

No. 2017- 5321

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

Date: DEC 20 2017

Subject Considered:

SUPERIOR HEALTHPLAN, INC.
5900 East Ben White Blvd.
Austin, TX 78741

CONSENT ORDER
TDI ENFORCEMENT FILE NO. 13393

General remarks and official action taken:

The commissioner of insurance considers whether disciplinary action should be taken against Superior HealthPlan, Inc. (SHP).

WAIVER

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

FINDINGS OF FACT

1. SHP, company ID No. 10198, has held a basic health maintenance organization license with TDI since April 29, 1997.
2. SHP delegated utilization review duties to Centene Company of Texas, LP (Centene Texas). TDI certified Centene Texas as a health utilization review agent, effective January 31, 1997.
3. SHP has a duty to monitor all delegated entities to ensure they are in compliance with all applicable rules and statutes.
4. In 2016, TDI's MCQA Office selected Centene Texas for a utilization review audit. MCQA randomly selected three utilization review case files and requested that Centene Texas provide all of the issued adverse determination letters in those cases.
5. TDI's review of the audit files revealed that Centene Texas has used unapproved adverse determination letters and has not consistently used the template approved most recently by TDI on March 18, 2015.

- 6. Centene Texas issued the unapproved adverse determination letters while conducting utilization review for SHP.
- 7. Centene Texas has represented to TDI that the approved template is in use as part of the company's workflow process, and that the audited letters were a result of employee or user error that is being investigated and remediated.
- 8. The unapproved letters found in the audit process did not substantively deny necessary notice or appeal opportunities to enrollees and SHP is not, as a result of this order, being required to provide new notice or appeal opportunities.

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, and 1272.056; 28 TEX. ADMIN. CODE §§ 11.2601 and 11.2603; and TEX. GOV'T CODE §§ 2001.051-2001.178.
- 2. The commissioner has authority to informally dispose of this matter as set forth under TEX. GOV'T CODE § 2001.056, TEX. INS. CODE §§ 82.055 and 36.104, and 28 TEX. ADMIN. CODE § 1.47.
- 3. SHP retains ultimate responsibility to monitor Centene Texas, its delegated entity, to ensure that its utilization reviews are performed in a manner that complies with applicable insurance statutes and rules, pursuant to TEX. INS. CODE §§ 1272.056 and 1272.060 and 28 TEX. ADMIN. CODE §§ 11.2601 and 11.2603.
- 4. SHP violated TEX. INS. CODE chs. 843, 1272, and 4201 when its delegated entity failed to comply with applicable statutes or rules, pursuant to 28 TEX. ADMIN. CODE § 11.2603.

The commissioner orders that Superior HealthPlan, Inc. pay an administrative penalty of \$40,000 within 30 days from the date of this order. The administrative penalty must be paid by company check, cashier's check, or money order made payable to the "State of Texas." Mail the administrative penalty to the Texas Department of Insurance, Attn: Enforcement Section, Division 60851, MC 9999, P.O. Box 149104, Austin, Texas, 78714-9104.



Kent C. Sullivan
Commissioner of Insurance

APPROVED AS TO FORM AND CONTENT:



Erin Dinsmore, Staff Attorney
Enforcement Section

2017- 5321

COMMISSIONER'S ORDER
Superior HealthPlan, Inc.
Page 3 of 3

Affidavit

STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

Before me, the undersigned authority, personally appeared the affiant, 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 Plan President and CEO, and am the authorized representative of Superior HealthPlan, Inc. I am duly authorized by said organization to execute this statement.

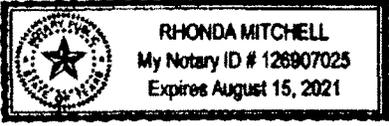
Superior HealthPlan, Inc. has knowingly and voluntarily entered into the foregoing consent order and agrees with and consents to the issuance and service of the same by the commissioner of insurance of the state of Texas.”



Affiant

SWORN TO AND SUBSCRIBED before me on October 27, 2017.

(NOTARY SEAL)





Signature of Notary Public