

No. 3936

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

Date: APR 29 2015

Subject Considered:

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

CONSENT ORDER
TDI ENFORCEMENT FILE NO. 7762

General remarks and official action taken:

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

WAIVER

Aetna acknowledges that the Texas Insurance Code and other applicable laws 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 the Insurance Code or TDI rules, and maintains that the existence of a violation is in dispute.

FINDINGS OF FACT

1. On January 1, 1909, TDI issued Aetna life license no. 400.
2. On September 20, 2011, TDI warned Aetna that it could not condition a therapeutic optometrist's participation in its medical panels on the therapeutic optometrist's inclusion in, or acceptance of the terms of payment for, a particular vision panel.
3. XX is a therapeutic optometrist licensed by the Texas Optometry Board who operates an eyecare clinic in Texas. XX is a participating provider in Aetna's EyeMed Vision Care, LLC Texas network. Therapeutic optometrists who contract through EyeMed are not directly contracted on Aetna's medical panel.

4. On January 13, 2014, XX filed a complaint with TDI reporting that Aetna denied his request to participate on its directly-contracted medical panel. Aetna informed XX that its directly-contracted medical panel was closed to optometrists and ophthalmologists. Aetna's advisory review panel, composed of its network staff, patient management, and sales departments, met to consider XX's appeal of his denial for participation in the Aetna medical panel network, but did not overturn XX's denial.
5. On May 14, 2014, the Texas Optometric Association filed a complaint with TDI supporting XX's complaint and reporting that Aetna had an improper blanket policy towards optometrists statewide who attempted to credential on Aetna's directly-contracted medical panel.
6. Aetna allows therapeutic optometrists who contract to provide routine vision care services through EyeMed to indirectly contract with Aetna's medical panel, or terminate their EyeMed contract and pursue a direct medical panel contract. However, if Aetna determines that its medical panel is full, Aetna denies therapeutic optometrists a direct contract. To be included in Aetna's directly-contracted medical panel, the therapeutic optometrist must agree to be included in the EyeMed vision panel.

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, 1451.001, 1451.151, 1451.153, and 1451.154; 28 TEX. ADMIN. CODE § 3.3706; and TEX. GOV'T CODE §§ 2001.051-2001.178.
2. The commissioner has authority to informally dispose of this matter under TEX. GOV'T CODE § 2001.056; TEX. INS. CODE §§ 82.055 and 36.104; and 28 TEX. ADMIN. CODE § 1.47.
3. Aetna violated TEX. INS. CODE § 1451.153(a)(5) because, as a condition for a therapeutic optometrist or ophthalmologist to be included in one or more of the its medical panels, it required the therapeutic optometrist or ophthalmologist to be included in, or accept the terms of payment under or for, a particular vision panel in which the therapeutic optometrist or ophthalmologist did not otherwise wish to be included.
4. Aetna violated TEX. INS. CODE § 1451.154(b) because Aetna's managed care plan failed to allow therapeutic optometrists operating in Texas, who were on one or more of Aetna's vision panels, to be fully participating providers on Aetna's medical panels to the full extent of their licenses to practice therapeutic optometry.
5. Aetna violated 28 TEX. ADMIN. CODE § 3.3706(b)(2) because it failed to compose its advisory review panel of appropriate members and failed to include a minimum of one panel provider within a therapeutic optometrist's specialty.

3936

COMMISSIONER'S ORDER
Aetna Life Insurance Company
TDI Enforcement File No. 7762
Page 3 of 4

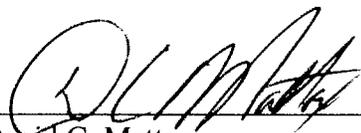
The commissioner orders Aetna Life Insurance Company to pay an administrative penalty of \$25,000 within 30 days of the date of this Order. The administrative penalty must be paid by company check, cashier's check, or money order made payable to the "State of Texas." Mail the administrative penalty to the Texas Department of Insurance, Attn: Enforcement Section, Division 40111, MC 9999, P.O. Box 149104, Austin, Texas, 78714-9104.

The commissioner orders Aetna Life Insurance Company to comply with TEX. INS. CODE § 1451.154(b) by allowing all therapeutic optometrists in Texas, including XX, who are on one or more of its vision panels, to be fully participating providers on its medical panels to the full extent of their licenses to practice therapeutic optometry.

The commissioner orders Aetna Life Insurance Company to comply with TEX. INS. CODE § 1451.153(a)(5) by not conditioning a therapeutic optometrist's or ophthalmologist's inclusion in one or more of its medical panels on the therapeutic optometrist's or ophthalmologist's inclusion in, or acceptance of the terms of payment under or for, a particular vision panel in which the therapeutic optometrist or ophthalmologist does not otherwise wish to be included.

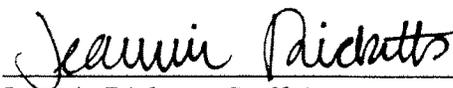
The commissioner orders Aetna Life Insurance Company to structure its advisory review panel of members within Aetna Life Insurance Company's Texas PPO service area to comply with the requirements of 28 TEX. ADMIN. CODE § 3.3706(b)(2).

The commissioner orders Aetna Life Insurance Company to train its customer service representatives and its provider relations department concerning TEX. INS. CODE §§ 1451.153 and 1451.154; and 28 TEX. ADMIN. CODE § 3.3706.



David C. Mattax
Commissioner of Insurance

Approved as to Form and Content:



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

