

No. 2018- 5701

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

Date: NOV 05 2018

Subject Considered:

TEXAS CHILDREN'S HEALTH PLAN
P.O. Box 301011 WLS8300
Houston, Texas 77230

CONSENT ORDER
TDI ENFORCEMENT FILE NO. 16146

General remarks and official action taken:

The subject of this order is whether disciplinary action should be taken against Texas Children's Health Plan (TCHP).

WAIVER

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

FINDINGS OF FACT

1. TDI certified TCHP as a health utilization review agent, certification no. 1750701, on December 16, 2005. TCHP's certification is current and expires on January 27, 2020.

Adverse Determination Templates

2. In January 2018, MCQA randomly selected TCHP for a review audit of template letters and requested a list of all utilization review cases where TCHP issued an adverse determination for the period of 4/1/2017 through 12/31/2017.
3. TCHP responded with a list of 385 cases and MCQA requested TCHP to provide copies of the initial adverse determination letters.
4. Review of the files revealed that in 259 out of the 385 adverse determinations issued between 4/1/2017 and 9/30/2017, TCHP was not using templates previously approved by TDI.

5. TCHP has represented to TDI that the use of unapproved templates was due to internal technical difficulties which were resolved in October 2017 and that TCHP's most current adverse determination templates are now being used consistently.

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, 4201.303, 4201.355, and 4201.551; 28 TEX. ADMIN. CODE § 19.1709, 19.1711, and 19.1713; 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 28 TEX. ADMIN. CODE § 1.47.
3. TCHP 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. TCHP violated TEX. INS. CODE § 4201.303 and 28 TEX. ADMIN. CODE § 19.1709 by using unapproved adverse determination templates.

It is ordered that Texas Children's Health Plan pay an administrative penalty of \$40,000 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, Legal and Enforcement 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 Harris §

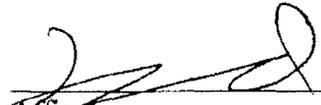
Before me, the undersigned authority, personally appeared the affiant, who being by me duly sworn, deposed as follows:

"My name is HEIDI SCHWARTZ. 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 CMO, and am the authorized representative of Texas Children's Health Plan. I am duly authorized by said organization to execute this statement.

Texas Children's Health Plan waives rights provided by the Texas Insurance Code and other applicable laws, and acknowledges the jurisdiction of the Texas commissioner of insurance.

Texas Children's Health is voluntarily entering into this consent order. Texas Children's Health Plan consents to the issuance and service of this consent order."



Affiant

SWORN TO AND SUBSCRIBED before me on September 24, 2018.

(NOTARY SEAL)



Signature of Notary Public

