

No. **2022-7271**

**Official Order  
of the  
Texas Commissioner of Insurance**

**Date: 03/21/2022**

**Subject Considered:**

UnitedHealthcare Community Plan of Texas, L.L.C.  
9800 Health Care Lane  
MN006-W500  
Minnetonka, Minnesota 55343-4542

Consent Order  
TDI Enforcement File No. 26780

**General remarks and official action taken:**

This is a consent order with UnitedHealthcare Community Plan of Texas, LLC (UHC). The Texas Department of Insurance (TDI) conducted a triennial quality of care examination and found multiple violations, including repeat violations found in prior exams. UHC has agreed to pay a \$150,000 administrative penalty.

**Waiver**

UHC acknowledges that the Texas Insurance Code and other applicable laws provide certain rights. UHC waives all these rights, and any other applicable procedural rights, in consideration of the entry of this consent order.

**Findings of Fact**

1. TDI issued UHC a basic health maintenance organization (HMO) license number 95598, effective August 9, 2001.
2. UHC exclusively writes Children's Health Insurance Program (CHIP).

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### 2014 Triennial Examination

3. TDI conducted a triennial quality of care examination of UHC Community Plan for the period beginning April 6, 2011, and ending April 7, 2014.
4. TDI issued the 2014 Triennial Final Examination Report on July 31, 2014.

### 2016 Triennial Examination

5. TDI conducted a triennial quality of care examination of UHC for the period beginning April 7, 2014, and ending December 31, 2016.
6. TDI issued the 2016 Triennial Final Examination Report on June 18, 2018.
7. Commissioner Order No. 2020-6482 addressed the violations found in the 2016 triennial examination. The order imposed a \$100,000 administrative penalty.

### 2019 Triennial Examination

8. TDI conducted another triennial quality of care examination of UHC for the period beginning January 1, 2017, and ending December 31, 2019.
9. On August 5, 2020, TDI held an exit conference call with UHC to discuss the 2019 examination findings. Sample files reviewed during this examination were dated after the implementation of UHC's corrective action plan from the 2016 examination.
10. TDI issued the 2019 Triennial Final Examination Report on September 22, 2020.

### 2019 Examination Findings

11. TDI found that UHC failed to timely implement some corrective action plans provided in the previous examination.
12. TDI reviewed 39 adverse determinations to determine statutory compliance.
13. In 20 percent (8 of 39) of adverse determinations staff reviewed, UHC's utilization review agent (URA) did not provide the health care provider a reasonable opportunity, no less than one working day prior to the prospective utilization

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review adverse determination, to discuss with a physician the patient's treatment plan. These were repeat violations found in the last examination.

14. In 25 percent (10 of 39) of adverse determinations staff reviewed, UHC's URA did not issue and transmit the determination by the third working day after the date the request was received by UHC. These were repeat violations found in the last examination.
15. In 5 percent (2 of 39) of adverse determinations staff reviewed, UHC's URA did not provide the professional specialty of the physician, doctor, or other health care provider that made the adverse determination on the written notice. These were repeat violations found in the last examination.
16. In 20 percent (1 of 5) of adverse determination appeal files staff reviewed, UHC's URA did not provide the appealing party a letter acknowledging the date the appeal was received within five working days. These were repeat violations found in the last examination.
17. TDI reviewed 25 complaint files to determine statutory compliance.
18. In 8 percent (2 of 25) of the complaints staff reviewed, UHC did not send an acknowledgment letter by the fifth business day after the complaint was received by UHC. These were repeat violations found in the last examination.
19. In 8 percent (2 of 25) of the complaints staff reviewed, UHC did not include a one-page complaint form that prominently and clearly stated that the form must be returned to UHC for prompt resolution of the complaint. These were repeat violations found in the last examination.
20. In 36 percent (9 of 25) of the complaints staff reviewed, UHC did not provide a response letter that contained a complete description of the process for appeal, including the deadlines for the appeals process and the deadlines for the final decision on the appeal. These were repeat violations found in the last examination.
21. UHC submitted a corrective action plan on October 22, 2020, to address the deficiencies cited in the final examination report issued by TDI. UHC represents that it has fully implemented the corrective action plan sent to TDI by December 1, 2020.

**Conclusions of Law**

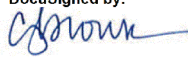
1. The commissioner has jurisdiction over this matter pursuant to TEX. INS. CODE §§ 31.002, 82.051-82.055, 84.021-84.022, 401.055, 843.252, 843.253, 1272.056, and 4201.206; 28 TEX. ADMIN. CODE §§ 11.2603, 19.1703, 19.1710, and 19.1711; and TEX. GOV'T CODE §§ 2001.051-2001.178.
2. The commissioner has authority to informally dispose of this matter as set forth in TEX. GOV'T CODE § 2001.056; TEX. INS. CODE §§ 36.104 and 82.055; and 28 TEX. ADMIN. CODE § 1.47.
3. UHC has knowingly and voluntarily waived all procedural rights to which it may have been entitled regarding the entry of this order, including, but not limited to, issuance and service of notice of intention to institute disciplinary action, notice of hearing, a public hearing, a proposal for decision, rehearing by the commissioner, and judicial review.
4. UHC violated 28 TEX. ADMIN. CODE § 11.303(c)(5) by failing to timely correct the deficiencies within 90 days as required.
5. UHC violated TEX. INS. CODE § 4201.206 and 28 TEX. ADMIN. CODE §§ 19.1703(b)(26)(A) and 19.1710 because it failed to provide evidence that the URA provided the provider of record a reasonable opportunity to discuss the plan of treatment of the enrollee prior to issuing the adverse determination.
6. UHC violated TEX. INS. CODE § 4201.304(2) and 28 TEX. ADMIN. CODE § 19.1709(d) because the URA failed to provide written notice of the adverse determination within three days working days.
7. UHC violated 28 TEX. ADMIN. CODE § 19.1709(b)(4) because the URA failed to provide the professional specialty of the physician, doctor, or other health care provider that made the adverse determination on the written notice.
8. UHC violated TEX. INS. CODE § 4201.355(a) and 28 TEX. ADMIN. CODE § 19.1711(a)(3)(A) because the URA did not provide the appealing party a letter acknowledging the date the appeal was received within five working days.
9. UHC violated TEX. INS. CODE § 843.252(a) because it did not send an

acknowledgement letter by the fifth business day after the complaint was received.

10. UHC violated TEX. INS. CODE § 843.252(b)(2) because it failed to include a one-page complaint form that prominently and clearly stated that the form must be returned to the UHC for prompt resolution of the complaint.
11. UHC violated TEX. INS. CODE § 843.253(b)(4) because its complaint resolution letter failed to include a complete description of UHC's appeal process, including the deadlines for the appeal process and the deadlines for the final decision on the appeal.

**Order**

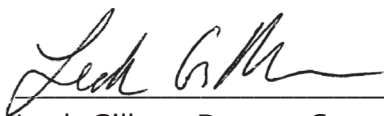
It is ordered that UnitedHealthcare Community Plan of Texas, LLC must pay an administrative penalty of \$150,000 within 30 days from the date of this order. The administrative penalty must be paid as instructed in the invoice, which the department will send after entry of this order.

DocuSigned by:  
  
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Cassie Brown  
Commissioner of Insurance

Recommended and reviewed by:



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Leah Gillum, Deputy Commissioner  
Enforcement Division



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Patrick Quigley, Staff Attorney  
Enforcement Division

**STATE OF TEXAS** §

§

**COUNTY OF HARRIS** §

Before me, the undersigned authority, personally appeared Donald Langer, who being by me duly sworn, deposed as follows:

"My name is Donald Langer. I am of sound mind, capable of making this statement, and have personal knowledge of these facts which are true and correct.

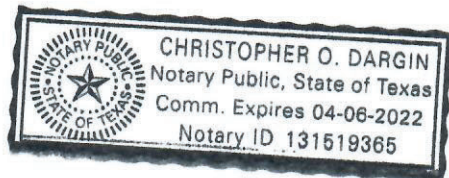
I hold the office of Health Plan CEO and am the authorized representative of UnitedHealthcare Community Plan of Texas, LLC. I am duly authorized by said organization to execute this statement.


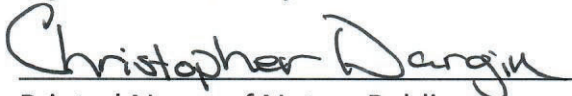
UnitedHealthcare Community Plan of Texas, LLC has knowingly and voluntarily entered into the foregoing consent order and agrees with and consents to the issuance and service of the same by the commissioner of insurance of the state of Texas."

  
Affiant

SWORN TO AND SUBSCRIBED before me on February 17, 2022.

(NOTARY SEAL)



  
Signature of Notary Public  
  
Printed Name of Notary Public