

No. 2018-5696

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

**Date:** NOV 05 2018

**Subject Considered:**

AETNA BETTER HEALTH OF TEXAS, INC.  
2777 Stemmons Freeway Suite 400  
Dallas, Texas 75207

**CONSENT ORDER**  
TDI ENFORCEMENT FILE NO. 16040

**General remarks and official action taken:**

The subject of this order is whether disciplinary action should be taken against Aetna Better Health of Texas, Inc. (Aetna).

**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.

**FINDINGS OF FACT**

1. The Texas Department of Insurance (TDI) issued Aetna a basic service health maintenance organization (HMO) license number 68775, effective July 7, 2015.

**2016 Triennial Examination**

2. TDI conducted a triennial quality of care examination of Aetna for the period beginning July 7, 2015, and ending December 31, 2016.
3. On August 22, 2017, TDI held an exit conference call with Aetna to discuss the 2016 examination findings.

**Examination Findings**

4. Aetna failed to provide evidence that it maintains a current, accurate written and electronic list of all credentialed and contracted individual providers, located within its approved service area and delivery network.
5. Aetna is not a certified utilization review agent. However, Aetna issued its own adverse determination letters. Aetna issued 12 adverse determinations letters during the scope of the examination.
6. Aetna does contract with a utilization review agent. However, Aetna'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 and appeal.
7. Aetna's utilization review agent 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. Aetna's notice of adverse determination letters failed to include a complete description of its complaint and appeal procedures as required.
9. Aetna failed to provide evidence that it monitored its delegated entities for compliance with all applicable statutes and rules.
10. Aetna failed to provide enrollees the complete process for appealing a complaint and failed to use TDI approved complaint template letters for the 25 complaints reviewed during the scope of the examination.
11. Aetna submitted a plan of correction to address the deficiencies cited in the final examination report issued by TDI on December 18, 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, 843.201, 843.2015, 843.259, 1272.056, 4201.101, 4201.206, 4201.303, and 4201.304; 28 TEX. ADMIN. CODE §§ 11.1607, 11.2603, 19.1703, 19.1704, 19.1709, and 19.1710; 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. Aetna 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. Aetna violated TEX. INS. CODE §§ 843.201 and 843.2015 and 28 TEX. ADMIN. CODE § 11.1607 because it failed to provide evidence that it maintains a current, accurate written and electronic list of all credentialed and contracted individual providers, located within its approved service area and delivery network.
5. Aetna violated TEX. INS. CODE § 4201.101 and 28 TEX. ADMIN. CODE § 19.1704 because Aetna is not a certified utilization review agent and issued its own adverse determination letters.
6. Aetna violated TEX. INS. CODE § 4201.206 and 28 TEX. ADMIN. CODE §§ 19.1703(b)(26)(C) 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. Aetna violated TEX. INS. CODE § 4201.304(2) and 28 TEX. ADMIN. CODE § 19.1709(d)(3) 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. Aetna violated TEX. INS. CODE § 4201.303(a)(4) and 28 TEX. ADMIN. CODE §§ 19.1709(b)(5) and 19.1709(b)(6) because it failed to include a complete description of its complaint and appeal procedures as required.
9. Aetna 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.
10. Aetna violated TEX. INS. CODE § 843.253(b)(4) because it failed to provide enrollees the complete process for appealing a complaint and failed to use TDI approved complaint template letters for 108 complaints during the scope of the examination.

It is ordered that Aetna Better Health of Texas, Inc. pay an administrative penalty of \$175,000 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.



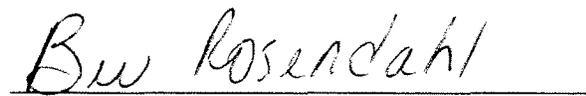
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Kent C. Sullivan  
Commissioner of Insurance

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Approved as to Form and Content:



Bev Rosendahl  
Staff Attorney, Enforcement Section  
Texas Department of Insurance

