

No. **3808**

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

Date: FEB 05 2015

Subject Considered:

TRUSTMARK LIFE INSURANCE COMPANY
400 Field Drive
Lake Forest, IL 60045-2581

CONSENT ORDER
TDI ENFORCEMENT FILE NO. 7642

General remarks and official action taken:

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

WAIVER

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

FINDINGS OF FACT

1. Trustmark LIC holds utilization review agent license number 5362 issued by TDI on November 27, 2007, and effective until November 27, 2015.
2. On November 22, 2013, TDI received Trustmark LIC's registration renewal application.
3. On January 21, 2014, March 11, 2014, and April 10, 2014, TDI's Managed Care Quality Assurance (MCQA) Office sent Trustmark LIC letters regarding deficiencies in Trustmark LIC's utilization review policies and adverse determination templates (templates).
4. Trustmark LIC's templates included a second mandatory internal appeal prior to allowing parties to seek independent review. Only after TDI's MCQA Office sent Trustmark LIC several notices and requests to delete the second mandatory internal appeal language, did Trustmark LIC make the requested corrections to the templates.

5. In May 2014, TDI's MCQA Office obtained case files from Trustmark LIC that revealed that Trustmark LIC was still using and issuing the disapproved templates to enrollees and providers and continuing to require a second mandatory internal appeal prior to allowing parties to seek independent review.
6. Trustmark LIC also failed to:
 - a. Issue initial adverse determinations within the required timeframes.
 - b. Afford the provider with a reasonable opportunity to discuss the requested health care services prior to issuing an adverse determination.
 - c. Include in its initial adverse determination letters a description of the source of the screening criteria it used to make the determination.
 - d. Include in its appeal acknowledgement letter:
 - i. The date that the URA received the appeal, and
 - ii. A list of the documents that the appealing party must submit for review when the approved template included this notice element.
7. In June 2014, TDI's MCQA Office approved Trustmark LIC's renewal application based on Trustmark LIC's corrections to the policies and templates and its representation that it would use and issue the approved templates.

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, 4201.102(b), 4201.206, 4201.304, 4201.353, 4201.401; and 4201.603; 28 TEX. ADMIN. CODE §§ 19.1709(b)(3) and 19.1715; 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. Trustmark LIC violated TEX. INS. CODE § 4201.102(b) by failing to maintain compliance with TEX. INS. CODE Chapter 4201, Subchapters D, E, and F.
4. Trustmark LIC violated TEX. INS. CODE § 4201.206 by failing to provide health care providers a reasonable opportunity to discuss with a physician the patient's treatment plan and the clinical basis for the agent's determination.

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COMMISSIONER'S ORDER
Trustmark Life Insurance Company
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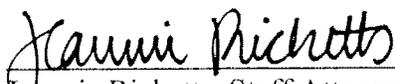
5. Trustmark LIC violated TEX. INS. CODE § 4201.304 by failing to provide notice of an adverse determination within the required deadlines.
6. Trustmark LIC violated TEX. INS. CODE § 4201.353 by failing to maintain reasonable procedures for appealing an adverse determination.
7. Trustmark LIC violated TEX. INS. CODE § 4201.355 by failing to include the following in its appeal acknowledgement letter:
 - a. The date that the URA received the appeal, and
 - b. A list of the documents that the appealing party must submit for review.
8. Trustmark LIC violated TEX. INS. CODE § 4201.401 by mandating that a party obtain a second level of review prior to the party seeking independent review of the adverse determination.
9. Trustmark LIC violated 28 TEX. ADMIN. CODE § 19.1709(b)(3) by failing to include a description or source of the screening criteria that were utilized as guidelines in making the determination in its initial adverse determination letters.
10. Trustmark LIC violated 28 TEX. ADMIN. CODE § 19.1715, which prohibits a fraudulent or deceptive act or omission by using disapproved templates and policies in obtaining, attempting to obtain, or using a certification or registration as a URA in violation of TEX. INS. CODE Chapter 4201.

The commissioner orders Trustmark LIC to pay an administrative penalty of \$30,000 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 40111, P.O. Box 149104, Austin, Texas, 78714-9104.



David C. Mattax
Commissioner of Insurance

Approved as to Form and Content:



Jeannie Ricketts, Staff Attorney
Enforcement Section, Compliance Division
Texas Department of Insurance

