



State of Wisconsin / OFFICE OF THE COMMISSIONER OF INSURANCE

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Notice of Adoption and Filing of Examination Report

Take notice that the proposed report of the market conduct examination of the

Vision Insurance Plan Of America, Inc.  
1126 South 70th Street Suite N101A  
West Allis, WI 53214-3151

dated January 21, 2002-February 1, 2002, and served upon the company on October 14, 2002, has been adopted as the final report, and has been placed on file as an official public record of this Office.

Dated at Madison, Wisconsin, this 11<sup>th</sup> day of December, 2002.

Connie L. O'Connell  
Commissioner of Insurance

STATE OF WISCONSIN  
OFFICE OF THE COMMISSIONER OF INSURANCE

MARKET CONDUCT EXAMINATION

OF

VISION INSURANCE PLAN OF AMERICA, INC  
WEST ALLIS, WI

JANUARY 21, 2002 - FEBRUARY 1, 2002

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# State of Wisconsin / OFFICE OF THE COMMISSIONER OF INSURANCE

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January 30, 2002

Honorable Connie L. O'Connell  
Commissioner of Insurance  
Madison, WI 53702

Commissioner:

Pursuant to your instructions and authorization, a compliance market conduct examination was made from January 21, 2002 to February 1, 2002 of:

Vision Insurance Plan of America  
West Allis, WI

and the following report is respectfully submitted.

## I. INTRODUCTION

Vision Insurance Plan of America, Inc. (VIPA) is a for-profit network model limited service health organization (LSHO) insurer. VIPA was incorporated July 2, 1992 and commenced business December 15, 1992. It is owned by Vision Twenty-One, Inc. (V21). VIPA provides subscriber-group member enrollees with covered vision care services through a contract with one provider group. All VIPA providers enter into a provider agreement with V21. VIPA offers a limited range of health care coverage, which may be changed by riders to include deductibles and copayments. VIPA's service area is comprised of all counties in Wisconsin.

All of the premium written by the company in 1999 and 2000 was for vision insurance. The following tables summarize the premium written and benefits paid in Wisconsin for 2000 and 1999:

### Wisconsin Premium and Benefits Paid Summary

Line Of Business	2000		
	Direct Premiums	% of WI Total	Direct Losses Paid
Group Policies	\$2,755,103	100%	\$1,545,373
Federal Employees Health Benefits	\$0	0%	\$0
Credit (Group & Individual)	\$0	0%	\$0
Collectively Renewable Policies	\$0	0%	\$0
Other Individual Policies	\$0	0%	\$0
<b>Total</b>	<b>\$2,755,103</b>	<b>100%</b>	<b>\$1,545,373</b>

Line Of Business	1999		Direct Losses Paid
	Direct Premiums	% of WI Total	
Group Policies	\$1,578,994	100%	\$946,287
Federal Employees Health Benefits	\$0	0%	\$0
Credit (Group & Individual)	\$0	0%	\$0
Collectively Renewable Policies	\$0	0%	\$0
Other Individual Policies	\$0	0%	\$0
<b>Total</b>	<b>\$1,578,994</b>	<b>100%</b>	<b>\$946,287</b>

### Complaints

The Office of the Commissioner of Insurance (OCI) received no complaints against Vision Insurance Plan of America between January 1, 2000 and December 31, 2001. A complaint is defined as "a written communication received by the Commissioner's Office that indicates dissatisfaction with an insurance company or agent."

### Grievances

The company submitted annual grievance summary reports to OCI for 1999 and 2000 as required by s. Ins 18.06, Wis. Adm. Code. A grievance is defined as "any dissatisfaction with the provision of services or claims practices of an insurer offering a health benefit plan or administration of a health benefit plan by the insurer that is expressed in writing to the insurer by, or on behalf of, an insured."

#### **Grievance Categories**

<b>Grievances</b>	<b>Plan Administration</b>	<b>Benefit Denial</b>	<b>Total</b>
2000	0	0	0
1999	0	1	1

## **II. PURPOSE AND SCOPE**

The market conduct examination was conducted in order to verify compliance with the recommendations made by the market conduct examiners in the financial examination report of VIPA's business as of December 31, 1994. The scope of the examination was limited to a review of company operations/management, electronic commerce, grievances, managed care, marketing, sales and advertising, policyholder service & complaints, and producer licensing. The period of review focused on insurance transactions conducted during the period from January 1, 2000 through December 31, 2001. In addition, the examination included a review of any subsequent events deemed important by the examiner-in-charge during the examination.

The report is prepared on an exception basis and comments on those areas of the company's operations where adverse findings were noted.

### III. SUMMARY OF PRIOR EXAMINATION RECOMMENDATIONS

The previous financial examination report, as adopted January 1997, contained eight market conduct recommendations, which covered the period of time from incorporation in 1992 through December 31, 1994. VIPA's compliance with the prior recommendations is noted below:

1. Provider Agreements – It is recommended that the Plan submit to OCI for review a copy of amended provider agreements which include language requiring the provider to identify complaints and grievances and to forward these to the Plan for recording and resolution. [s. Ins 3.52 (10) (g) 2, Wis. Adm. Code]

Action - non-compliance

2. Provider Agreements – It is recommended that the Plan submit to OCI for review a copy of its Administrative Services and Management Agreement including language requiring that complaints and grievances be identified and forwarded to the Plan for recording and resolution. [s. Ins 3.52 (10) (g) 2, Wis. Adm. Code]

Action - compliance

3. Marketing – It is recommended that the Plan identify all advertisements by a form number. [s. Ins 3.27 (26), Wis. Adm. Code]

Action – non-compliance

4. Marketing – It is recommended that the Plan use its corporate name, Vision Insurance Plan of America, Inc., in all of its advertisements. [s. Ins 3.27 (12), Wis. Adm. Code]

Action - compliance

5. Marketing – It is recommended that the Plan develop a termination procedure for agents so that both OCI and the agent are notified of termination, and that the agent receives a request for return of indicia. [s. Ins 6.57 (2), Wis. Adm. Code]

Action – non-compliance

6. Grievances and Complaints – It is recommended that the Plan date stamp with the date of receipt all incoming correspondence involving grievances. [s. Ins 3.52 (10), Wis. Adm. Code]

Action – compliance

7. Grievances and Complaints – It is recommended that the Plan maintain a log of all complaints. [s. Ins 3.52 (10) (g), Wis. Adm. Code]

Action – non-compliance

8. Quality Assurance – It is recommended that the Plan revise its provider agreements so that they accurately reflect the quality assurance peer review requirements for provider participation.

Action – compliance



## IV. CURRENT EXAMINATION FINDINGS

Effective March 1, 2000, the market conduct requirements previously contained in s. Ins 3.52, Wis. Adm. Code, were incorporated into subchapter III of ch. 9, Wis. Adm. Code. Effective December 1, 2001, s. Ins 9.33, Wis. Adm. Code, was repealed and recreated as subchapter II of ch. 18, titled grievance procedures. This report references cites in the administrative code as currently drafted.

### **Managed Care**

The examiners reviewed VIPA's administrative services agreement and provider services agreement with Vision Twenty-One, Inc., the Vision Twenty-One Corp. provider agreement, master group contract and member plan brochures. The examiners also reviewed VIPA's provider directory, provider manual, telephone access procedures, managed care interrogatory, and privacy and confidentiality requirements. Ophthalmologists and optometrists contract directly with Vision Twenty-One, Inc. to provide services to VIPA enrollees. The company stated that Vision Twenty-One, Inc., maintained copies of individual provider agreements at 120 W. Fayette Street, Suite 700, Baltimore, MD 21201. The examiners did not review individual provider files.

The examiners found that VIPA did not have a process that meets the requirements of s. Ins 9.42 Wis. Adm. Code and s. Ins 9.42 (6) (d), Wis. Adm. Code. Section Ins 9.42, Wis. Adm. Code requires that limited service health organization insurers are responsible for compliance with s.632.83, Wis. Stat. and shall establish a compliance program and procedures to verify compliance.

1. It is recommended that VIPA develop and implement a compliance program and procedures to verify compliance pursuant to s. Ins. 9.42, Wis. Adm. Code.

The examiners found that the company did not have a procedure regarding the protection of confidential records and enrollee communication. The company stated that it did not have such a procedure because during the period of review it did not acquire copies of

enrollee medical records for claims handling. Section 610.70 (5), Wis. Stat. states that any disclosure by an insurer of personal medical information concerning an individual shall be consistent with the individual's signed disclosure authorization form.

2. It is recommended that VIPA develop and implement a procedure to protect the confidentiality of enrollee personal medical information and pursuant to s. 610.70 (5), Wis. Stat.

## Grievances and Complaints

The company stated that its sales and marketing department and its operations department are responsible for participating in the grievance process. The examiners reviewed VIPA's administrative services agreement and provider services agreement with Vision Twenty-One, Inc., the Vision Twenty-One Corp. provider agreement, member plan brochures, and responses to the grievance and to the policyholder service and complaints interrogatories.

The examiners found that VIPA's administrative services agreement with Vision Twenty-One, Inc., and the provider services agreement between VIPA and Vision Twenty-One, Inc. included language regarding identifying and forwarding complaints and grievances to the insurer. However, the agreements incorrectly referenced s. Ins 3.52 (10) (g) 2, Wis. Adm. Code, which was renumbered to s. Ins 18.03 (2) (c) 1. a., Wis. Adm. Code.

3. It is recommended that VIPA review its provider agreements and delete any references to s. Ins 3.52, Wis. Adm. Code, and include in its place the correct cite under s. Ins 18.03, Wis. Adm. Code.

The examiners found that the contract language in the Vision Twenty-One Corp. provider agreement did not include language requiring the provider to identify complaints and grievances and to forward these to the plan for recording and resolution as required by s. Ins 3.52 (10) (g) 2, Wis. Adm. Code, as was recommended in the prior examination report.

4. It is again recommended that VIPA submit to OCI for review a copy of amended provider agreements that include language requiring the provider to identify complaints and grievances and to forward these to the plan for recording and resolution, in order to comply with the prior examination recommendation and s. Ins 3.52 (10) (g) 2, Wis. Adm. Code, renumbered as s. Ins 18.03 (2) (c) 1. a., Wis. Adm. Code.

The examiners found that VIPA's explanation of benefits (EOB) form did not contain grievance language. The company stated that it was the responsibility of network providers to inform enrollees of their grievance rights. The company stated it sends EOBs to enrollees for services received from a non-network provider. The examiners found that neither the EOB for in-network services nor the EOB for non-network services contained grievance language.

Section Ins 18.03 (2) (a), Wis. Adm. Code, requires that an enrollee be notified of the right to file a grievance each time a claim is denied or disenrollment proceedings are initiated.

5. It is recommended that VIPA develop and implement a procedure to ensure that an enrollee is notified of the right to file a grievance each time a claim is denied or disenrollment proceedings are initiated, in order to comply with s. Ins 18.03 (2) (a), Wis. Adm. Code.

The examiners also reviewed the company's brochure (form 100280692) that explains the grievance process, and is given to enrollees with their identification card upon enrollment. The sales and marketing department and the operations department are responsible for participating in the grievance process.

The examiners reviewed VIPA's brochure (form #100290692) that is given with the identification card at the time of enrollment. The brochure states that, "Any participant may file a grievance with VIPA by telephone, in person or in writing..." and defines a grievance as, "...a complaint about VIPA or a VIPA provider. Section Ins.18.01 (4), Wis. Adm. Code defines a grievance as any dissatisfaction with the provision of services or claims practices of an insurer offering a health benefit plan or administration of a health benefit plan by the insurer that is expressed in writing to the insurer by, or on behalf of, an insured.

6. It is recommended that VIPA develop and adopt a definition of a grievance that complies with s. Ins.18.01 (4), Wis. Adm. Code.

The examiners requested a listing of all grievances received for the period of review. The company reported zero grievances in its grievance experience report for 2000. It also stated that it had not received any grievances during the period January 2001 to February 1, 2002.

The examiners requested from the company but did not receive a complaint log, complaint files or records. The company stated that it maintains records regarding the receipt and resolution of oral complaints, and that it did not maintain a log. The previous market conduct examination report recommended that VIPA maintain a log of all complaints. Section Ins 18.06 (1), Wis. Adm. Code, provides that managed care plans, preferred provider plans, and

limited service health organizations shall record, retain, and report records for each complaint and grievance.

7. It is again recommended that VIPA maintain a log of all complaints, as required by s. Ins 18.06 (1), Wis. Adm. Code.

The examiners found that the company's internal procedures and processes for resolving grievances and complaints did not define the terms "grievances" and "complaints" in accordance with the definitions in Wisconsin insurance law. Section Ins.18.01 (4), Wis. Adm. Code, defines a grievance. Section Ins.18.01 (2), Wis. Adm. Code defines a complaint as any expression of dissatisfaction expressed to the insurer by the insured, or an insured's authorized representative, about an insurer or its providers with whom the insurer has a direct or indirect contract.

8. It is recommended that VIPA institute grievance and complaint procedures and processes that use the definitions that comply with s. Ins 18.01 (2) (4) and (5), Wis. Adm. Code.

## **Electronic Commerce**

The examiners reviewed VIPA's response to the electronic commerce interrogatory, and VIPA's website on the Internet. The examiners found that the company's website included provider network information, sample benefit plans, VIPA's quality statement, a provider relations page, information regarding contacting VIPA, and staff names and company department email addresses, and a link to the parent company, V21. The website included an enrollment form, a termination of coverage form, and a change of status form that can be downloaded and faxed back to the company.

No exceptions were noted.

## **Marketing Sales & Advertising**

The examiners reviewed VIPA's advertising file and found 2 advertisements that did not include a form number. The company offered no explanation for the lack of form numbers. Section Ins 3.27 (26), Wis. Adm. Code, provides that an advertisement which is an invitation to apply or an invitation to inquire and which is mass-produced shall be identified by a form number. The form number shall be sufficient to distinguish it from any other advertising form or any policy, application or other form used by the insurer.

9. It is again recommended that VIPA identify all advertisements by distinct form numbers, as required by s. Ins 3.27 (26), Wis. Adm. Code.

## **Producer Licensing**

The examiners reviewed the sample copies of the company's agent termination letters, a random sample of agent files, and the company responses to the interrogatory questions, and the monthly premium billing report. The examiners also compared the VIPA agent database to the OCI agent database.

The examiners found that the company's termination letters to its agents did not include a formal demand for the return of all indicia of agency. The previous market conduct examination report recommended that the company develop a termination procedure for agents so that both OCI and the agent were notified of termination, and that the agent receives a request for return of indicia. Section Ins 6.57 (2), Wis. Adm. Code, provides that the notice of termination of appointment of individual intermediary shall include a formal demand for the return of all indicia of agency.

10. It is again recommended that VIPA develop a termination procedure for agents so that both OCI and the agent are notified of termination, and that the agent receives a request for return of indicia as required by s. Ins 6.57 (2), Wis. Adm. Code.

The examiners found that in the January 2002 premium billing report 11 of 58 agents on the company's premium billing report were not listed by VIPA with OCI and were not included in the OCI agent database. Section Ins 6.57 (5), Wis. Adm. Code, states that no insurer shall accept business directly from any intermediary unless that intermediary is a licensed agent listed with that company.

11. It is recommended that VIPA develop and implement a procedure to ensure that it does not accept business directly from any intermediary unless that intermediary is a licensed agent listed with that company pursuant to s. Ins 6.57 (5), Wis. Adm. Code.

The examiners requested from the company a random sample of 50 agent files. The company failed to provide 23 of the 50 requested agent files. Section 601.42, Wis. Stat., requires that an insurer make available any documents requested by or on behalf of the commissioner.



12. It is recommended that VIPA institute a process to ensure that it maintains documentation that its agents have active licenses and listings in order to document compliance with s. 601.42, Wis. Stat.

The examiners requested from VIPA a listing of all agents licensed and appointed in Wisconsin at any time during the examination period. The agent licensing data provided by VIPA was compared to the agents' database maintained by OCI. The examiners found that 3 agents that VIPA showed as active with the company did not have active listings with VIPA in OCI's agents' database. Section Ins 6.57 (1), Wis. Adm. Code, provides that submission of an application for an intermediary-agent appointment shall initiate the appointment of an agent in accordance with s. 628.11, Wis. Stat. The application shall be submitted to the office of the commissioner of insurance on or before the date of appointment and shall show the lines of authority being requested for that agent.

13. It is recommended that VIPA develop and implement procedures for maintaining accurate agent listings in order to comply with s. 628.11, Wis. Stat. and s. Ins 6.57 (1), Wis. Adm. Code.

## **V. CONCLUSION**

The findings of this examination show that VIPA failed to comply with 4 recommendations of the previous market conduct examination. This compliance examination resulted in a total of 13 recommendations in the areas of grievances and complaints, marketing, sales and advertising, and producer licensing.

## **VI. SUMMARY OF RECOMMENDATIONS**

### **Managed Care**

1. It is recommended that VIPA develop and implement a compliance program and procedures to verify compliance pursuant to s. Ins. 9.42, Wis. Adm. Code.
2. It is recommended that VIPA develop and implement a procedure to protect the confidentiality of enrollee medical records and enrollee communication pursuant to s. 610.70 (5), Wis. Stat.
3. It is recommended that VIPA review its provider agreements and delete any references to s. Ins 3.52, Wis. Adm. Code, and include in its place the correct cite under s. Ins 18.03, Wis. Adm. Code.
4. It is again recommended that VIPA submit to OCI for review a copy of amended provider agreements that include language requiring the provider to identify complaints and grievances and to forward these to the plan for recording and resolution, in order to comply with the prior examination recommendation and s. Ins 3.52 (10) (g) 2, Wis. Adm. Code, renumbered as s. Ins 18.03 (2) (c) 1. a., Wis. Adm. Code.
5. It is recommended that VIPA develop and implement a procedure to ensure that an enrollee is notified of the right to file a grievance each time a claim is denied or disenrollment proceedings are initiated, in order to comply with s. Ins 18.03 (2) (a), Wis. Adm. Code.
6. It is recommended that VIPA develop and adopt a definition of a grievance that complies with s. Ins 9.01 (5), Wis. Adm. Code.
7. It is again recommended that VIPA maintain a log of all complaints, as required by s. Ins 18.06 (1), Wis. Adm. Code.
8. It is recommended that VIPA institute grievance and complaint procedures and processes that use the definitions that comply with s. Ins 9.01 (3) and (5), Wis. Adm. Code.

### **Marketing, Sales, and Advertising**

9. It is again recommended that VIPA identify all advertisements by distinct form numbers, as required by s. Ins 3.27 (26), Wis. Adm. Code.

## **Producer Licensing**

10. It is again recommended that VIPA develop a termination procedure for agents so that both OCI and the agent are notified of termination, and that the agent receives a request for return of indicia as required by s. Ins 6.57 (2), Wis. Adm. Code.
11. It is recommended that VIPA develop and implement a procedure to ensure that it does not accept business directly from any intermediary unless that intermediary is a licensed agent listed with that company pursuant to s. Ins 6.57 (5), Wis. Adm. Code.
12. It is recommended that VIPA institute a process to ensure that it maintains documentation that its agents have active licenses and listings in order to document compliance with s. 601.42, Wis. Stat.
13. It is recommended that VIPA develop and implement procedures for maintaining accurate agent listings in order to comply with s. 628.11, Wis. Stat. and s. Ins 6.57 (1), Wis. Adm. Code.

## VII. ACKNOWLEDGEMENT

The courtesy and cooperation extended during the course of the examination by the officers and employees of the company is acknowledged.

In addition to the undersigned, the following representatives of the Office of the Commissioner of Insurance, state of Wisconsin, participated in the examination.

<b>Name</b>	<b>Title</b>
Diane Dambach	Section Chief

Respectfully submitted,

Marcia Zimmer  
Examiner-in-Charge