

**Chris Hladick**  
Commissioner

P.O. Box 110800  
Juneau, AK 99811-0800

[www.commerce.alaska.gov](http://www.commerce.alaska.gov)



## Press Release

FOR IMMEDIATE RELEASE

COMMISSIONER'S OFFICE

No. 16-004

Contact: Lori Wing-Heier  
Director, Division of Insurance  
(907) 269-7900  
[lori.wing-heier@alaska.gov](mailto:lori.wing-heier@alaska.gov)

### **Division of Insurance and Moda Negotiate Consent Agreement**

February 8, 2016 JUNEAU – In conjunction with the Oregon Department of Consumer and Business Services (DCBS), the Alaska Division of Insurance came to an agreement over the weekend that outlines a plan for Moda Health Plan Inc. to stabilize its financial position and continue to serve consumers. The agreement means all Moda policyholders will be able to keep their plans; Moda will resume selling and renewing policies to both individual and group customers in Alaska and Oregon.

“By negotiating a consent agreement, we are able to protect consumers while also limiting the disruption to policyholders,” said Lori Wing-Heier, director of the Division of Insurance. “This solution will allow consumers to continue their health coverage with no changes.”

The Oregon Order of Supervision and Alaska Order of Impairment have been lifted and replaced by a single Order of Consent from DCBS (attached). The stipulations in the order will generate a sustainable level of capital and sufficient cash flow for Moda to continue to provide service to policyholders in Alaska and Oregon through 2016. The requirements include:

- Selling a combination of assets to outside parties, making all proceeds available to Moda
- Selling of a portion of federal receivables
- Obtaining surplus notes
- Establishing of a bank deposit in an Alaska bank for the benefit of Alaska policyholders
- Providing additional reporting to DCBS and the Alaska Department of Insurance

If Moda does not complete all requirements as scheduled, regulators retain the ability to take swift action.

“These steps will provide an adequate financial cushion for the company as well as increased regulatory oversight to ensure the company stays on track,” said Patrick Allen, director of the Oregon DCBS.

For Moda policyholders, there is no need to take action; policyholders can continue to access health care services and should submit claims as usual. All premiums, cost-sharing, networks, and benefits in both the individual and group markets will remain the same.

Consumers with questions can contact the Division of Insurance consumer services specialists at 907- 269-7900 or 1-800-INSURAK or by email at [insurance@alaska.gov](mailto:insurance@alaska.gov). Policyholders can also contact Moda directly at 877-605-3229 or via the [Moda website](#).

The Division of Insurance, along with the Division of Banking and Securities, the Division of Corporations, Business and Professional Licensing, the Alcohol and Marijuana Control Office, and the Regulatory Commission of Alaska, is an agency housed within the Alaska State Department of Commerce, Community and Economic Development tasked with protecting consumers in Alaska. For additional information about the division, please visit [commerce.alaska.gov/web/INS](https://commerce.alaska.gov/web/INS). For additional information about the Department of Commerce, Community and Economic Development and its other agencies, please visit [commerce.alaska.gov](https://commerce.alaska.gov).

ATTACHED: Oregon DCBS Consent Order  
Frequently Asked Questions

###

STATE OF OREGON  
DEPARTMENT OF CONSUMER AND BUSINESS SERVICES  
DIVISION OF FINANCIAL REGULATION

In the Matter of:	)	Case No. INS 16-13-002
	)	
MODA HEALTH PLAN, INC.	)	CONSENT ORDER

On January 27, 2016, the Director, Department of Consumer and Business Services (DCBS), having reasonable cause to believe and having determined that Moda Health Plan, Inc. (MODA), an Oregon health care service contractor, was found to be in such condition that its continuation of business with financial results currently reported was hazardous to the public or to its insureds, entered an Order of Immediate Supervision placing MODA under the immediate supervision of the Director (the “Supervision Order”).

In an effort to resolve the hazardous financial condition of MODA, to allow DCBS to release MODA from the Supervision Order, and to restore MODA to compliance with applicable risk based capital standards and trend test requirements, MODA, together with its sole shareholder Moda, Inc. (MODA INC.) and after extensive discussions with DCBS, have filed a Financial Plan of Action of even date with this Order (the RBC Plan). The RBC Plan provides various undertakings and transactions to be completed in the coming weeks and months in order to restore MODA’s risk based capital to levels acceptable under Oregon law and is entitled to confidentiality pursuant to ORS 731.752(2) and other applicable law. The Director has authority under ORS 734.043 to enter into this Consent Order.

## **Transactions and Undertakings**

1. MODA is hereby directed and ordered and hereby agrees to undertake and complete the transactions and undertakings set forth in the RBC Plan, subject in each case to the terms thereof.

2. MODA shall, by completion of the transactions and undertakings set forth in the RBC Plan or otherwise with the consent of DCBS, raise a total amount of not less than \$179,000,000 of additional capital as scheduled in the RBC Plan. The additional capital amounts set forth in this Paragraph shall be determined on an after tax basis, shall be net of all transaction expenses, and may be satisfied by the receipt of transaction proceeds directly by MODA or by contributions to the capital of MODA by MODA INC.

3. At any time upon DCBS's request, MODA shall prepare and deliver to DCBS its updated projected statements of cash flows setting forth management's reasonable estimate of cash flows of MODA through December 31, 2016 and demonstrating MODA's ongoing solvency and ability to pay and satisfy its obligations as they come due.

4. MODA shall deliver to DCBS, the Washington State Office of Insurance Commissioner (OIC), and the Alaska Division of Insurance (DOI) all such additional financial or other information as may be requested by DCBS, the Washington OIC, or the Alaska DOI, including without limitation detailed plans with respect to managing the operating and other expenses of MODA. MODA shall deliver all such requested information within the timeframe set by DCBS, the Washington OIC, or the Alaska DOI, unless MODA demonstrates good cause for additional time to respond to a request.

5. MODA shall make and maintain a deposit in an amount in cash equal to \$15,000,000 for the protection of Alaska policyholders and subject to the requirements of AS 21.24. The funds on deposit pursuant to this Paragraph must be held in a bank and under a form of depository agreement acceptable to the Alaska DOI. The deposit may be made in installments, beginning with an initial installment of \$5,000,000 on or prior to February 16, 2016, an additional installment of \$5,000,000 on or prior to March 15, 2016, and a final installment of \$5,000,000 on or prior to April 15, 2016. Funds held on deposit may not be withdrawn or otherwise removed except by authority of the Alaska DOI. After August 15, 2016, MODA may petition the Alaska DOI for reduction of the required deposit based on updated financial information for MODA.

6. MODA shall comply with the terms, conditions and limitations on the operation of its business as set forth in the RBC Plan, and acknowledges that the RBC Plan is valid and enforceable and remains in full force and effect.

7. MODA shall continue to provide insurance coverage and related services to its individual market policyholders resident in both Oregon and Alaska in accordance with the terms of all outstanding policies, and shall make payment to its providers and other creditors in the ordinary course of business.

#### **Other Provisions**

8. Each of MODA and MODA INC. shall, upon request by DCBS, provide all documentation and information determined by DCBS to be necessary to verify compliance with the terms of this Consent Order or the RBC Plan. Except with the prior written consent of DCBS, MODA shall not, and MODA INC. shall cause MODA not to, increase the salaries or benefits of its executives, officers and directors.

9. The rights and remedies available to any party under this Consent Order or the RBC Plan are cumulative and in addition to, and not exclusive of or in substitution for, any rights or remedies otherwise available at law or in equity. By entering into this Consent Order, DCBS does not waive any right that it may have to take other and further regulatory action with respect to MODA or MODA INC. or any regulated affiliates or subsidiaries, including (a) for any matter unrelated to their financial condition, (b) in the event that their financial condition continues to deteriorate, or (c) in the event that DCBS becomes aware of any fact or facts that cause DCBS to materially alter its assessment of their financial condition or operational integrity.

10. The Supervision Order is terminated.

11. This Consent Order and any dispute hereunder shall be governed by the laws of the State of Oregon, without regard to principles of conflicts of laws.

12. This Consent Order, together with the RBC Plan, constitutes the entire agreement among DCBS, MODA and MODA INC. with respect to the subject matter hereof, and supersedes any prior communication, understanding or agreement, whether written or oral, concerning the matters set forth herein.

13. In the event that any one or more provisions of this Consent Order or the RBC Plan 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 or the RBC Plan.

14. No amendment or waiver of any provision of this Consent Order or the RBC Plan shall be valid unless in writing and signed by the party to be charged with such amendment or waiver. No waiver by any party of any default or breach of any provision of this Consent Order or the RBC Plan, whether intentional or not, shall be deemed to extend to any prior or

subsequent default or breach, or affect in any way any rights arising by virtue of any prior or subsequent such occurrence.

15. This Consent Order may be executed in one or more counterparts, each of which shall be deemed an original and all of which together shall constitute one instrument.

\* \* \*

DATED this 6<sup>th</sup> day of February, 2016.

OREGON DEPARTMENT OF CONSUMER  
AND BUSINESS SERVICES

By: \_\_\_\_\_  
Patrick M. Allen  
Director

MODA HEALTH PLAN, INC.

By: \_\_\_\_\_  
Name:  
Title:

MODA, INC.

By: \_\_\_\_\_  
Name:  
Title:



## Questions and Answers about Moda Health Plan, Inc. (Moda)

Note: These questions and answers will be updated as we receive more information.

Please check back regularly for updates. (Dated 2/8/2016)

### 1) I heard that the Alaska DOI had reached an agreement with Moda. What is happening now?

On February 6<sup>th</sup>, the Oregon DCBS entered a consent order with Moda Health Plan, Inc. This agreement includes certain steps that Moda must take in order to improve their financial stability. The order of impairment issued by the Alaska Division of Insurance (DOI) on January 28, 2016 has been lifted. Moda policyholders will be able to keep their plans. Moda will resume selling and renewing policies to both individual and group customers in Alaska and Oregon.

### INDIVIDUAL MARKET QUESTIONS

#### 2) Will my claims be paid?

Yes. Claims should be submitted as usual.

#### 3) Should I continue to pay my premium?

Yes. You must pay your premium in a timely manner to maintain your coverage.

#### 4) Can I change to another carrier?

Now that open enrollment has ended, you can only change health insurance plans if you experience certain life-changing events, such as a change in family status (for example, marriage or birth of a child) or loss of other health coverage.

#### 5) I have a Moda Health Individual or Family policy. Do I need to switch plans? Will there be a special enrollment period?

No. Since Moda will continue to provide coverage to its individual members through the end of your plan year, there is no need for a special enrollment period.

#### 6) What about consumers who have already switched plans?

We are aware of some consumers who chose to switch plans after hearing the news of the supervision order. Now that open enrollment has ended, you can only change health insurance plans if you experience certain life-changing events, such as a change in family status (for example, marriage or birth of a child) or loss of other health coverage.

#### 7) I am in a special enrollment period and am still shopping for coverage – can I sign up for a Moda plan?

Yes. Moda will resume selling and renewing policies in Alaska.

### GROUP POLICYHOLDER QUESTIONS (MODA HEALTH PLAN THROUGH YOUR EMPLOYER)

#### 8) Our business had a renewal date on February 1st. Did our Moda Health plan renew?

No. For group plans that were scheduled to renew during the order of impairment, Moda coverage was not allowed to renew, and insurance with another company may have been selected by your employer. Please contact your employer for additional information.

**9) Our business has a renewal date in March. Can our Moda plan renew?**

Yes. Moda is allowed to renew group contracts or issue new coverage.

**UTILIZING MY BENEFITS**

**10) I went to the pharmacy to have a prescription filled and they indicated they are no longer accepting Moda. How can I utilize my pharmacy benefits?**

Some health care providers and pharmacies turned away Moda Health Plan members while the order of impairment was in effect. If a pharmacy did not accept your Moda insurance and you paid for the prescription out of pocket, you should contact Moda Pharmacy Customer Service at 1-888-361-1610 or you may access the prescription drug claim form at <https://www.modahealth.com/members/forms.shtml>.

**MARKET QUESTIONS**

**11) Are other companies struggling?**

Nationwide, health insurers experienced losses in 2014 and 2015, as it was challenging to predict claims costs for the first two years of the Affordable Care Act. Payments from the federal risk corridor program were much lower than insurers expected and have impacted some of Alaska's insurers.

The remaining Alaska health insurers are currently meeting regulatory standards for solvency, and the division continues to monitor their financial health.

**12) Are other health insurance companies and their plans at risk of being closed to new enrollees?**

Not at this time.

**13) What other companies offer individual health insurance coverage in Alaska?**

Premera Blue Cross Blue Shield of Alaska and Celtic Insurance Company offer individual plans in Alaska. Celtic Insurance Company, however, has not been able to sell much business in Alaska because their rates are not competitive.

**14) I heard that Premera has laid off employees and reduced customer service staff. Is this true?**

In November, Premera contracted with a customer service vendor named GuideWell Connect to provide customer service to its customers including Alaskans. As a result of this contract, Premera did lay off a small number of staff in Washington State. Premera reports to the division that this change was made to improve efficiency in a highly competitive environment.

**15) Did Alaska's Medicaid Expansion have anything to do with this situation?**

No, the underlying conditions that led to this situation were not created or aggravated by the expansion of Medicaid.

**16) I need health insurance and have been offered a short-term medical plan.**

Short-term medical plans are intended for short periods of time such as when you are between jobs or when newly graduated from school. These plans are not considered Minimum Essential Coverage according to the Affordable Care Act (ACA). You may be subject to a tax penalty if you

choose to enroll in one. Unlike ACA plans, short-term medical plans have pre-existing condition exclusions and annual and lifetime limits. They do not cover such things as prescription drugs, maternity services, and mental health services. The Division of Insurance (DOI) issued a [press release](#) on December 15, 2015 regarding this topic. If you are contacted by someone offering short term health insurance as a replacement for your Moda health plan, you may consider contacting the Alaska DOI Consumer Services section at 907-269-7900 or 1-800-INSURAK to report the solicitation and to confirm whether the agent is licensed to sell insurance.

**17) Someone called me and said they could help me find a new plan and asked me for personal information. What should I do?**

If you receive any unsolicited calls about Moda, do not provide them with any of your personal information. It likely is a scam.

**MORE ABOUT THE CONSENT ORDER**

**18) What steps can the division take if Moda does not fulfill the requirements in the order?**

The agreement stipulates that if Moda were to not complete all requirements as scheduled, the state of Oregon would assume full control of the company to protect consumers and ensure claims are paid. Because Moda is domiciled in Oregon, the Oregon Department of Consumer and Business Services, rather than the Alaska Division of Insurance, would have primary control over the company. The regulatory agencies in the two states would continue to work in close cooperation.

**19) Why should consumers trust that Moda will carry out its agreement to raise adequate capital to pay claims?**

The consent order issued by the Oregon Department of Consumer and Business Services (DCBS) requires steps that will generate a sustainable level of capital for Moda to continue to provide service to policyholders. The business plan outlined in the consent order is based on highly conservative projections and allows for sufficient cash flow even if the company underperforms.

The plan identifies assets to be sold and specifies a timeline. It also requires that the company provide more frequent and more in-depth reports of its financial performance to DCBS and the Alaska Division of Insurance. If Moda fails to meet any deadlines or obligations to consumers, the Alaska Division of Insurance, in partnership with Oregon DCBS, will take swift regulatory action to ensure consumers are protected.

**20) What other details can you provide about the assets Moda must sell to raise adequate capital?**

Confidentiality is required to avoid jeopardizing prospective deals. To say more could disrupt market negotiations and undermine the value of transactions, which would ultimately be detrimental to consumers.

## **OTHER QUESTIONS**

### **21) What role did the risk corridor shortfall play in Moda's financial problems?**

The risk corridor shortfall played a part in Moda's financial issues, but it is not the sole cause. Moda's claim costs for the individual market have been higher than expected. A combination of a number of issues led to Moda's situation.

The risk corridor is a mechanism of the Affordable Care Act requiring profitable insurers to pay a portion of profit to unprofitable insurers. Unfortunately, there were not enough profitable insurers to balance out the unprofitable insurers. For more information, see the following report:

<https://www.cms.gov/CCIIO/Programs-and-Initiatives/Premium-Stabilization-Programs/Downloads/RC-Issuer-level-Report.pdf>.

### **22) How many Moda Health Plan, Inc. consumers are there in Alaska?**

Moda enrolled about 10,000 people in the individual market in 2016. At the end of 2015, Moda had 4,500 members in the group market.

### **23) Why did you alert the public by issuing the Order of Impairment?**

The order of impairment was the first step in the process to remedy Moda's financial problems. Once the Alaska Division of Insurance issued the order, it was a public document. Transparency is important to the division, and we felt we needed to make the public aware of the issue.

### **24) Will Moda offer plans in 2017?**

That will be a business decision for Moda. As with all plans and rates, the Alaska Division of Insurance would need to approve any plans and rates for 2017 before they are made available to consumers. Proposed rates for 2017 are anticipated to be filed in May of 2016, but that does not require the company to offer coverage in 2017.

### **25) Who can I contact for more information?**

Contact Alaska Division of Insurance Consumer Services at 907-269-7900 or 1-800-INSURAK or by email at [insurance@alaska.gov](mailto:insurance@alaska.gov). Consumers may also want to contact Moda Health Plans at 877-605-3229 or <https://www.modahealth.com/members/contact.shtml>.