

No. 2018-5521

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

Date: MAY 24 2018

Subject Considered:

EL PASO FIRST HEALTH PLANS, INC.
1145 Westmoreland Drive
El Paso, Texas 79925

CONSENT ORDER
TDI ENFORCEMENT FILE NO. 14876

General remarks and official action taken:

The subject of this order is whether disciplinary action should be taken against El Paso First Health Plans, Inc. (El Paso First Health Plans).

WAIVER

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

FINDINGS OF FACT

1. The Texas Department of Insurance (TDI) issued El Paso First Health Plans basic service health maintenance organization (HMO) license number 95463, effective October 20, 2000.

2016 Triennial Examination

2. TDI conducted a triennial quality of care examination of El Paso First Health Plans for the period beginning May 12, 2014, and ending December 31, 2016.
3. On June 26, 2017, TDI held an exit conference call with El Paso First Health Plans to discuss the 2016 examination findings.
4. In El Paso First Health Plans' 2016 examination, TDI found evidence that El Paso First Health Plans failed to afford the provider of record a reasonable opportunity to discuss the

services under review during normal business hours, no less than one day prior to issuing the prospective adverse determination.

5. In El Paso First Health Plans' 2016 examination, TDI found evidence that El Paso First Health Plans failed to issue to the provider of record and the patient a written adverse determination within three working days of receiving the request for services for a patient who is not hospitalized at the time of the request.
6. In El Paso First Health Plans' 2016 examination, TDI found evidence that El Paso First Health Plans failed to include a list of relevant documents that must be submitted by the appealing party in the appeal acknowledgement letter.
7. El Paso First Health Plans submitted a plan of correction to address the deficiencies cited in the final examination report issued by TDI on August 4, 2017.

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, 401.055, 843.252, 4201.206, 4201.304, and 4201.355; 28 TEX. ADMIN. CODE §§ 19.1703, 19.1709, 19.1710, and 19.1711; 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. El Paso First Health Plans violated TEX. INS. CODE § 4201.206 and 28 TEX. ADMIN. CODE §§ 19.1703(b)(26)(A) and 19.1710 by failing to afford the provider of record a reasonable opportunity to discuss the services under review during normal business hours, no less than one day prior to issuing the prospective adverse determination.
4. El Paso First Health Plans violated TEX. INS. CODE § 4201.304(2) and 28 TEX. ADMIN. CODE § 19.1709(d)(3) because it failed to issue to the provider of record and the patient a written adverse determination within 3 working days of receiving the request for services for a patient who is not hospitalized at the time of the request
5. El Paso First Health Plans violated TEX. INS. CODE § 4201.355(b)(2) and 28 TEX. ADMIN. CODE § 19.1711(a)(3)(C) by failing to include a list of relevant documents that must be submitted by the appealing party in the appeal acknowledgement letter.

2018- 5521

COMMISSIONER'S ORDER
El Paso First Health Plans, Inc.
TDI Enforcement File No. 14876
Page 3 of 4

It is ordered that El Paso First Health Plans, Inc. pay an administrative penalty of \$60,000 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:



Bev Rosendahl, Staff Attorney
Enforcement Section
Texas Department of Insurance

AFFIDAVIT

STATE OF TEXAS §
 §
COUNTY OF EL PASO §

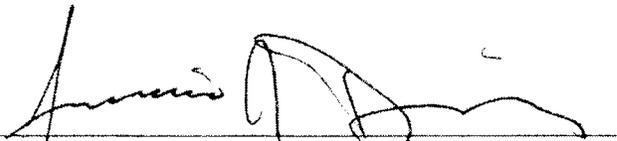
Before me, the undersigned authority, personally appeared the affiant, who being by me duly sworn, deposed as follows:

“My name is FRANCISCO J. DOMINGUEZ. 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 PRESIDENT AND CHIEF EXECUTIVE OFFICER, and am the authorized representative of EL PASO FIRST HEALTH PLANS, INC. I am duly authorized by said organization to execute this statement.

EL PASO FIRST HEALTH PLANS, INC. waives rights provided by the Texas Insurance Code and other applicable laws, and acknowledges the jurisdiction of the Texas commissioner of insurance.

EL PASO FIRST HEALTH PLANS, INC. is voluntarily entering into this consent order. EL PASO FIRST HEALTH PLANS, INC. consents to the issuance and service of this consent order.”



FRANCISCO J. DOMINGUEZ, Affiant

SWORN TO AND SUBSCRIBED before me on February 07, 2018.

(NOTARY SEAL)



Signature of Notary Public

