

No. 2016-4835

OFFICIAL ORDER  
of the  
TEXAS COMMISSIONER OF INSURANCE

Date: DEC 07 2016

**Subject Considered:**

**MOLINA HEALTHCARE OF TEXAS, INC.**  
5605 North Macarther Blvd., Suite 400  
Irving, Texas 75038-2693

**CONSENT ORDER**  
TDI ENFORCEMENT FILE NO. 11310

**General remarks and official action taken:**

The commissioner of insurance considers whether disciplinary action should be taken against Molina Healthcare of Texas, Inc.

**WAIVER**

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

**FINDINGS OF FACT**

1. TDI issued Molina basic service health maintenance organization (HMO) license number 95943 on June 22, 2005.

**2009 - 2011 Triennial Quality of Care Examination**

2. In 2011, the Managed Care and Quality Assurance Examinations (MCQA) Office conducted a triennial quality of care examination of Molina for the period from June 2009, through June 2011.
3. On October 24, 2011, MCQA provided Molina with a copy of the official examination report. Molina agreed to file a plan of correction within 30 days.
4. On November 29, 2011, MCQA received Molina's plan of correction, which addressed its deficiencies from the exam report.

## **2011 - 2014 Triennial Quality of Care Examination**

5. In 2015, MCQA conducted a triennial quality of care examination for Molina for the period from June 2011, and ending September 2014.
6. On June 26, 2015, MCQA held an exit conference with Molina, to discuss the 2011 to 2014 exam findings.
7. Two violations cited in Molina's 2011 official exam report are repeat violations included in Molina's 2015 official exam report: (1) oral complaint acknowledgement letter form deficiency; and (2) failure to issue adverse determination within three working days.

### **Oral Complaint Acknowledgement Letter and Form Deficiency**

8. In Molina's 2011 triennial exam, MCQA reviewed 35 oral complaint files. None complied with the requirement that, if Molina received a complaint orally, its acknowledgment letter must include a one-page complaint form that prominently and clearly stated that the form "must" be returned for prompt resolution of the complaint.
9. In its 2011 plan of correction, Molina agreed to correct the one-page oral complaint form.
10. In Molina's 2011 to 2014 triennial exam, MCQA identified a March 7, 2014, CHIP complaint acknowledgment letter, and March 21, 2014, Exchange/Marketplace CHIP complaint acknowledgment letter that did not contain the corrections to its one-page complaint form.

### **Failure to Issue Adverse Determination within Three Working Days**

11. During Molina's 2011 triennial exam, MCQA identified 9 CHIP enrollee files in which Molina failed to issue an initial adverse determination within three working days of receiving the request for services for enrollees not hospitalized at the time of the requests.
12. During Molina's 2015 triennial exam, MCQA staff identified 11 CHIP enrollee files in which Molina did not issue an adverse determination within three working days.

### **Prompt Claims Payment Violations**

13. In late 2014, Molina processed 15 claims late after Molina received the department's claims audit request.
14. Molina failed to pay prompt payment penalties when it processed claims late.

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15. Molina paid some claims based upon the non-participating provider reimbursement rate when the providers were participating providers.
16. Molina's claims payment process system does not evidence that electronic and nonelectronic clean claims were paid or processed within the statutory timeframes.
17. Molina failed to include policies and procedures to comply with the prompt payment of claims requirements in TEX. INS. CODE Chapter 843, Subchapter J and 28 TEX. ADMIN. CODE Chapter 21, Subchapter T.

## **Network Adequacy Violations**

18. MCQA reviewed 28 Molina complaint files from 2014. Of those files, 17 involved complaints from Molina members who complained about the unavailability or lack of providers in the exchange marketplace program.
19. The 2014 complaint list from Molina indicated that 62 out of 97 complaints in 2014 related to accessibility and availability of services.

## **Physician and Provider Credentialing Violations**

20. Molina failed to re-credential 97 providers for the exchange marketplace program.

## **CONCLUSIONS OF LAW**

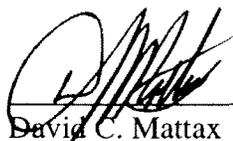
1. The commissioner has jurisdiction over this matter pursuant to TEX. INS. CODE §§ 31.002; 82.051-82.055, 84.021-84.022, 401.055, 843.156, 843.082, 843.252, 843.336-843.354, 843.461, 1452.002, and 4201.304; 28 TEX. ADMIN. CODE §§ 11.303, 11.1607, 19.1709, 21.2808, 21.2815; and TEX. GOV'T CODE §§ 2001.051-2001.178.
2. The commissioner has authority to informally dispose of this matter as set forth under TEX. GOV'T CODE § 2001.056, TEX. INS. CODE §§ 82.055 and 36.104, and 28 TEX. ADMIN. CODE § 1.47.
3. Molina violated TEX. INS. CODE § 843.252(b)(2) because it did not include, with its oral complaint acknowledgment letter, a one-page complaint form that prominently and clearly states that the form must be returned to the HMO for prompt resolution of the complaint.
4. Molina violated TEX. INS. CODE § 4201.304(a)(2) and 28 TEX. ADMIN. CODE § 19.1709 (d)(3) because it did not provide notice of an adverse determination with respect to a patient who is not hospitalized at the time of the adverse determination, within three working days in writing to the provider of record and that patient.

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5. Molina violated TEX. INS. CODE §§ 843.336-843.354 and 28 TEX. ADMIN. CODE §§ 21.2801-21.2826 by not establishing current claims policies and procedures that include all statutory requirements relating to payment of claims to physicians and providers.
6. Molina violated TEX. INS. CODE § 843.341(b)(2) by not having claims payment processes that use nationally recognized, generally accepted bundling edits and logic.
7. Molina violated TEX. INS. CODE § 843.338 and 28 TEX. ADMIN. CODE § 21.2808 because it did not timely determine whether a claim is: (1) payable, and pay the claim, (2) partially payable, and notify the physician or provider in writing why the remaining portion of the claim will not be paid, or (3) not payable, and notify the physician or provider in writing why the claim will not be paid.
8. Molina violated TEX. INS. CODE § 843.342 and 28 TEX. ADMIN. CODE § 21.2815 by not paying claims payment penalties.
9. Molina violated 28 TEX. ADMIN. CODE § 11.1607 because it did not: (a) include an adequate HMO delivery network compliant with TEX. INS. CODE § 843.082 for each plan it delivered or issued for delivery, and (b) provide for a sufficient number of primary care physicians and specialists with hospital admitting privileges to participating facilities who are available and accessible 24 hours per day, seven days per week, within the HMO's service area to meet the health care needs of the HMO's enrollees.
10. Molina violated TEX. INS. CODE § 1452.002 by not verifying that a physician's license to practice medicine and any other certificate the physician is required to hold, was valid as of the date of: (1) the initial credentialing of the physician, and (2) each recredentialing.
11. Molina violated 28 TEX. ADMIN. CODE § 11.303(d)(6) because it did not correct deficiencies cited in its signed plan of correction within 90 days from its receipt of the written examination report.

The commissioner orders Molina Healthcare of Texas, Inc., to pay an administrative penalty of \$200,000 within 30 days from the date of this Order. The administrative penalty must be paid by company check, cashier's check, or money order made payable to the "State of Texas." Mail the administrative penalty to the Texas Department of Insurance, Attn: Enforcement Section, Division 40111, MC 9999, P.O. Box 149104, Austin, Texas, 78714-9104.



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David C. Mattax  
Commissioner of Insurance

