

No. 2020-6416

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

Date: 08/03/2020

Subject Considered:

Memorial Hermann Health Plan, Inc.
929 Gessner Road Suite 1500
Houston, Texas 77024-2675

Consent Order
TDI Enforcement File No. 23358

General remarks and official action taken:

This is a consent order with Memorial Hermann Health Plan, Inc. (MHHP) for new and repeat violations found in a triennial quality of care examination. MHHP was the subject of a previous consent order for violations found during a 2015 quality of care triennial examination and paid an administrative penalty of \$20,000. MHHP's current triennial quality of care examination found similar violations. MHHP has agreed to pay a \$100,000 administrative penalty.

Waiver

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

Findings of Fact

1. The Texas Department of Insurance (TDI) issued MHHP a basic service health maintenance organization (HMO) license number 13764851, effective April 25, 2014.

2020-6416

Commissioner's Order
Memorial Hermann Health Plan, Inc.
Page 2 of 7

2015 Triennial Examination

2. TDI conducted a triennial quality of care examination of MHHP for the period beginning April 25, 2014, and ending December 31, 2015.
3. TDI issued the 2015 Triennial Final Examination Report on December 20, 2016.
4. Commissioner Order No. 2017-5067, dated May 9, 2017, addressed numerous violations found during the 2015 triennial examination. The order imposed an administrative penalty of \$20,000.

2018 Triennial Examination

5. TDI conducted another triennial quality of care examination of MHHP for the period beginning January 1, 2016, and ending December 31, 2018.
6. On July 16, 2019, TDI held an exit conference call with MHHP to discuss the 2018 examination findings. Sample files reviewed during this examination were dated after the implementation of MHHP's corrective action plan from the 2015 examination.
7. TDI issued the 2018 Triennial Final Examination Report on November 15, 2019.

Complaint Files

8. TDI reviewed five complaint files to determine statutory compliance.
9. In five instances, MHHP failed to send an acknowledgement letter after the complaint was received.
10. In two instances, MHHP failed to resolve the complaint not later than the 30th calendar day after the written complaint was received from the complainant.
11. In two instances, MHHP failed to send a complaint response letter to the complainant.

Adverse Determination Files

12. TDI reviewed 40 adverse determination files to determine statutory compliance.

2020-6416

Commissioner's Order
Memorial Hermann Health Plan, Inc.
Page 3 of 7

13. In 20 instances, the utilization review agent failed to issue the adverse determination within three calendar days after receiving the request for services. This was similar to issues TDI identified in the 2015 examination of MHHP.
14. In eight instances, the utilization review agent failed to include the current screening criteria as used in the guidelines.
15. In 19 instances, the utilization review agent failed to include a description of the procedures used for the appeal process.
16. In eight instances, the adverse determination notice failed to include a copy of the request for review by an independent review organization form.

Appeal Adverse Determination Files

17. TDI reviewed 12 appeal adverse determination files to determine statutory compliance.
18. In 11 instances, the utilization review agent failed to provide evidence that the appeal acknowledgement letter was sent to the appealing party. This was similar to issues TDI identified in the 2015 examination of MHHP.
19. In three instances, the utilization review agent failed to provide evidence that the appeal was reviewed by a provider not previously involved in the adverse determination decision.
20. In two instances, the utilization review agent failed to provide evidence that the appeal resolution letter was sent to the appealing party no later than the 30th calendar day after the date the utilization review agent received the appeal.

Delegated Entity

21. MHHP failed to provide evidence that it monitored its delegated entities.

Corrective Action Plan

22. MHHP submitted a corrective action plan to address the deficiencies cited in the final examination report issued by TDI on November 15, 2019.

2020-6416

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, 843.251 – 843.253, 842.348, 1272.056, 4201.255, 4201.303, 4201.355, 4201.356, 4201.358, and 4201.359; 28 TEX. ADMIN. CODE §§ 11.2603, 19.1709, 19.1711, 19.1718, and 19.1709; 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. MHHP 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. MHHP violated TEX. INS. CODE §§ 843.251 – 843.253 because it failed to send an acknowledgement letter after the complaint was received, failed to resolve the complaint not later than the 30th calendar day after the written complaint was received from the complainant, and failed to send a complaint response letter to the complainant.
5. MHHP violated TEX. INS. CODE § 843.348(d) and 28 TEX. ADMIN. CODE § 19.1718(d)(1) because the utilization review agent failed to issue the adverse determination within three calendar days after receiving the request for services.
6. MHHP violated TEX. INS. CODE § 4201.303(a)(2) and 28 TEX. ADMIN. CODE § 19.1709(b)(2) because the utilization review agent failed to include the current screening criteria as used in the guidelines.
7. MHHP violated TEX. INS. CODE § 4201.303(a)(4) and 28 TEX. ADMIN. CODE § 19.1709(b)(6) because the utilization review agent failed to include a description of the procedures used for the appeal process.
8. MHHP violated 28 TEX. ADMIN. CODE § 19.1709(b)(7) because the adverse determination notice failed to include a copy of the request for review by an independent review organization form.

2020-6416

Commissioner's Order
Memorial Hermann Health Plan, Inc.
Page 5 of 7

9. MHHP violated TEX. INS. CODE § 4201.355(a) and 28 TEX. ADMIN. CODE § 19.1711(a)(3)(A) because the utilization review agent failed to provide evidence that the appeal acknowledgement letter was sent to the appealing party.
10. MHHP violated TEX. INS. CODE § 4201.356(a) and 28 TEX. ADMIN. CODE § 19.1711(a)(4) because the utilization review agent failed to provide evidence that the appeal was reviewed by a provider not previously involved in the adverse determination decision.
11. MHHP violated TEX. INS. CODE §§ 4201.358 - 4201.359 because the utilization review agent failed to provide evidence that the appeal resolution letter was sent to the appealing party no later than the 30th calendar day after the date the utilization review agent received the appeal.
12. MHHP violated TEX. INS. CODE § 1272.056 and 28 TEX. ADMIN. CODE § 11.2603(h) because it failed to provide evidence that it monitored its delegated entities.

Order

It is ordered that Memorial Hermann Health Plan, Inc. must pay an administrative penalty of \$100,000 within 30 days from the date of this order. The penalty must be paid by company check, cashier's check, or money order made payable to the "State of Texas" and sent to the Texas Department of Insurance, Attn: Enforcement, Division 60851, MC 9999, P.O. Box 149104, Austin, Texas, 78714-9104.

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

DocuSigned by:

73DEDCF32E5F411...

Kent C. Sullivan
Commissioner of Insurance

2020-6416

Commissioner's Order
Memorial Hermann Health Plan, Inc.
Page 6 of 7

Recommended and reviewed by:



Leah Gillum, Deputy Commissioner
Enforcement Division



Bev Rosendahl, Special Counsel
Enforcement Division

2020-6416

Commissioner's Order
Memorial Hermann Health Plan, Inc.
Page 7 of 7

Affidavit

STATE OF Texas **§**
§
COUNTY OF Harris **§**

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

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

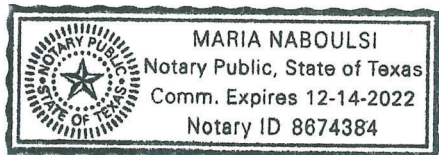
I hold the office of SVP,CEO, and am the authorized representative of Memorial Hermann Health Plan, Inc. and I am duly authorized by said organization to execute this statement.

Memorial Hermann Health Plan, Inc. 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."

Jay L. Hurt
Affiant

SWORN TO AND SUBSCRIBED before me on July 8, 2020.

(NOTARY SEAL)



Maria Naboulsi
Signature of Notary Public

Maria Naboulsi
Printed Name of Notary Public