

No. 2018-5600

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

Date: AUG 09 2018

**Subject Considered:**

COMMUNITY FIRST HEALTH PLANS, INC.  
12238 Silicon Drive Suite 100  
San Antonio, Texas 78249

**CONSENT ORDER**  
TDI ENFORCEMENT FILE NO. 16165

**General remarks and official action taken:**

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

**WAIVER**

CFHP acknowledges that the Texas Insurance Code and other applicable laws provide certain rights. CFHP 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 CFHP basic service health maintenance organization (HMO) license number 94402, effective October 06, 1995.

**2016 Triennial Examination**

2. TDI conducted a triennial quality of care examination of CFHP for the period beginning May 13, 2014, and ending December 31, 2016.
3. On February 28, 2018, TDI held an exit conference call with CFHP to discuss the 2016 examination findings.

**Examination Findings**

4. CFHP failed to implement its Corrective Action Plan within 90 days from receipt of its 2014 triennial quality of care examination report and failed to file the required access plan.
5. CFHP failed to file its executed delegation agreements with TDI, no later than the 30th day after the date the agreement or amendment was executed.
6. CFHP's utilization review agent failed to give the provider of record a reasonable opportunity to discuss the plan of treatment for the enrollee with a physician during normal business hours, no less than one working day and prior to issuing the adverse determination. This was similar to issues TDI previously identified in a 2014 examination of CFHP.
7. CFHP failed to issue an adverse determination within three days of receiving the request for services for enrollees not hospitalized at the time of the request. This was similar to issues TDI previously identified in a 2014 examination of CFHP.
8. CFHP failed to provide acceptable proof of payment date related to clean claims. Compliance with the claims payment statutory payment period is considered to be on the date of a) the postmark, if a claim payment is delivered by United States Postal Service, b) electronic transmission, if a claim payment is made electronically, or c) delivery of the claim payment to a commercial carrier, such as UPS or Federal Express.
9. CFHP failed to pay prompt pay penalties to providers and TDI. CFHP has paid all penalties owed on clean claims.
10. CFHP failed to accurately report the number of claims paid within the statutory timeframes during the scope of the examination.
11. CFHP failed to provide evidence that it monitored its delegated entities for compliance with all applicable statutes and rules.
12. CFHP submitted a plan of correction to address the deficiencies cited in the final examination report issued by TDI on May 4, 2018.

**CONCLUSIONS OF LAW**

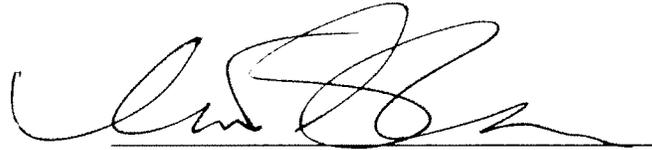
1. The commissioner has jurisdiction over this matter pursuant to TEX. INS. CODE §§ 31.002; 82.051-82.055, 84.021-84.022, 401.055, 843.348, 1272.052, 1272.056, and 4201.206; 28 TEX. ADMIN. CODE §§ 11.303, 11.2603, 11.2611, 19.1703, 19.1710, 19.1718, 21.2810, 21.2815, and 21.2821; and TEX. GOV'T CODE §§ 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; and 28 TEX. ADMIN. CODE § 1.47.

3. CFHP 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. CFHP violated 28 TEX. ADMIN. CODE § 11.303(d)(6) because it failed to implement its Corrective Action Plan within 90 days from receipt of the 2014 examination report and failed to file the required access plan.
5. CFHP violated TEX. INS. CODE § 1272.052(b) and 28 TEX. ADMIN. CODE § 11.2611 because it failed to file its executed delegation agreements with TDI, no later than the 30th day after the date the agreement or amendment was executed.
6. CFHP violated TEX. INS. CODE § 4201.206 and 28 TEX. ADMIN. CODE §§ 19.1703(b)(26)(A) and 19.1710 because its utilization review agent failed to give the provider of record a reasonable opportunity to discuss the plan of treatment for the enrollee with a physician during normal business hours, no less than one working day and prior to issuing the adverse determination and appeal.
7. CFHP violated TEX. INS. CODE § 843.348(d) and 28 TEX. ADMIN. CODE § 19.1718(d)(1) because it failed to issue an adverse determination within three days of receiving the request for services for enrollees not hospitalized at the time of the request.
8. CFHP violated 28 TEX. ADMIN. CODE § 21.2810 because it failed to provide an acceptable proof of payment date related to clean claims.
9. CFHP violated 28 TEX. ADMIN. CODE § 21.2815 because it failed to pay prompt pay penalties to providers and TDI.
10. CFHP violated 28 TEX. ADMIN. CODE § 21.2821(c) because it failed to accurately report the number of claims paid within the statutory timeframes during the scope of the examination.
11. CFHP violated TEX. INS. CODE § 1272.056 and 28 TEX. ADMIN. CODE § 11.2603(h) because it failed to provide evidence that it monitored its delegated entities for compliance with all applicable statutes and rules.

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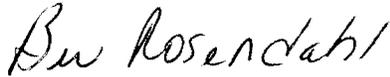
COMMISSIONER'S ORDER  
Community First Health Plans, Inc.  
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It is ordered that Community First Health Plans, Inc. pay an administrative penalty of \$200,000 within 30 days from the date of this order. The administrative penalty must be paid by company 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

