



FILED

JUN 29 2023

INSURANCE REGULATION

Docketed by: JG

OFFICE OF INSURANCE REGULATION

MICHAEL YAWORSKY
COMMISSIONER

IN THE MATTER OF:

CASE NO.: 269334-20

ULTIMATE HEALTH PLANS,
INC.
_____ /

CONSENT ORDER

THIS CAUSE came on for consideration as the result of ULTIMATE HEALTH PLANS, INC.'S ("ULTIMATE HEALTH'S"), appointment of Edward Maszak to the position of Chief Financial Officer ("CFO"). Following a complete review of the entire record, and upon consideration thereof, and being otherwise fully advised in the premises, the FLORIDA OFFICE OF INSURANCE REGULATION ("OIR") hereby finds as follows:

1. OIR has jurisdiction over the subject matter and the parties herein. ULTIMATE HEALTH is a health maintenance organization ("HMO") authorized to transact business in Florida and subject to regulation by OIR, pursuant to the Florida Insurance Code.

2. On April 24, 2020, ULTIMATE HEALTH submitted to OIR a Biographical Affidavit for a background check on Edward Maszak indicating that ULTIMATE HEALTH intended to appoint Mr. Maszak to the CFO position.

3. OIR's review revealed that Mr. Maszak served as CFO of Florida Healthcare Plus ("Florida Healthcare"), an insurer that became insolvent.

4. On April 21, 2023, the Office issued a determination letter to ULTIMATE HEALTH alleging that due to the standards of section 641.22(6), Florida Statutes, Mr. Maszak

was not eligible to serve in the upper management of a Florida-Licensed HMO and notifying ULTIMATE HEALTH that it had 30 days to remove Mr. Maszak from his position. Attached as Exhibit A is a copy of the determination letter which included a Notice of Administrative Rights.

5. On May 11, 2023, counsel for ULTIMATE HEALTH informed the Office that ULTIMATE HEALTH terminated Mr. Maszak's employment, and that Mr. Maszak is no longer serving or representing the plan in any capacity.

6. ULTIMATE HEALTH agrees not to allow Mr. Maszak to serve the HMO in any capacity unless OIR grants ULTIMATE HEALTH authorization in advance for Mr. Maszak to serve.

7. Any deadlines, reporting requirements, other provisions, or requirements set forth in this Consent Order may be altered or terminated by written approval of the OIR. Such approval must be requested in writing prior to any proposed deviation from the terms of this Consent Order.

8. ULTIMATE HEALTH agrees that, upon execution of this Consent Order, failure to adhere to one or more of the terms and conditions contained herein may result, without further proceedings, in the OIR suspending, revoking, or taking other administrative action as it deems appropriate upon ULTIMATE HEALTH's license in this state in accordance with Sections 120.569(2)(n) and 120.60(6), Florida Statutes.

9. ULTIMATE HEALTH additionally agrees that, upon execution of this Consent Order, failure to adhere to one or more of the terms and conditions contained herein may be considered willful and subject ULTIMATE HEALTH to appropriate penalties and fines.

10. ULTIMATE HEALTH expressly waives a hearing in this matter, the making of findings of fact and conclusions of law by the OIR, and all further and other proceedings herein to which it may be entitled by law or rules of the OIR. ULTIMATE HEALTH hereby knowingly and voluntarily waives all rights to challenge or to contest this Consent Order in any forum available to it, now or in the future, including the right to any administrative proceeding, state or federal court action, or any appeal.

11. Each party to this action shall bear its own costs.

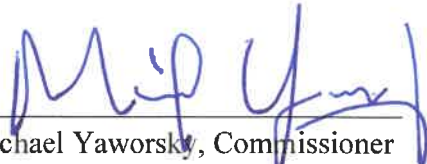
12. The parties agree that this Consent Order shall be deemed to be executed when the OIR has signed and docketed a copy of this Consent Order bearing the notarized signature of the authorized representative of ULTIMATE HEALTH.

WHEREFORE, the agreement between ULTIMATE HEALTH and the FLORIDA OFFICE OF INSURANCE REGULATION, the terms and conditions of which are set forth above, is APPROVED.

All terms and conditions contained herein are hereby ORDERED.

DONE AND ORDERED this 29 day of June, 2023.




Michael Yaworsky, Commissioner
Office of Insurance Regulation

By execution hereof, ULTIMATE HEALTH PLANS, INC., consents to entry of this Consent Order, agrees without reservation to all the above terms and conditions, and shall be bound by all provisions herein. The undersigned represents that they have the authority to bind ULTIMATE HEALTH PLANS, INC., to the terms and conditions of this Consent Order.

ULTIMATE HEALTH PLANS, INC.

By: _____

[Corporate Seal]

Print Name: Nancy Gareau

Title: Chief Executive Officer

Date: June 28, 2023

STATE OF FLORIDA

COUNTY OF HERNANDO

The foregoing instrument was acknowledged before me by means of physical presence or online notarization, this 28 day of June 2023, by Nancy Gareau as Chief Executive Officer for Ultimate Health Plans.
(type of authority; e.g., officer, trustee, attorney in fact) (company name)

Melissa Celik

(Signature of Notary)



(Print, Type or Stamp Commission)

Personally Known OR Produced Identification _____

Type of Identification Produced _____

My Commission Expires July 17, 2024

COPIES FURNISHED TO:

TRAVIS MILLER, ESQ.

Radey Law Firm

301 South Bronough St., Suite 200

Tallahassee, FL 32301

Email: tmiller@radeylaw.com

CAROLYN MORGAN

DIRECTOR

Florida Office of Insurance Regulation

L&H Financial Oversight

200 East Gaines Street

Tallahassee, Florida 32399

WILLIAM OGLO

ASSISTANT GENERAL COUNSEL

Florida Office of Insurance Regulation

200 E. Gaines Street

Tallahassee, Florida 32399

Telephone: (850) 413-4142

Email: bill.oglo@floir.com



OFFICE OF INSURANCE REGULATION

MICHAEL YAWORSKY
COMMISSIONER

April 21, 2023

Via certified mail, and by e-mail, to ngareau@ulthp.com

Nancy Gareau
Chief Executive Officer
Ultimate Health Plans, Inc.
1244 Mariner Boulevard
Spring Hill, Florida 34609

RE: Determination on Edward Maszak's ability to serve as chief financial officer

Dear Ms. Nancy Gareau,

The Florida Office of Insurance Regulation ("Office") completed its review of Ultimate Health Plans, Inc. ("Ultimate Health") appointment of Edward Maszak to the position of chief financial officer ("CFO"). After careful consideration, and for the reasons set forth below, the Office concludes that Mr. Maszak is not eligible to serve in the upper management of a Florida-licensed health maintenance organization ("HMO").

As you know, each person serving on an HMO's management team must be vetted by the Office to ensure that he or she is competent and trustworthy and has the requisite experience to assist in the successful operation of the authorized entity. § 641.22(6), Fla. Stat. Ultimate Health submitted a Biographical Affidavit, fingerprints, and authorization for a background check to the Office on April 24, 2020, and, at that time, indicated that Ultimate Health intended to appoint Mr. Maszak to the CFO position as of May 11, 2020. Mr. Maszak has been corresponding with the Office in his capacity as CFO; thus, it appears that Ultimate Health opted to hire Mr. Maszak without obtaining prior approval of the Office.

You are hereby notified that Ultimate Health has 30 days to remove Mr. Maszak from his position as CFO and provide proof of Mr. Maszak's removal to the Office.

Section 641.22(6), Florida Statutes, states (in relevant part):

The ownership, control, and management of the entity is competent and trustworthy and possesses managerial experience that would make the proposed health maintenance organization operation beneficial to the subscribers. The office shall not grant or continue

Exhibit A

CAROLYN MORGAN • DIRECTOR OF LIFE AND HEALTH FINANCIAL OVERSIGHT • OFFICE OF INSURANCE REGULATION
200 EAST GAINES STREET • TALLAHASSEE, FLORIDA 32399-4206 • (850) 413-5233 • FAX (850) 488-7061
WEBSITE: WWW.FLOIR.COM • EMAIL: CAROLYN.MORGAN@FLOIR.COM

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ASHLEY MOODY
ATTORNEY GENERAL

WILTON SIMPSON
COMMISSIONER OF
AGRICULTURE

authority to transact the business of a health maintenance organization in this state at any time during which the office has good reason to believe that:

(a) The ownership, control, or management of the organization includes any person:

1. Who is incompetent or untrustworthy;
2. Who is so lacking in health maintenance organization expertise as to make the operation of the health maintenance organization hazardous to potential and existing subscribers;
3. Who is so lacking in health maintenance organization experience, ability, and standing as to jeopardize the reasonable promise of successful operation;
4. Who is affiliated, directly or indirectly, through ownership, control, reinsurance transactions, or other business relations, with any person whose business operations are or have been marked by business practices or conduct that is to the detriment of the public, stockholders, investors, or creditors; or
5. Whose business operations are or have been marked by business practices or conduct that is to the detriment of the public, stockholders, investors, or creditors;

Mr. Maszak is ineligible for appointment to the position of CFO due to his prior experience as CFO of Florida Healthcare Plus ("Florida Healthcare"), which he failed to account for on the Biographical Affidavit he signed under penalty of perjury.

I. Mr. Maszak's Tenure at Florida Healthcare

Florida Healthcare obtained a Certificate of Authority in 2011 and provided Medicare Advantage and Medicaid Managed Care products in Miami-Dade County, then expanded to other parts of the state. Florida Healthcare had no operating history. Therefore, as a condition of licensure, Florida Healthcare was required to maintain capital and surplus of \$3 million, which was 125% of capital and surplus required by Section 641.225, Florida Statutes.

Mr. Maszak joined Florida Healthcare in December 2013, when the initial management team was replaced. He was CFO on August 13, 2014, when Florida Healthcare filed a second quarter financial statement that reported surplus of \$3,559,444 but included a \$600,000 accounting error. He was CFO on August 15, 2014, when Florida Healthcare infused \$50,000 and filed an amended balance sheet that corrected the accounting error and increased the claims unpaid. He was CFO on August 22, 2014, when Florida Healthcare filed its second amended quarterly financial statement, reporting a surplus of \$2,959,444, which is \$44,556 below the requirement established in Consent Order 116991-11-CO. Mr. Maszak was CFO on August 27, 2014, when the Office issued an Order of Suspension to Florida Healthcare, but he had been terminated by the time the Office issued a Final Order of Suspension on September 29, 2014.

A targeted exam conducted at the HMO's Coral Gables office in September 2014 recommended adjustments of \$14,727,669, resulting in capital and surplus of -\$11,768,225, rendering Florida Healthcare insolvent. Assets were overstated by nearly \$4.9 million while

liabilities were understated by 9.8 million. The Insolvency Report published by the Receiver states: “The results of the examination highlight the ineffectiveness of FHCP’s then Chief Financial Officer, Edward Maszak.”

Florida Healthcare incurred net operating losses from its inception to liquidation, relying on surplus contributions and surplus note transactions to maintain the required capital and surplus. Mr. Maszak signed the jurat page of the 2014 second quarter financial statement, which included large overstatements and understatements in 10 categories, including cash, receivables, and unpaid claims. The Office referred Florida Healthcare to the Florida Department of Financial Services for initiation of delinquency proceedings on October 17, 2014. The Second Judicial Circuit Court in and for Leon County ordered Florida Healthcare into receivership on December 14, 2014, and an Order of Liquidation was entered on January 1, 2015. The Receiver closed the estate on April 29, 2019, after distributing \$13.5 million to claimants seeking \$185 million.

At its peak, Florida Healthcare had about 9,000 subscribers.

Although Mr. Maszak has appropriate credentials – including a Masters’ Degree in Business Administration and licensure as a Certified Public Accountant – he has been associated with a business operation that proved detrimental to the public. § 641.22(6)(a)5, Fla. Stat. His performance at Florida Healthcare demonstrates that he lacks the competence, expertise, and ability to be the CFO of a Florida-licensed HMO. § 641.22(6)(a)1 & 2, Fla. Stat. His tenure at Florida Healthcare gives the Office reason to fear that his presence at Ultimate Health would jeopardize Florida Healthcare’s reasonable promise of success. § 641.22(6)(a)3, Fla. Stat. Thus, the Office cannot approve Mr. Maszak’s appointment as CFO of Ultimate Health.

II. Mr. Maszak’s Biographical Affidavit

Additional problems at Florida Healthcare were uncovered after Mr. Maszak’s termination.

On October 30, 2014, a federal grand jury in Miami indicted Florida Healthcare’s chief operating officer and other managers on 36 counts of health care and wire fraud. The federal investigation determined that Florida Healthcare had been recruiting persons who lived in Nicaragua and the Dominican Republic to enroll in Medicare Advantage Plans and Medicaid, and falsely represent that they lived in Florida. Enrollees travelled to Florida so they could be seen by a primary care physician who provided diagnoses that were used to calculate monthly payments from Medicare and premium subsidies from Medicaid, resulting in more than \$25 million in fraudulent payments. Ten of the 11 conspirators pleaded guilty, while one remained at large.

Mr. Maszak was not indicted as a result of the federal fraud investigation, but it was his job to balance Florida Healthcare’s financial statements, he proved unable to do so, and, if he had any suspicions about his colleagues’ fraudulent activities, he did not mention such suspicions to the Office. Failing to identify fraudulent transactions while attempting to reconcile Florida Healthcare’s financial statements makes Mr. Maszak incompetent or untrustworthy, or both.

Further, Mr. Maszak omitted Florida Healthcare’s troubled history from the Biographical Affidavit he signed under penalty of perjury on April 15, 2020, which Ultimate Health filed with the Office in support of Mr. Maszak’s appointment as CFO.

The Biographical Affidavit, a standard form created by the National Association of Insurance Commissioners, asks the applicant to disclose whether any company where the applicant held a key management position has been the subject of a civil, criminal, administrative, regulatory, or disciplinary action. To this, Mr. Maszak appropriately replied “yes.” Next, the Biographical Affidavit requests details, noting that the applicant’s response should include any events that took place within 12 months of the applicant’s departure. To this, Mr. Maszak replied: “Florida Healthcare Plus paid Administrative fines to Medicare.”

This may be a reference to a \$113,000 fine levied against Florida Healthcare by the Centers for Medicare and Medicaid Services as a sanction for Florida Healthcare’s failure to notify members of upcoming plan changes before open enrollment season. The affidavit provides space for a detailed response, instructs applicants to attach an addendum or separate sheet if the space provided is insufficient to answer a question fully, and warns that incomplete forms can delay the review process or result in rejection of the application. Despite these instructions, Mr. Maszak makes no mention of his prior contacts with the Office concerning his material accounting error, Florida Healthcare’s suspension and subsequent liquidation, or the federal healthcare fraud convictions that resulted in an eight-year prison sentence for Florida Healthcare’s former chief operating officer and sentences of 15 months to four years for the other defendants.

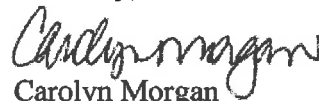
Mr. Maszak’s prior affiliation with Florida Healthcare – an HMO that engaged in business practices and conduct that proved detrimental to the public – makes him ineligible for appointment to the position of CFO at a Florida-licensed HMO. § 641.22(6)(a)5, Fla. Stat. Mr. Maszak’s failure to explain his role in Florida Healthcare’s troubled demise on his Biographical Affidavit is a material omission that makes him untrustworthy. § 641.22(6)(a)1, Fla. Stat. Thus, the Office cannot approve Mr. Maszak’s appointment as CFO of Ultimate Health.

Conclusion: Mr. Maszak is ineligible for appointment as Chief Financial Officer

Due to the standards established by Section 641.22(6)(a)1, 2, 3 & 5, Florida Statutes, the Office cannot approve Mr. Maszak’s appointment as CFO of Ultimate Health.

If Ultimate Health does not voluntarily discontinue its relationship with Mr. Maszak, the Office will initiate an enforcement action for failing to comply with Part I of Chapter 641, Florida Statutes. The law provides three possible sanctions: 1) suspension of Ultimate Health’s authority to enroll new subscribers, 2) revocation of Ultimate Health’s Certificate of Authority, or 3) order compliance within 30 days. § 641.23(2)(a), Fla. Stat.

Sincerely,



Carolyn Morgan
Director, Life and Health Financial Oversight

FLORIDA OFFICE OF INSURANCE REGULATION
NOTICE OF ADMINISTRATIVE RIGHTS

Pursuant to Sections 120.569 and 120.57, Florida Statutes, and Chapter 28-106, Florida Administrative Code, you have the right to request a proceeding to contest this action by the Office of Insurance Regulation (Office) by filing a petition. Your petition must be in writing and directed to:

Anoush Arakalian Brangaccio
General Counsel
200 East Gaines Street
Tallahassee, FL 32399-4206

The petition must be transmitted by U.S. Mail or hand-delivered. Petitions transmitted by facsimile transmission or electronic mail will not be accepted for filing. Your petition challenging this action must be received by the Office at the above address not later than twenty-one (21) days from the date on which you receive this notice. Any document received by the Office before 5:00 p.m. shall be filed as of that day but any document received after 5:00 p.m. shall be filed as of 8:00 a.m. on the next regular business day. If you do not timely file a petition, your right to a proceeding shall be deemed waived and the Office's agency action will be final.

If you desire to challenge this agency action and do not dispute the material facts as found by the Office, you may request a proceeding pursuant to Sections 120.569 and 120.57(2), Florida Statutes. A petition for an administrative proceeding not involving disputed issues of material fact must comply with the content requirements of Section 120.569(1), Florida Statutes, and Rule 28-106.301, Florida Administrative Code.

If you desire to challenge this agency action and dispute the material facts as found by the Office, you may request a proceeding pursuant to Sections 120.569 and 120.57(1), Florida Statutes. A petition for an administrative proceeding involving disputed issues of material fact must comply with the content requirements of Section 120.569(1), Florida Statutes, and Rule 28-106.201, Florida Administrative Code.

A petition that is not in substantial compliance with the applicable rules and statutes will be dismissed.

Any request for an administrative proceeding received prior to the date of this notice shall be deemed abandoned unless timely renewed in compliance with the guidelines as set out above.

Mediation under Section 120.573, Florida Statutes, is not available for this agency action.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing determination letter has been sent by Certified Mail, Return Receipt Requested, to Nancy Gareau, Chief Executive Officer, Ultimate Health Plans, Inc., 1244 Mariner Boulevard, Spring Hill, Florida 34609, on this 21st day of April 21, 2023.



William Oglo
Fla. Bar No. 874876
Assistant General Counsel
Office of Insurance Regulation
200 East Gaines Street
Tallahassee, Florida 32399-4206
Phone: (850) 413-4142
bill.oglo@floir.com

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