

No. 2018- 5818

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

Date: DEC 28 2018

Subject Considered:

TRISTAR MANAGED CARE
1801 Old Trolley Rd, Ste D
Summerville, South Carolina 29485

CONSENT ORDER
TDI ENFORCEMENT FILE NO. 15637

General remarks and official action taken:

The subject of this order is whether disciplinary action should be taken against Tristar Managed Care (Tristar).

WAIVER

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

FINDINGS OF FACT

1. TDI certified Tristar as a workers' compensation, network and non-network, utilization review agent, certification no. 5321, on December 16, 2005. Tristar's certification is current and expires on December 16, 2019.

Adverse Determination Templates

2. In February 2018, TDI randomly selected Tristar for a review audit of template letters and requested a list of all utilization review cases where Tristar issued an adverse determination for the period of 1/1/2017 through 12/31/2017.
3. Tristar responded with a list of 496 cases. TDI randomly selected 15 case files and requested Tristar to provide copies of the initial adverse determination letter, appeal acknowledgement letter, and the appeal determination/response letter. TDI reviewed these files for compliance.
4. Tristar was not using its most current adverse determination templates, templates previously approved by TDI in all 15 cases.
5. Tristar was not using its most current appeal acknowledgement templates, templates previously approved by TDI in six of the 15 cases.
6. Tristar failed to identify the role of UniMed Direct, its certified URA utilized to make medical necessity determinations in all 15 cases. Members received two different letterheads and different contact information resulting in confusion to members on who to contact with questions about the determination.
7. Tristar failed to ensure that the Physician Advisor Report issued by UniMed Direct contained the required "Confidentiality Statement" that Tristar attested would be present.
8. Tristar has represented to TDI that its most current adverse determination templates and appeal acknowledgment templates are now being used consistently, all letters include an explanation of the role of UniMed Direct, and the confidentiality statement has been added to the Physician Advisor Report.

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, 4201.303, 4201.355, and 4201.551; 28 TEX. ADMIN. CODE §§ 19.2009, 19.2011, and 19.2013; 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 §§ 36.104 and 82.055, and 28 TEX. ADMIN. CODE § 1.47.
3. Tristar 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. Tristar violated TEX. INS. CODE § 4201.303 and 28 TEX. ADMIN. CODE § 19.2009 by using unapproved adverse determination templates.
5. Tristar violated TEX. INS. CODE § 4201.355 and 28 TEX. ADMIN. CODE § 19.2011(3) by using unapproved appeal acknowledgement templates.
6. Tristar violated TEX. INS. CODE § 4201.251 by failing to identify that UniMed Direct made its medical necessity determinations.
7. Tristar violated TEX. INS. CODE § 4201.551 and 28 TEX. ADMIN. CODE § 19.2013 by failing to use a confidentiality statement in its Physician Advisor Report.

It is ordered that Tristar Managed Care must pay an administrative penalty of \$25,000 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, Legal and Enforcement Division 60851, MC 9999, P.O. Box 149104, Austin, Texas, 78714-9104.



Kent C. Sullivan
Commissioner of Insurance

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COMMISSIONER'S ORDER

Tristar Managed Care

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Approved as to Form and Content:

Bev Rosendahl

Bev Rosendahl

Staff Attorney, Enforcement Section

Texas Department of Insurance

