

No. 2020-6391

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

**Date:** 07/13/2020

**Subject Considered:**

Aetna Health, Inc.  
980 Jolly Road #U11S  
Blue Bell, Pennsylvania 19422-1904

Consent Order  
TDI Enforcement File No. 19174

**General remarks and official action taken:**

This is a consent order with Aetna Health, Inc. (Aetna) for new and repeat violations found in a triennial quality of care examination. Aetna was the subject of a previous consent order for violations found during a 2014 quality of care triennial examination and paid an administrative penalty of \$150,000. Aetna's current triennial quality of care examination found similar violations. Aetna has agreed to pay a \$250,000 administrative penalty.

**Waiver**

Aetna acknowledges that the Texas Insurance Code and other applicable laws provide certain rights. Aetna 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 Aetna a basic service health maintenance organization (HMO) license number 5791, effective August 20, 1987.

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## 2014 Triennial Examination

2. TDI conducted a triennial quality of care examination of Aetna for the period beginning April 23, 2012, and ending December 31, 2014.
3. TDI issued the 2014 Triennial Final Examination Report on July 18, 2016.
4. Commissioner Order No. 2017-4888, dated January 5, 2017, addressed numerous violations found during the 2014 triennial examination; three of these were repeat violations identified in Aetna's first triennial examination in 2012. The order imposed an administrative penalty of \$150,000.

## 2017 Triennial Examination

5. TDI conducted another triennial quality of care examination of Aetna for the period beginning January 1, 2015, and ending December 31, 2017.
6. On September 27, 2018, TDI held an exit conference call with Aetna to discuss the 2017 examination findings. Sample files reviewed during this examination were dated after the implementation of Aetna's corrective action plan from the 2014 examination.
7. TDI issued the 2017 Triennial Final Examination Report on November 13, 2018.

## 2017 Examination Findings

8. TDI reviewed 25 prospective adverse determination files to determine statutory compliance.
9. In six instances, Aetna 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 2014 examination of Aetna and cited as a violation in Commissioner Order 2017-4888.
10. TDI reviewed 25 prospective appeal adverse determination files to determine statutory compliance.

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11. In 10 instances, Aetna 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 2014 examination of Aetna and cited as a violation in Commissioner Order 2017-4888.
12. TDI reviewed 23 complaint files to determine statutory compliance.
13. In seven instances, Aetna failed to send an acknowledgement letter not later than the fifth business day after it received a complaint.
14. Aetna submitted a corrective action plan to address the deficiencies cited in the final examination report issued by TDI on November 13, 2018.

### 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, 843.252, and 4201.206; 28 TEX. ADMIN. CODE §§ 19.1703, 19.1710, and 19.1711; 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. Aetna 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. Aetna violated TEX. INS. CODE § 4201.206 and 28 TEX. ADMIN. CODE §§ 19.1703(b)(26), 19.1710, and 19.1711 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 with a physician, prior to issuing the adverse determination letter.

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5. Aetna violated TEX. INS. CODE § 843.252 because it failed to send an acknowledgement letter not later than the fifth business day after it received a complaint.

### Order

It is ordered that Aetna Health, Inc. must pay an administrative penalty of \$250,000 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.

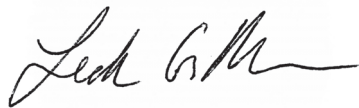
It is also ordered that Aetna Health, Inc. report to TDI on or before 30 days from the date of this order. The report will affirm that Aetna Health, Inc. has fully implemented its post-exam corrective action plan. If Aetna Health, Inc. has not yet fully implemented its post-exam corrective action plan, the report will detail how Aetna Health, 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](mailto:EnforcementReports@tdi.texas.gov).

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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 Jeff Cook, who being by me duly sworn, deposed as follows:

"My name is Jeff Cook. 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 Territory President, and am the authorized representative of Aetna Health, Inc. and I am duly authorized by said organization to execute this statement.

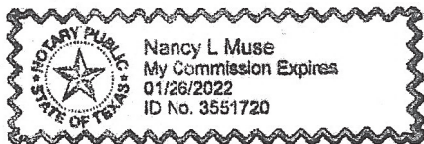
Aetna Health Inc. has knowingly and voluntarily entered into the foregoing consent order and agrees with and consents to the issuance and service of the same by the commissioner of insurance of the state of Texas."



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Affiant

SWORN TO AND SUBSCRIBED before me on March 26, 2020.

(NOTARY SEAL)



Nancy L. Muse  
Signature of Notary Public

Nancy L. Muse  
Printed Name of Notary Public