

No. **2022-7146**

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

Date: 01/04/2022

Subject Considered:

Community First Health Plans, Inc.
12238 Silicon Dr., Ste. 100
San Antonio, Texas 78249-3454

Consent Order
TDI Enforcement File No. 27813

General remarks and official action taken:

This is a consent order with Community First Health Plans, Inc. (CFHP). The Texas Department of Insurance (TDI) conducted a triennial quality of care examination and found multiple violations, including repeat violations found in prior exams. CFHP has agreed to pay a \$300,000 administrative penalty.

Waiver

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

Findings of Fact

1. TDI issued CFHP a basic health maintenance organization (HMO) license, number 94402, effective October 6, 1995.

2016 Triennial Examination

2. TDI conducted a triennial quality of care examination of CFHP for the period

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beginning May 13, 2014, and ending December 31, 2016.

3. TDI issued the 2016 Triennial Final Examination Report on May 4, 2018.
4. CFHP paid a \$200,000 administrative penalty under Commissioner Order No. 2020-6482, which involved prompt pay and adverse determination violations.

2019 Triennial Examination

5. TDI conducted another triennial quality of care examination of CFHP for the period beginning January 1, 2017, and ending December 31, 2019.
6. TDI issued the 2019 Triennial Final Examination Report on March 9, 2021.
7. In 60 percent (18 of 30) of initial adverse determinations staff reviewed, CFHP's utilization review agent (URA) or its URA delegate issued the adverse determination after the required timeframes. In the previous examination, 16 percent (4 of 25) of the initial adverse determinations staff reviewed were in violation.
8. In 10 percent (3 of 30) of claims staff reviewed, CFHP did not pay the penalty and applicable interest. In the previous examination, 20 percent (7 of 35) of the claims staff reviewed were in violation.
9. In three percent (1 of 30) of the claims staff reviewed, CFHP made statements in a manner that would mislead a reasonably prudent person to a false conclusion of a material fact. In the previous examination of the claims staff reviewed this was a violation.
10. In seven percent (2 of 30) of initial adverse determinations staff reviewed, CFHP's URA or its URA delegate issued the adverse determinations without affording the provider of record a reasonable opportunity to discuss treatment.
11. In 60 percent (18 of 30) of initial adverse determinations staff reviewed, CFHP's URA or its URA delegate issued the adverse determination after the required timeframes.
12. In four percent (1 of 25) of the adverse determinations staff reviewed, CFHP's URA adverse determination notice did not include the source of the screening criteria for the adverse determination.

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13. In 20 percent (1 of 5) of appeal adverse determinations staff reviewed, CFHP's URA delegate did not afford the provider of record a reasonable opportunity to discuss treatment with a physician during working hours and no less than one working day prior to issuing the appeal adverse determination for the preauthorization request.
14. In 47 percent (14 of 30) of claims staff reviewed, CFHP paid or processed the claims after the required timeframes.
15. In 10 percent (3 of 30) of claims staff reviewed, CFHP did not pay the penalty and applicable interest.
16. In 27 percent (8 of 30) of claims staff reviewed, CFHP did not clearly indicate on the explanations of payment the amount of the contracted rate paid and the amount paid as a penalty when claims payment deadlines were exceeded.
17. CFHP misrepresented the terms of coverage by providing the enrollee an explanation of benefits that did not include the correct copayments, coinsurance, or deductible; did not indicate when a payment made to a non-network physician has been paid at the health benefit plan's allowable or usual and customary amount; and did not include the number for TDI's Consumer Protection program for complaints regarding payment.
18. In 83 percent (5 of 6) of complaints staff reviewed, CFHP did not respond to an inquiry from TDI, by the 15th day after the date the inquiry was received. On June 1, 2018, TDI sent a complaint inquiry to CFHP, to which it responded on June 26, 2018. On May 31, 2019, TDI sent a complaint inquiry to CFHP, to which it responded on June 28, 2019. On October 14, 2019, TDI sent a complaint inquiry to CFHP, to which it responded on February 5, 2020. On December 12, 2019, TDI sent a complaint inquiry to CFHP, to which it responded on April 16, 2020. On December 16, 2019, TDI sent a complaint inquiry to CFHP, to which it responded on February 4, 2020.
19. In 23 percent (5 of 22) of complaints staff reviewed, there were claims payments where CFHP paid claims later than the 30th day after CFHP received the electronic clean claims.
20. CFHP's prompt payment claims reports, filed with TDI on a quarterly basis, indicate CFHP paid more than two percent of its clean claims late in two quarters of 2019 and four quarters in 2020.

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21. CFHP represents that on June 1, 2019, it completed a conversion of its claims administration system. After the conversion, CFHP found that its new system configuration was not paying penalty and interest on claims for its commercial product line.
22. Since April 2020, CFHP represents that it conducted a complete audit of its system to pay penalty and interest for claims paid since implementation of the new system on June 1, 2019.
23. CFHP represents that it paid over \$5.5 million to providers and TDI, retroactively to June 1, 2019, and continues to regularly audit its system to ensure all penalties and interest are being paid timely.

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, 843.253, 1272.056, and 4201.206; 28 TEX. ADMIN. CODE §§ 11.2603, 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. CFHP 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. CFHP violated TEX. INS. CODE §§ 4201.304 and 843.348 and 28 TEX. ADMIN. CODE §§ 19.1703(b)(17), 19.1709(d)(3) and 19.1718(d)(1)-(2) because it issued adverse determinations after the required timeframes.
5. CFHP violated TEX. INS. CODE § 843.342 and 28 TEX. ADMIN. CODE §§ 21.2815(a)(1)-(2) because it did not pay the penalty and applicable interest.
6. CFHP violated TEX. INS. CODE §§ 843.051(a) and 541.061 by making a statement in

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a manner that would mislead a reasonably prudent person to a false conclusion of a material fact.

7. CFHP violated TEX. INS. CODE § 4201.206 and 28 TEX. ADMIN. CODE §§ 19.1703(b)(26)(B) and 19.1710 because it issued adverse determinations without affording the provider of record a reasonable opportunity to discuss the treatment.
8. CFHP violated TEX. INS. CODE § 4201.304(1) and 28 TEX. ADMIN. CODE § 19.1709(d)(3) because it issued the adverse determinations later than one working day from receipt of the concurrent requests.
9. CFHP violated TEX. INS. CODE § 843.348(e) and 28 TEX. ADMIN. CODE § 19.1718(d)(2) because it issued the adverse determination later than 24 hours from receipt of the concurrent request.
10. CFHP violated TEX. INS. CODE § 843.348(d) and 28 TEX. ADMIN. CODE § 19.1718(d)(1) because it issued the adverse determinations later than three calendar days from receipt of the requests.
11. CFHP violated TEX. INS. CODE § 4201.304(2) and 28 TEX. ADMIN. CODE § 19.1703(b)(2)-(3) because it issued the adverse determinations later than three working days from receipt of the requests.
12. CFHP violated TEX. INS. CODE § 4201.303(a)(2)-(3) and 28 TEX. ADMIN. CODE § 19.1709(c)(3) because its adverse determination notice did not include the source of the screening criteria.
13. CFHP violated TEX. INS. CODE § 4201.206 and 28 TEX. ADMIN. CODE §§ 19.1703(b)(26)(A) and 19.1710 because it did not afford the provider of record a reasonable opportunity to discuss treatment with a physician during working hours and no less than one working day prior to issuing the adverse determination.
14. CFHP violated TEX. INS. CODE §§ 843.338(1) and (3) and 843.346 because it processed or paid claims late.
15. CFHP violated TEX. INS. CODE § 843.342(j) and 28 TEX. ADMIN. CODE § 21.2815(h) because it did not clearly indicate on the explanations of payment the amount

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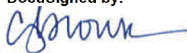
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of the contracted rate paid and the amount paid as penalty when claims payment deadlines were exceeded.

16. CFHP violated TEX. INS. CODE §§ 541.051(1) and 1456.003(d) because it provided enrollees explanations of benefits that did not include correct copayments, coinsurance, or deductibles; did not indicate when a payment made to a non-network physician was paid at the health benefit plan's allowable or usual and customary amount; and did not include the number for TDI's Consumer Protection program for complaints regarding payments.
17. CFHP violated TEX. INS. CODE § 843.342(k) and 28 TEX. ADMIN.CODE § 21.2822(a) because it paid more than two percent of its clean claims late in two quarters of 2019 and four quarters of 2020.
18. CFHP violated TEX. INS. CODE § 38.001 because it did not respond timely to five requests for information.

Order

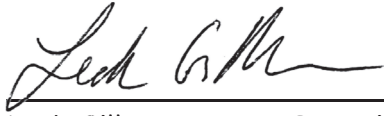
It is ordered that Community First Health Plans, Inc. must pay an administrative penalty of \$300,000 within 30 days from the date of this order. The administrative penalty must be paid as instructed in the invoice, which the department will send after entry of this order.

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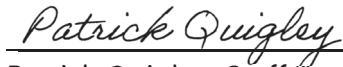
Cassie Brown
Commissioner of Insurance

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Recommended and reviewed by:



Leah Gillum, Deputy Commissioner
Enforcement Division



Patrick Quigley, Staff Attorney
Enforcement Division

Affidavit

STATE OF TEXAS §

§

COUNTY OF BEXAR §

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

"My name is Theresa Scepaniski. 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/Chief Executive Officer and am the authorized representative of Community First Health Plans, Inc. I am duly authorized by the organization to execute this statement.

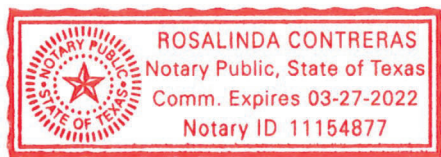
Community First Health Plans, Inc. has knowingly and voluntarily entered into the foregoing consent order and agrees with and consents to the issuance and service of the same by the commissioner of insurance of the State of Texas."

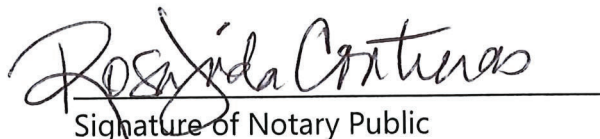


Affiant

SWORN TO AND SUBSCRIBED before me on December 13, 2021.

(NOTARY SEAL)





Signature of Notary Public

Rosalinda Contreras

Printed Name of Notary Public