    - (B) one colonoscopy every 10 years.
  - (d) Colorectal cancer screening services performed under contract with the insurer shall not be subject to any co-payment, deductible, coinsurance, or other cost-sharing requirement. In addition, an insured shall not be subject to any additional charge for any service associated with a procedure or test for colorectal cancer screening, which may include one or more of the following:
    - (1) removal of tissue or other matter;
    - (2) laboratory services;
    - (3) physician services; and,
    - (4) anesthesia.
4. Respondents failed in some cases to correctly process claims submitted for colorectal cancer screening and associated services.

5. Respondents are in the process of refunding monies owed to 470 members and in total will refund \$158,915.50, plus interest.
6. Respondents have been made aware that the Department may elect to proceed with an administrative action for noncompliance with 8 V.S.A. § 4100g.
7. Respondents wish to resolve this matter without a hearing by entering into this Stipulation and Consent Order with the Department on the terms and conditions set forth herein.
8. Respondents waive their right to a hearing before the Commissioner or the Commissioner's designee, and all other procedures otherwise applicable under Vermont law, the results of the Department and the provisions of Chapter 25 of Title 3 regarding contested cases, or any right they may have to judicial review by any court by way of suit, appeal, or extraordinary remedy with respect to the terms of the Stipulation and Consent Order set forth herein.
9. Respondents acknowledge that they understand all of the terms, conditions, undertakings, and obligations contained in this Stipulation and Consent Order.
10. Respondents acknowledge that this Stipulation and Consent Order constitutes a valid order duly rendered by the Commissioner and agree to be fully bound by it. Respondents acknowledge that noncompliance with any of the terms of this Stipulation and Consent Order shall constitute a violation of a lawful order of the Commissioner and shall be a separate violation of laws of the State of Vermont and shall subject Respondents to administrative action or sanctions as the Commissioner deems appropriate. Respondents further acknowledge that the Commissioner retains jurisdiction over this matter for the purpose of enforcing this Stipulation and Consent Order.
11. Other than as specifically set forth herein, the Department retains any rights it has to respond to and address any consumer complaint that may be made with regard to Respondents and a transaction in insurance, as defined at 8 V.S.A. § 3301, including the right to pursue any remedy authorized by law in response to a consumer complaint.

12. Nothing herein shall be construed as a waiver of any private right of action any person may have.

**THE DEPARTMENT AND RESPONDENT FURTHER STIPULATE AND AGREE:**

13. Respondents shall pay an administrative penalty in the amount of Seventy Thousand Five Hundred Dollars (\$70,500) within ten (10) days of full execution by the Respondents and the Commissioner of this Stipulation and Consent Order in full and final satisfaction of all fines and penalties arising from Respondents' failure to correctly process claims for colorectal screening and associated services as set forth in paragraph 4 above. The Department agrees that it will seek no further administrative penalty with respect to Respondents' failure to correctly process claims for colorectal screening and associated services up to and including the date of full execution of this Consent Order, but does retain any rights it has to respond to and address any consumer complaint concerning claims which are the subject of this Stipulation and Consent Order in the event such claim was processed up to and including the date of this Order.

14. Respondents waive their statutory right to notice and a hearing before the Commissioner or her designated appointee with respect to the subject matter of this Stipulation and Consent Order.

15. Respondents acknowledge and agree that this Stipulation and Consent Order is entered into freely and voluntarily, and that except as set forth herein, no promise was made to induce Respondents to enter into it. Respondents acknowledge that they have consulted with their attorneys in this matter and that they have reviewed this Stipulation and Consent Order and that they understand all of the terms and obligations contained herein.

16. Respondents consent to the entry of this Stipulation and Consent Order and agree to be fully bound by its terms and conditions. Respondents acknowledge that noncompliance with any of the terms of this Stipulation and Consent Order may constitute a separate violation of the insurance laws of the State of Vermont and may subject them to sanctions.

17. The terms set forth in this Stipulation and Consent Order represents the complete agreement between the parties as to its subject matter.

18. The undersigned representatives of the Respondents each individually affirm that he or she has taken all necessary steps to obtain the authority and bind each respective Respondent to the obligations stated herein and has the authority to bind each respective Respondent to the obligations stated herein.

**MVP Health Plan, Inc. and  
MVP Health Insurance Company**

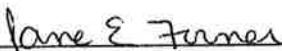
By its Duly Authorized Agent:



Emily H. Titsworth  
Vice President of Legal Affairs  
and Deputy General Counsel


STATE OF NEW YORK        )  
COUNTY OF SCHENECTADY    )

On this 19<sup>th</sup> day of December, 2016 Emily H. Titsworth personally appeared before me and pursuant to a sworn oath subscribed to this Stipulation and Consent Order and represented that she has full authority to execute, deliver and legally bind Respondents to this Stipulation and Consent Order.

  
NOTARY PUBLIC  
My Commission Expires: 11/30/2018

Jane E. Forner  
Notary Public - State of New York  
Schenectady County - No. 02FO4638084  
Comm. Expires - 11/30/2018


ACCEPTED BY:

  
12/21/2016  
Kaj Samsom, Deputy Commissioner,  
Insurance Division, Vermont Department  
of Financial Regulation

**CONSENT ORDER**

1. The stipulated facts, terms and provisions of this Stipulation are incorporated herein by reference.
2. Jurisdiction in this matter is established pursuant to Chapters 101 and 107 of Title 8 and Chapter 221 of Title 18 of the Vermont Statutes Annotated.
3. Pursuant to this Stipulation, Respondents consent to the entry of this Consent Order.
4. Respondents shall comply with all agreements, stipulations, and undertakings as recited above.
5. Nothing contained in this Order shall restrain or limit the Department in responding to and addressing any consumer complaint about Respondents filed with the Department or shall preclude the Department from pursuing any other violation of law.

Entered at Montpelier, Vermont this 21<sup>st</sup> day of December, 2016.



Michael Pieciak, Commissioner  
Vermont Department of Financial Regulation