

No. **2023-8026**

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

Date: 6/16/2023

Subject Considered:

Scott and White Health Plan 1206
W Campus Dr
Temple, Texas 76502

Consent Order
TDI Enforcement File No. 25937

General remarks and official action taken:

This is a consent order with Scott and White Health Plan (SWHP) for violations found in a triennial quality of care examination. SWHP's current examination found repeat and additional violations. SWHP has agreed to pay a \$125,000 administrative penalty.

Waiver

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

Findings of Fact

Licensure and Background

1. SWHP holds a basic service health maintenance organization certificate of authority, issued by the department on October 13, 1981.
2. This triennial quality of care examination covers activity between January 1, 2018, and December 31, 2019.

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3. SWHP submitted a corrective action plan to the department after the exam.

Previous Examinations

2014 Triennial Examination

4. The department conducted a triennial quality of care examination of SWHP for the period beginning April 12, 2012, and ending December 31, 2014.
5. Commissioner Order No. 2018-5529, dated May 29, 2018, addressed multiple violations. The order imposed an administrative penalty of \$90,000.

2017 Triennial Examination

6. The department conducted a triennial quality of care examination of SWHP for the period beginning January 1, 2015, and ending December 31, 2017.
7. Commissioner Order No. 2020-6443, dated August 20, 2020, addressed multiple violations. One such violation was a repeat violation identified during the 2014 triennial examination. The order imposed an administrative penalty of \$200,000.

Initial Adverse Determinations

8. The department sampled and reviewed 30 initial adverse determinations.
9. In 33% (10 of 30) of the sample, the utilization review agent failed to issue the adverse determination on a request for preauthorization within three calendar days of receiving the request.
10. SWHP's previous examinations found similar violations. In SWHP's 2017 triennial examination, 24% (6 of 25) of the sample, an initial adverse determination was issued late.

Adverse Determination Appeals

11. The department sampled and reviewed 22 adverse determination appeals.
12. In 55% (12 of 22) of the sample, the utilization review agent failed to include in the appeal acknowledgment letter, a list of relevant documents that must be submitted

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by the appealing party. SWHP's previous examinations found similar violations. In the previous examination, 50% (1 of 2) of the adverse determination appeals reviewed were in violation.

13. In 5% (1 of 22) of the sample, SWHP did not have a physician licensed to practice medicine make the decision on the appeal; instead a nurse made the determination.
14. In 14% (3 of 22) of the sample, SWHP failed to send the written notice to the enrollee's provider of record.
15. In 5% (1 of 22) of the sample, SWHP failed to include the screening criteria that was utilized in making the determination.

Sample Claims Review

16. The department sampled and reviewed 50 claims, eight of which were paid late.
17. In 100% (8 of 8) of the late paid claims, SWHP failed to pay the applicable penalty and interest at the time of the exam but has since paid all penalties and interest mentioned below.
 - a. Of the eight late paid claims, seven noninstitutional claims paid between one and 45 days late SWHP did not pay the applicable penalty. In SWHP's previous examination, 3% (1 of 35) were in violation.
 - b. Of the eight late claims, one institutional claim paid between one and 45 days late SWHP did not pay the applicable penalty.
18. In 13% (6 of 45) of the sample, SWHP failed to provide an explanation of benefits. In a previous examination, 3% (1 of 35) of the sample were in violation.
19. In 2019, SWHP received a total of 145,107 claims of which 378 (.26%) were paid late. In 99% (376 of 378) of those late paid claims SWHP did not pay prompt pay penalties and interest.
20. During the exam, SWHP explained that an error in its claims processing environment was the root cause of the issue and had been remedied. SWHP has paid these penalties and interest.

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21. In less than 1% (34 of 145,107) of the 2019 claims reviewed, SWHP denied claims as experimental and investigational and failed to treat them as adverse determinations.

Non-Network Claims

22. The department sampled reviewed 13 non-network claims.
23. In 85% (11 of 13) of the sample, SWHP provided an enrollee an explanation of benefits that included a remark code indicating a payment made to a non-network provider and did not include the number for the department's consumer protection division for complaints regarding payment.

Initial Complaints

24. The department sampled and reviewed 10 initial complaints.
25. In 30% (3 of 10) of the sample, SWHP did not send, sent late, or included incorrect information in the acknowledgment letter. In its 2017 triennial quality of care examination, 68% (15 of 22) of the sample were in violation.
26. In 10% (1 of 10) of the sample, SWHP sent the resolution letter later than the 30th calendar day after receipt. In its 2017 triennial quality of care examination, 23% (5 of 22) of the sample were in violation.
27. In 10% (1 of 10) of the sample, SWHP did not include the appeals process in the complaint resolution letter. In its 2017 triennial quality of care examination, 82% (18 of 22) of the sample were in violation.
28. In 20% (2 of 10) of the complaints reviewed, SWHP denied a claim as experimental or investigational and failed to treat the claim as an adverse determination.

Complaint Appeals

29. The department sampled and reviewed six complaint appeals.
30. In 17% (1 of 6) of the sample, SWHP did not send the appeal acknowledgment letter by the fifth business day after receipt.

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31. In 33% (2 of 6) of the sample, SWHP sent the complainant the information relating to the complaint appeal panel later than the fifth business day before the date the appeal panel was scheduled to meet.

Health Care Provider Credentialing

32. In 8% (1,040 of 13,815) of credentialing dates provided in SWHP's provider list, SWHP failed to recredential physician/providers within 36 months of the previous credentialing decision.

Conclusions of Law

1. The commissioner has jurisdiction over this matter under TEX. INS. CODE Chs. 82, 84, 841, 843, 1451, 1452, 1456, and 4201, and 28 TEX. ADMIN. CODE Chs. 11, 19, and 21.
2. The commissioner has the 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. SWHP 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. SWHP violated 28 TEX. ADMIN. CODE § 19.1711(a)(3)(C) because its utilization review agent failed to include a list of relevant documents that must be submitted by the appealing party to the utilization review agent on the appeal acknowledgement letter.
5. SWHP violated 28 TEX. ADMIN. CODE § 19.1711(a)(3)(C) by failing to send the appeal acknowledgement letter by the fifth business day after receipt.
6. SWHP violated 28 TEX. ADMIN. CODE § 19.1711(a)(8)(C) by failing to include in the response letter the screening criteria that was utilized in making the determination.
7. SWHP violated TEX. INS. CODE § 843.252(a) by failing to send, sending late, or including incorrect information in the complaint acknowledgment letter.

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8. SWHP violated TEX. INS. CODE § 843.252(c) by sending the resolution letter later than the 30th calendar day after receipt.
9. SWHP violated TEX. INS. CODE § 843.254 by failing to provide the appeals process to a complainant who was not satisfied with the resolution of the complaint.
10. SWHP violated TEX. INS. CODE § 843.256 by sending the complainant information relating to the complaint appeal panel later than the fifth business day before the date the appeal panel was scheduled to meet.
11. SWHP violated TEX. INS. CODE § 843.348(d) and 28 TEX. ADMIN. CODE § 19.1718(d)(1) because its utilization review agent failed to issue the adverse determination within three calendar days of receiving the request.
12. SWHP violated TEX. INS. CODE §§ 1452.002, 1452.006, 28 TEX. ADMIN. CODE § 11.1902(4), and the National Committee of Quality Assurance Credentialing Standards when it did not recredential physician/providers within 36 months of the previous credentialing decision.
13. SWHP violated TEX. INS. CODE § 1456.003(d) by failing to include the number for the department's consumer protection division for complaints regarding payment in its explanation of benefits that included a remark code indicating a payment made to a non-network provider sent to an enrollee.
14. SWHP violated TEX. INS. CODE Chap 4201 and 28 TEX. ADMIN. CODE Ch. 19, Subchapter R by denying a claim for experimental or investigational treatment and not treating it as an adverse determination.
15. SWHP violated TEX. INS. CODE § 4201.356(a) and 28 TEX. ADMIN. CODE § 19.1711(a)(4) because it failed to have a physician licensed to practice medicine make the decision on the adverse determination appeal.
16. SWHP violated TEX. INS. CODE § 4201.358(2) and 28 TEX. ADMIN. CODE § 19.1711(a)(8) by failing to send the written notice to the enrollee's provider of record explaining the resolution of the appeal.

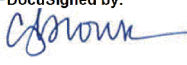
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Order

It is ordered that Scott and White Health Plan pay an administrative penalty of \$125,000 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.

It is also ordered that Scott and White Health Plan report to the department on or before 30 days from the date of this order. The report will affirm that Scott and White Health Plan has fully implemented its post-exam corrective action plan. If the company has not yet fully implemented its post-exam corrective action plan, the report will detail how the company intends to fully implement its plan, resources dedicated to implementation, timelines, and a process for independent verification of objective progress to comply with Texas law. The company must send the report to EnforcementReports@tdi.texas.gov.

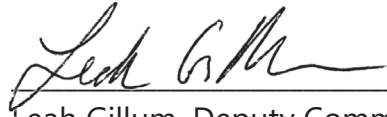
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Cassie Brown
Commissioner of Insurance

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Recommended and reviewed by:



Leah Gillum, Deputy Commissioner
Fraud and Enforcement Division



Stephanie Andrews, Staff Attorney
Enforcement

Affidavit

STATE OF Texas §

COUNTY OF Bell §

Before me, the undersigned authority, personally appeared Jeffrey C. Ingram who being by me duly sworn, deposed as follows:

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

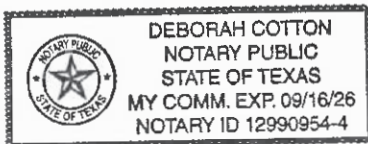
I hold the office of President ICED and am the authorized representative of Scott and White Health Plan. I am duly authorized by said organization to execute this statement.

Scott and White Health Plan 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."

Jeffrey C. Ingram
Affiant

SWORN TO AND SUBSCRIBED before me on May 26, 2023.

(NOTARY SEAL)



D Cotton
Signature of Notary Public

Deborah Cotton
Printed Name of Notary Public