

No. 2020-6403

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

**Date:** 07/22/2020

**Subject Considered:**

Cook Children's Health Plan  
P.O. Box 2488  
Fort Worth, 76113-2488

Consent Order  
TDI Enforcement File No. 15092

**General remarks and official action taken:**

This is a consent order with Cook Children's Health Plan (CCHP) for repeat violations found in a triennial quality of care examination. CCHP 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 \$120,000. CCHP's current triennial quality of care examination found similar violations. CCHP has agreed to pay a \$220,000 administrative penalty.

**Waiver**

CCHP acknowledges that the Texas Insurance Code and other applicable laws provide certain rights. CCHP 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 CCHP a basic service health maintenance organization (HMO) license number 95330, effective February 25, 1999.

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### 2015 Triennial Examination

2. TDI conducted a triennial quality of care examination of CCHP for the period beginning February 11, 2013, and ending December 31, 2015.
3. TDI issued the 2014 Triennial Final Examination Report on August 21, 2017.
4. Commissioner Order No. 2018-5530, dated May 29, 2018, addressed numerous violations found during the 2015 triennial examination; two of these were repeat violations identified in CCHP's first triennial examination in 2013. The order imposed an administrative penalty of \$120,000.

### 2018 Triennial Examination

5. TDI conducted another triennial quality of care examination of CCHP for the period beginning January 1, 2016, and ending December 31, 2018.
6. On April 9, 2019, TDI held an exit conference call with CCHP to discuss the 2018 examination findings. Sample files reviewed during this examination were dated after the implementation of CCHP's corrective action plan from the 2015 examination.
7. TDI issued the 2018 Triennial Final Examination Report on May 17, 2019.

### Adverse Determination Files

8. TDI reviewed 34 adverse determination files to determine statutory compliance.
9. In 13 instances, CCHP failed to provide evidence that its utilization review agent gave the provider of record a reasonable opportunity to discuss the plan of treatment for the enrollee prior to issuing the adverse determination letter. This was similar to issues TDI identified in the 2015 examination of CCHP.
10. In 11 instances, CCHP failed to provide evidence that its utilization review agent provided the telephone number so that the provider of record could contact the utilization review agent to discuss the pending adverse determination. This was similar to issues TDI identified in the 2015 examination of CCHP.

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11. In 10 instances, CCHP failed to provide evidence that its utilization review agent issued the CHIP adverse determination letter within three days of receiving the request for the enrollee. This was similar to issues TDI identified in the 2014 examination of CCHP.
12. CCHP submitted a corrective action plan to address the deficiencies cited in the final examination report issued by TDI on June 17, 2019.

### 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, and 4201.206; 28 TEX. ADMIN. CODE §§ 19.1703, 19.1709, and 19.1710; 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. CCHP 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. CCHP violated TEX. INS. CODE § 4201.206 and 28 TEX. ADMIN. CODE §§ 19.1703(b)(26), and 19.1710 because it failed to provide evidence that its utilization review agent gave the provider of record a reasonable opportunity to discuss the plan of treatment for the enrollee prior to issuing the adverse determination letter.
5. CCHP violated TEX. INS. CODE § 4201.206 and 28 TEX. ADMIN. CODE §§ 19.1710(1) because it failed to provide evidence that its utilization review agent provided the telephone number so that the provider of record could contact the utilization review agent to discuss the pending adverse determination..
6. CCHP violated TEX. INS. CODE § 4201.304(2) and 28 TEX. ADMIN. CODE §§ 19.1709(d)(3) failed to provide evidence that its utilization review agent issued the CHIP adverse determination letter within three days of receiving the request.

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### Order

It is ordered that Cook Children's Health Plan must pay an administrative penalty of \$220,000 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.

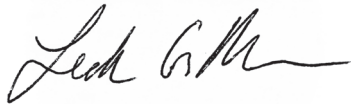
It is also ordered Cook Children's Health Plan report to TDI on or before 30 days from the date of this order. The report will affirm that Cook Children's Health Plan has fully implemented its post-exam corrective action plan. If Cook Children's Health Plan has not yet fully implemented its post-exam corrective action plan, the report will detail how Cook Children's Health Plan 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:  
*Kent Sullivan*  
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Kent C. Sullivan  
Commissioner of Insurance

Recommended and reviewed by:



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Leah Gillum, Deputy Commissioner  
Enforcement Division



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Bev Rosendahl, Special Counsel  
Enforcement Division

**Affidavit**

STATE OF Texas §  
§  
COUNTY OF Tarrant §

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

"My name is Karen Love. 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, and am the authorized representative of Cook Children's Health Plan and I am duly authorized by said organization to execute this statement.

Cook Children's 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."

Karen Love  
Affiant

SWORN TO AND SUBSCRIBED before me on June 16, 2020.

(NOTARY SEAL)



Polly C. Banz  
Notary Public  
STATE OF TEXAS  
Notary ID # 617299-1  
My Comm. Exp. 05 23, 2021

Polly C. Banz  
Signature of Notary Public  
Polly C. Banz  
Printed Name of Notary Public