

No. 2019- 5915

**Official Order
of the
Texas Commissioner of Insurance**

Date: APR 01 2019

Subject Considered:

Seton Health Plan, Inc.
4515 Seton Center Parkway Suite 310
Austin, Texas 78759

Consent Order
TDI Enforcement File No. 17318

General remarks and official action taken:

The subject of this order is whether disciplinary action should be taken against Seton Health Plan, Inc. (SHP).

Waiver

SHP acknowledges that the Texas Insurance Code and other applicable laws provide certain rights. SHP 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 SHP a basic service health maintenance organization (HMO) license number 94408, effective September 5, 1995.

2016 Triennial Examination

2. TDI conducted a triennial quality of care examination of SHP for the period beginning April 7, 2014, and ending December 31, 2016.

3. On May 9, 2018, TDI held an exit conference call with SHP to discuss the 2016 examination findings. Sample files reviewed during this examination were dated after the implementation of the required corrective action plan from the previous examination.

Examination Findings

4. SHP failed to provide evidence that its utilization review agent gave the provider of record a reasonable opportunity to discuss the plan of treatment for the enrollee with a physician, prior to issuing the adverse determination letter. This was similar to issues TDI previously identified in a 2014 examination of SHP.
5. SHP failed to provide evidence that its utilization review agent provided its telephone number so that the provider of record could contact the utilization review agent to discuss the pending adverse determination. This was similar to issues TDI previously identified in a 2014 examination of SHP.
6. SHP submitted a plan of correction to address the deficiencies cited in the final examination report issued by TDI on June 26, 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, and 4201.206; 28 TEX. ADMIN. CODE §§ 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 §§ 36.104 and 82.055; and 28 TEX. ADMIN. CODE § 1.47.
3. SHP 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. SHP violated TEX. INS. CODE § 4201.206 and 28 TEX. ADMIN. CODE § 19.1711 because it failed to provide evidence that its utilization review agent gave the provider of

record a reasonable opportunity to discuss the plan of treatment for the enrollee with a physician, prior to issuing the adverse determination letter.

5. SPD violated TEX. INS. CODE § 4201.206 and 28 TEX. ADMIN. CODE § 19.1710 because it failed to provide evidence that its utilization review agent provided its telephone number so that the provider of record could contact the utilization review agent to discuss the pending adverse determination.

Order

It is ordered that Seton Health Plan, Inc. pay an administrative penalty of \$50,000 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

By: _____


Doug Slape
Chief Deputy Commissioner
Commissioner's Order No. 2018-5528

Recommended and reviewed by:



Leah Gillum, Associate Commissioner
Enforcement Section



Bev Rosendahl, Director
Enforcement Section

