

No. 2017- 5069

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

Date: MAY 09 2017

Subject Considered:

Aetna Life Insurance Company
151 Farmington Avenue Rt21
Hartford CT 06156

CONSENT ORDER
TDI ENFORCEMENT FILE NO. 12477

General remarks and official action taken:

The commissioner of insurance considers whether disciplinary action should be taken against Aetna Life Insurance Company (Aetna).

WAIVER

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

Pursuant to Tex. Ins. Code § 82.055(b), Aetna agrees to this consent order with the express reservation that it does not admit to a violation of any provision of the Insurance Code or rule or regulation of the department and maintains the existence of any violation is in dispute.

FINDINGS OF FACT

1. Aetna, TDI License No. 400, is a foreign accident and health company currently holding a certificate of authority issued by TDI to transact the business of insurance in the State of Texas.
2. Under Texas prompt pay statutes and rules, a claim is paid on the date of electronic transmission, if a claim payment is made electronically to the provider.
3. In the 2014 market conduct examination of Aetna on June 16, 2016, Aetna reported 6,199 claims were paid after the statutorily required due date to make a determination

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- or adjudication of the claim. Aetna discovered that the electronic funds transfer process had an unintended impact on calculation of prompt pay deadlines when the due date fell on a weekend or bank holiday.
4. The review of 100 sampled late paid medical claims revealed 18 claims where Aetna failed to pay the required penalty payment. For 10 of the 18, Aetna failed to pay 50 percent of the penalty amount relating to a clean claim submitted by an institutional provider to the Texas Health Insurance Risk Pool.
 5. The review of 100 sampled late paid medical claims revealed Aetna failed to correctly upload medical claim contracts for two providers and failed to pay the applicable penalty amounts. Aetna stated their review found 97 claims, including the two found by the examiner where the applicable penalty was not paid.
 6. Aetna stated during the examination period it failed to compute and pay additional interest on 287 pharmacy claims paid on or after the 91st day after the date of adjudication.
 7. Aetna paid additional penalties and interest on the identified prompt payment claims.
 8. As part of the examination Aetna was requested to review the claims from the population which were not sampled to determine the total number of claims subject to penalty and interest that were not paid during the timeframe of examination.
 9. Aetna adjudicated 3,920,950 claims during the audit period and identified that approximately 3,656, or less than 0.1%, of the claims were affected. As a result, some clean claims were paid late, without the appropriate penalties.
 10. Aetna will reprocess the approximately 3,656 claims referenced above to pay penalties and interest that may be owed, subject to and without waiving any defense regarding these claims, and has projected an approximate completion date for the additional payment of these approximately 3,656 claims, if any, as July 31, 2017.
 11. Aetna adjusted and further automated its electronic adjudication and banking procedures in 2016 in compliance with prompt payment requirements.
 12. Aetna has cooperated with TDI in its investigation and resolution of this matter.

CONCLUSIONS OF LAW

1. The commissioner has jurisdiction over this matter pursuant to Tex. Ins. Code §§ 82.052-82.055 and 1301.101-1301.138; 28 Tex. Admin. Code §§ 21.2801-21.2816; and Tex. Gov't Code §§ 2001.051-2001.178.
2. The commissioner has authority to dispose of this case informally pursuant to the provisions of Tex. Gov't Code § 2001.056; Tex. Ins. Code § 82.055; and 28 Tex. Admin. Code § 1.47.
3. Aetna violated Tex. Ins. Code §§ 1301.101-1301.138; and 28 Tex. Admin. Code §§ 21.2801-21.2816 because it failed to pay the correct penalty and interest.

The commissioner orders Aetna Life Insurance Company to pay providers penalties, if any owed, on the approximately 3,656 claims identified in paragraph 10 above as a result of the electronic funds transfer delay for year 2014, in an amount to be determined through the claims review process, which amount will be reported to TDI as it is confirmed by Aetna, with appropriate allocations to the Texas Department of Insurance, under Tex. Ins. Code § 1301.137. Aetna must pay any penalty and interest on the approximately 3,656 claims by July 31, 2017.

To the extent the processing and payment of any additional penalty on the approximately 3,656 claims continues after July 31, 2017, the commissioner orders Aetna Life Insurance Company to provide TDI with a monthly report, continuing until completion of the project, detailing its progress in identifying impacted claims and paying additional penalties owed to providers on claims paid in 2014, including the amount of penalties paid for the period covered by the report. The report must be mailed to the Texas Department of Insurance, Attn: Catherine Bell, Enforcement Section, MC 110-1A, P.O. Box 149104, Austin, Texas 78714-9104.

The commissioner orders Aetna Life Insurance Company to provide TDI with a final report on proof of payment of the penalties to providers, within 30 days of completion of the project. The report shall include the Aetna provider number, provider's NPI, penalty/interest amount paid to provider, penalty/interest amount paid to the Texas Department of Insurance, and the date the penalty payment is issued to the provider. Such proof must be mailed to the Texas Department of Insurance, Attn: Catherine Bell, Enforcement Section, MC 110-1A, P.O. Box 149104, Austin, Texas 78714-9104.

The commissioner orders Aetna Life Insurance Company to pay an administrative penalty of \$100,000 within 30 days of the date this Order. The administrative penalty must be paid by company check, cashier's check, or money order 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.

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

For the Staff:



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