

No. 2018-5331

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

Date: JAN 03 2018

**Subject Considered:**

**MCNA INSURANCE COMPANY**  
200 West Cypress Creek Road Ste 500  
Fort Lauderdale, FL 33309

**CONSENT ORDER**  
TDI ENFORCEMENT FILE NO. 13316

**General remarks and official action taken:**

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

**WAIVER**

MCNA acknowledges that the Texas Insurance Code and other applicable laws provide certain rights. MCNA 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), MCNA 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 MCNA maintains the existence of any violation is in dispute.

**FINDINGS OF FACT**

1. On May 4, 2011, TDI issued MCNA life, accident, and health license no. 96488.
2. MCNA's sole line of business in Texas is comprised of underwriting and administering the state's Medicaid and Children's Health Insurance dental programs. As a contractor of the Health and Human Services Commission, MCNA is the payor for the programs and performs its own utilization review activities.
3. On February 20, 2013, TDI adopted 28 TEX. ADMIN. CODE 19.1704(a)(2) which required that MCNA register as a utilization review agent in order to perform utilization review for its Children's Health Insurance Program (CHIP).

4. A review of TDI records show that MCNA did not hold a certificate of registration as a URA to perform utilization review for its CHIP program.
5. MCNA did not register as a utilization review agent because MCNA in good faith believed that it was not required to do so under TEX. INS. CODE § 4201.053.

#### **Utilization Review**

6. On October 17, 2016, the MCQA Office received an IRO request form from MCNA. Upon review, TDI discovered that MCNA was performing utilization review for its CHIP program without a URA license and MCNA was instructed to submit an application.
7. On April 4, 2017, the MCQA Office received an original utilization review application from MCNA for registration as a URA. Upon completion, MCQA sent its first deficiency letter.
8. On May 3, 2017, MCNA received an appeal and IRO request from a member. MCNA was informed that until it received a certification of registration, it could not perform utilization review for its CHIP program, and was asked to cease all CHIP program utilization review activity.
9. On June 1, 2017, TDI approved MCNA's application for registration as a utilization review agent and issued certificate no. 2192786 to the company for the certificate of registration period under Chapter 4201 of the Texas Insurance Code.

#### **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 4201.101; 28 TEX. ADMIN. CODE § 19.1704; 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. MCNA violated TEX. INS. CODE § 4201.101 and 28 TEX. ADMIN. CODE § 19.1704 by performing utilization review without holding a certificate of registration to act as a URA.

2018-5557

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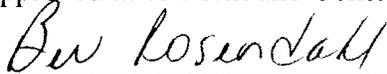
The commissioner orders MCNA Insurance Company to pay an administrative penalty of \$30,000 within 30 days from the date of this order. The administrative penalty must be paid by company check, cashier's check, or money order made payable to the "State of Texas." Mail the administrative penalty to the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



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Kent C. Sullivan  
Commissioner of Insurance

Approved as to Form and Content:



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Bev Rosendahl, Staff Attorney  
Enforcement Section  
Texas Department of Insurance

