STATE OF NORTH DAKOTA

BEFORE THE INSURANCE COMMISSIONER

In the Matter of

Sanford Health Plan,





CASE NO. CO-18-750

Respondent.

Kirk Zimmer, Executive Vice President, Sanford Health Plan, 300 Cherapa TO: Place, Suite 201, Sioux Falls, SD 57103

Insurance Commissioner Jon Godfread (hereinafter "Commissioner") has

determined as follows:

The Commissioner has authority in this matter pursuant to N.D.C.C. §

26.1-01-03.

Sanford Health Plan, FEIN 91-1842494 (hereinafter "Respondent"), is a 2.

health maintenance organization that provides health insurance, is licensed under

N.D.C.C. ch. 26.1-18.1 as a health maintenance organization, and has been duly

authorized to do business in North Dakota since 2010.

The Commissioner has jurisdiction over the Respondent and the subject 3.

matter of this Consent Order and this Consent Order is made in the public interest.

As a result of information obtained by the North Dakota Insurance 4.

Department ("Department") from the respondent, the Commissioner has considered

initiating administrative proceedings regarding Respondent's conduct as alleged below

and regarding the imposition of a civil penalty or any other action the Commissioner

deems necessary. Respondent's conduct is alleged to be in violation of North Dakota

Administrative Rules 45-06-01.1-09, 45-06-01.1-12 and North Dakota Century Code

26.1-26-34.

5. During the course of the investigation, the Department learned that in

2017, two producers sold Medicare Supplement plans to three consumers under the

age of 65 and disabled. This required a specific Medicare Supplement disability plan.

Those plans had not been filed in North Dakota and that violated North Dakota's open

enrollment administrative code. Additionally, one of the producers had been terminated

for cause.

6. NDAC 45-06-01.1-12(1) says "An issuer may not deliver or issue for delivery

a policy or certificate to a resident of this state unless the policy form or certificate form has

been filed with and approved by the commissioner in accordance with filing requirements

and procedures prescribed by the commissioner."

7. NDAC 45-06-01.1-09(1) says

Any issuer may not deny or condition the issuance or effectiveness of any medicare supplement policy or certificate available for sale in this state, or discriminate in the pricing of such a policy or certificate because of the health status, claims experience, receipt of health care, or medical condition of an applicant in the case of an application for a policy or certificate that is submitted prior to or during the six-month period beginning with the first day of the first month in which an individual is both **sixty-five years of age or older** and is enrolled for benefits under medicare part B. Each medicare supplement policy and certificate currently available from an insurer must be made available to all applicants who qualify under this subsection without regard to age. (emphasis added).

8. NDCC 26.1-26-34(1) says

An insurer or authorized representative of the insurer that terminates the

appointment, employment, contract, or other insurance business relationship with an insurance producer shall notify the commissioner within thirty days following the effective date of the termination, using a format prescribed by the commissioner, if the reason for termination is one of the reasons set forth in section 26.1-26-42 or the insurer has knowledge the insurance producer was found by a court, government body, or self-regulatory organization authorized by law to have engaged in any of the activities in section 26.1-26-42. Upon the written request of the commissioner, the insurer shall provide additional information, documents, records, or other data pertaining to the

termination or activity of the insurance producer.

During the course of the investigation, the Department learned that 9.

Respondent did not comply with the administrative codes or the century code outlined

above.

- Respondent has been duly apprised of all allegations. 10.
- Respondent has agreed to an informal disposition of this matter, without a 11.

hearing, as provided under N.D.C.C. § 28-32-22.

12.

For purposes of resolving this matter, without further administrative

proceedings, Respondent and the Commissioner have agreed to enter into the

following Order.

NOW, THEREFORE, IT IS HEREBY ORDERED THAT:

1. Respondent is assessed and shall pay an administrative penalty in the

amount of \$2,500 for violation of NDAC 45-06-01.1-09, \$2,500 for violation of NDAC

45-06-01.1-12 and \$5,000 for violation of NDCC 26.1-26-34 for a total of \$10,000 which

shall be paid within 30 days of the execution of this Order. Payment must be mailed to:

North Dakota Insurance Department, 600 East Boulevard Avenue, Dept. 401,

Bismarck, ND 58505.

2. The use of this Consent Order for competitive purposes by an insurance

producer or agency holding a license in the State of North Dakota, or by any company

holding a Certificate of Authority, or by anyone on their behalf, may be deemed unfair

competition and be grounds for suspension or revocation of said license or authority.

DATED at Bismarck, North Dakota, this <u>6</u> day of <u>Februar</u>, 2018.



CONSENT TO ENTRY OF ORDER

The undersigned, Kirk Zimmer, on behalf of Respondent Sanford Health

Plan, states that he has read the foregoing Consent Order and is authorized by

Respondent to consent to the entry of this Order. The undersigned, on behalf of

Respondent, fully understands the contents and effect of the Consent Order. The

undersigned, on behalf of the Respondent, acknowledges that Respondent has been

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advised of its right to be represented by legal counsel, to request a hearing in this

matter, to present evidence and arguments to the Commissioner, and of its right to

appeal from an adverse determination after hearing. By the signing of this Consent to

Entry of Order, the undersigned, on behalf of Respondent, knowingly and voluntarily

waives those rights in their entirety and knowingly and voluntarily consents to the entry

of this Consent Order by the Insurance Commissioner and agrees to be bound by it. It

is further expressly understood that this Consent Order constitutes the entire settlement

agreement between the parties hereto, there being no other promises or agreements,

either express or implied.

DATED this 27 day of <u>anual</u>, 2018. Sanford Health Plan Hul A. Jum By:

/: Kirk Zimmèr \) Executive Vice President Sanford Health Plan

State of <u>Muth Dakota</u> County of <u>Minnehaha</u> Subscribed and sworn to before me this <u>29</u> day of <u>January</u>, 2018. <u>Rucca Match</u> Notary Public

My commission expires:



