

No. **2021-6878**

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

Date: 06/23/2021

Subject Considered:

Superior HealthPlan, Inc.
5900 E Ben White Blvd
Austin, Texas 78741

Consent Order
TDI Enforcement File No. 26139

General remarks and official action taken:

This is a consent order with Superior HealthPlan, Inc. (Superior). The Texas Department of Insurance performed a desk audit of determinations issued by Superior's "CHIP" product. The desk audit determined that authorizations and notice of adverse determinations were issued outside the appropriate timeframe. Additionally, the desk audit discovered instances of delay in offering a peer-to-peer discussion opportunity prior to the issuance of an adverse determination. Superior was the subject of a previous consent order for similar violations found during a triennial quality of care examination. Superior has provided a corrective action plan to the department and has agreed to pay a \$30,000 administrative penalty.

Waiver

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

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Findings of Fact

1. The department issued Superior a basic health maintenance organization authorization, license number 94703, effective April 29, 1997, and a third-party administrator authorization, effective January 18, 2001.

Prior Disciplinary History

2. On April 24, 2017, the commissioner entered Official Order No. 2017-5040 against Superior. That order imposed a \$30,000 administrative penalty for violations found during the department's 2016 utilization review audit of adverse determination letters of Envolve Pharmacy Solutions, Inc. (Envolve). Superior delegated utilization review duties to Envolve as a utilization review agent (URA).
3. On December 20, 2017, the commissioner entered Official Order No. 2017-5321 against Superior. That order imposed a \$40,000 administrative penalty for violations found during the department's 2016 utilization review audit of Centene Company of Texas, LP (Centene). Superior delegated utilization review duties to Centene as a URA.
4. On August 4, 2020, the commissioner entered Official Order No. 2020-6419 against Superior. That order imposed a \$225,000 administrative penalty for violations found during the department's 2017 triennial quality of care examination. Among others, the exam discovered Superior had failed to provide the provider of record a reasonable opportunity to discuss the plan of treatment with a licensed physician prior to an adverse determination. This was similar to issues identified in Superior's 2014 triennial quality of care examination.

Audit Findings

5. On January 23, 2020, the department commenced a desk audit of determinations issued by Superior's "CHIP" product for the period January 1, 2019, through December 31, 2019.
6. Superior and its associated utilization review agents issued 19,445 authorizations and 1,525 adverse determinations during the audit timeframe.

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7. Of the 19,445 authorizations, 1,145 or 6% were issued outside of the statutory timeframe.
8. The department selected a random sample of 50 case files for the desk audit.
9. From the 50 randomly selected case files, three adverse determinations were not issued within the appropriate timeframe.
10. From the 50 randomly selected case files, three cases failed to offer a requesting provider a peer-to-peer discussion opportunity prior to the issuance of an adverse determination. This was related to an internal system issue and the discussion opportunity was eventually offered.

Corrective Action Plan

11. On October 2, 2020, the department received and accepted a corrective action plan related to all the audit findings.

Conclusions of Law

1. The commissioner has jurisdiction over this matter pursuant to TEX. INS. CODE §§ 82.051–82.055, 84.021–84.044, 4201.206, 4201.302, and 4201.304; 28 TEX. ADMIN. CODE §§ 19.1705, 19.1709, 19.1710, and 19.1711; and TEX. GOV'T CODE §§ 2001.051–2001.178.
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. Superior 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. Superior violated TEX. INS. CODE § 4201.206 and 28 TEX. ADMIN. CODE § 19.1710 by failing to provide, prior to an adverse determination, the provider of record a reasonable opportunity to discuss the plan of treatment with a licensed physician.

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5. Superior violated TEX. INS. CODE § 4201.302 by failing to mail or transmit the required notice no later than the second working day after the date of the request for utilization review and receipt of all necessary information.
6. Superior violated TEX. INS. CODE § 4201.304 and 28 TEX. ADMIN. CODE § 19.1709 by failing to provide notice of an adverse determination within the required timeframe.

Order

It is ordered that Superior HealthPlan, Inc. pay an administrative penalty of \$30,000 within 30 days from the date of this order. The administrative penalty must be paid by cashier's check or money order made payable to the "State of Texas" and transmitted to the Texas Department of Insurance, Attn: Enforcement Division 60851, MC AO-9999, P.O. Box 12030, Austin, Texas 78711-2030.

It is also ordered that Superior HealthPlan, Inc. report to the department on or before 30 days from the date of this order. The report will affirm that Superior has fully implemented its corrective action plan or if not, the report will detail how Superior intends to fully implement its corrective action plan, resources dedicated to implementation, timeliness, and a process for independent verification of objective progress to comply with Texas law. The report must be sent to EnforcementReports@tdi.texas.gov.

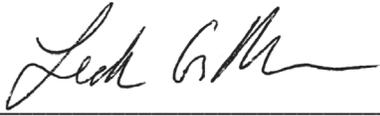
Commissioner of Insurance

By:  _____
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Doug Slape
Chief Deputy Commissioner
TEX. GOV'T CODE § 601.002
Commissioner's Order No. 2018-5528

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Recommended and reviewed by:



Leah Gillum, Deputy Commissioner
Enforcement Division



Stephanie Andrews, Staff Attorney
Enforcement Division

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Affidavit

STATE OF Texas §

§

COUNTY OF Travis §

Before me, the undersigned authority, personally appeared Mark D. Sanders, who being by me duly sworn, deposed as follows:

"My name is Mark D. Sanders. 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 CEO and am the authorized representative of Superior HealthPlan, Inc. I am duly authorized by said organization to execute this statement.

Superior HealthPlan, 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."

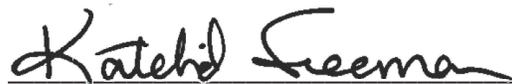


Affiant

SWORN TO AND SUBSCRIBED before me on June 11, 2021.

(NOTARY SEAL)





Signature of Notary Public

Katelind Freeman

Printed Name of Notary Public