

No. 2017- 5187

**OFFICIAL ORDER
of the
TEXAS COMMISSIONER OF INSURANCE**

Date: AUG 2 1 2017

Subject Considered:

HUMANA HEALTH PLAN OF TEXAS, INC.
P.O. Box 740036
Louisville, KY 40201

CONSENT ORDER
TDI ENFORCEMENT FILE NO. 13215

General remarks and official action taken:

This order is in consideration of whether disciplinary action should be taken against Humana Health Plan of Texas, Inc. (Humana).

WAIVER

Humana acknowledges that the Texas Insurance Code and other applicable laws provide certain rights. Humana 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 Humana basic service health maintenance organization (HMO) license number 93827, effective March 15, 1982.

2012 and 2014 Triennial Examinations

2. On June 4, 2013, TDI conducted a triennial quality of care examination of Humana for the period beginning January 7, 2010, and ending December 11, 2012.
3. TDI conducted another triennial quality of care examination of Humana for the period beginning December 11, 2012, and ending December 31, 2014.
4. On October 21, 2016, TDI held an exit conference call with Humana to discuss the 2014 examination findings.

5. In Humana's 2014 examination, TDI found evidence Humana failed to include in the adverse determination notice one or more of the following: the specialty of the provider making the determination, the IRO form, instructions, the enrollee's right to an immediate review for a life threatening condition, and/or the procedures to obtain the review, similar to those issues TDI previously identified in Humana's 2012 examination.
6. In Humana's 2014 examination, TDI found evidence that the complaint resolution letter did not contain a physician or other provider with experience in the area of care in dispute on the complaint appeals panel.
7. In Humana's 2014 examination, TDI found evidence Humana's complaint resolution letter failed to include language that the physician or provider reviewing the appeal may interview the patient's designated representative and decide the appeal and failed to include language that a physician or provider may deliver initial notice of the decision on an appeal orally if the physician or provider subsequently provides written notice of the decision not later than the third day after the date of the decision.
8. In Humana's 2014 examination, TDI found evidence Humana failed to meet the statutory claims payment period and failed to pay penalties on all claims reviewed.
9. Humana failed to correct the deficiencies within 90 days from the receipt of its 2012 examination report, in accordance with its 2012 corrective action plan.
10. Humana submitted a plan of correction to address the deficiencies cited in the final examination report issued by TDI on April 6, 2017.

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, 843.255, 843.258, and 843.342; 28 TEX. ADMIN. CODE §§ 11.303, 19.1709, and 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. Humana violated 28 TEX. ADMIN. CODE § 19.1709(b) because it failed to include elements required in an adverse determination letter.
4. Humana violated TEX. INS. CODE § 843.255(b)(c) because the complaint resolution letter failed to contain a physician or other provider with experience in the area of care in dispute on the complaint appeals panel.

5. Humana violated TEX. INS. CODE § 843.258(c)(d) because it failed to include language that a physician or provider may deliver initial notice of the decision on an appeal.
6. Humana violated TEX. INS. CODE § 843.342 and 28 TEX. ADMIN. CODE §§ 21.2815 because it failed to pay clean claims in a timely manner.
7. Humana violated 28 TEX. ADMIN. CODE § 11.303 by failing to provide a signed plan of corrections to the department no later than 30 days from receipt of the written examination report and correcting the deficiencies cited within its plan of correction within 90 days from the receipt of the written examination report.

The commissioner orders Humana Health Plan of Texas, Inc. to pay an administrative penalty of \$140,000 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.



Kevin Brady
Deputy Commissioner for Agency Affairs
Texas Department of Insurance
Delegation Order 4506

Approved as to Form and Content:



Bev Rosendahl, Staff Attorney
Enforcement Section
Texas Department of Insurance

AFFIDAVIT

STATE OF KENTUCKY §
 §
COUNTY OF JEFFERSON §

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

“My name is Joseph C. Ventura. 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 Vice President and Corporate Secretary, and am the authorized representative of Humana Health Plan of Texas, Inc. I am duly authorized by said organization to execute this statement.

Humana Health Plan of Texas, Inc. waives rights provided by the Texas Insurance Code and other applicable laws, and acknowledges the jurisdiction of the Texas commissioner of insurance.

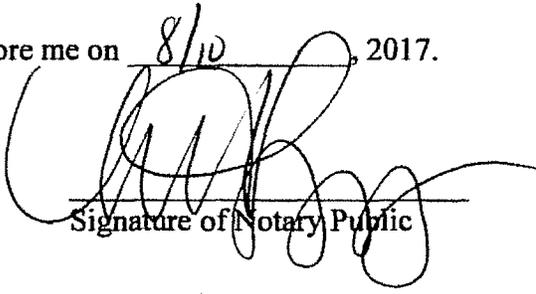
Humana Health Plan of Texas, Inc. is voluntarily entering into this consent order. Humana Health Plan of Texas, Inc. consents to the issuance and service of this consent order.”



Affiant

SWORN TO AND SUBSCRIBED before me on 8/10, 2017.

(NOTARY SEAL)



Signature of Notary Public

MICHELE H. SIZEMORE
State at Large
Kentucky
My Commission Expires Jan. 3, 2019