

No. 2019- 5936

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

**Date:** APR 16 2019

**Subject Considered:**

UnitedHealthcare Insurance Company  
185 Asylum Street  
Hartford, Connecticut 06103

Consent Order  
TDI Enforcement File No. 17129

**General remarks and official action taken:**

The subject of this order is whether disciplinary action should be taken against UnitedHealthcare Insurance Company (UHC).

**Waiver**

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

Pursuant to TEX. INS. CODE § 82.055(b), UHC agrees to this consent order with the express reservation that it does not admit to a violation of any provision of the Insurance Code or rule or regulation of the department and maintains the existence of any violation is in dispute.

**Findings of Fact**

1. The Texas Department of Insurance (TDI) issued UHC life, accident, and health insurance license number 83860, effective November 6, 1972.

## Market Conduct Examination

2. TDI conducted a market conduct examination for the period beginning January 1, 2014, and ending December 31, 2015. The examination was focused on UHC's requests and claims for acquired brain injuries. UHC accepted the examination report on August 22, 2018.
3. TDI reviewed 87 claims and found violations which are detailed below.
4. In two instances, the insured's coinsurance applicable to payment to nonpreferred providers exceeded 50 percent of the total covered amount applicable to the health care service.
5. In two instances, UHC failed to reimburse the nonpreferred health care providers at the same percentage level as preferred providers when services weren't available through preferred providers within a designated service area.
6. In three instances, UHC preauthorized out-of-network services because preferred providers weren't reasonably available in the designated service area. UHC failed to pay the claims at the preferred benefit coinsurance level and credit out of pocket amounts charged for covered services toward the insured's deductible and annual out of pocket maximum applicable to in network services.
7. In three instances, UHC failed to apply the prompt pay provisions when it preauthorized health care services provided by nonpreferred health care providers because health care services weren't reasonably available from a preferred provider in the network.
8. In six instances, UHC failed to determine the claims were payable and pay the claims on or before the 30<sup>th</sup> day after receiving electronic claims.
9. In two instances, UHC failed to attempt in good faith to effect a prompt, fair, and equitable settlement of claims submitted in which liability became reasonably clear.
10. In three instances, UHC failed to include the telephone number to TDI's Consumer Protection Division on the insured's explanation of benefits which contained remark codes indicating a payment was made to a nonpreferred provider.

## Conclusions of Law

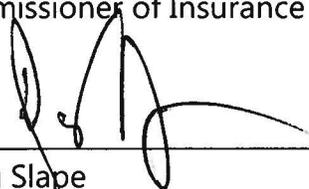
1. The commissioner has jurisdiction over this matter pursuant to TEX. INS. CODE §§ 31.002; 82.051-82.055, 84.021-84.022, 401.055, 542.003, 1301.0046, 1301.005, 1301.069, 1301.103 and 1456.003; 28 TEX. ADMIN. CODE §§21.2801 and 21.2823; and TEX. GOV'T CODE §§ 2001.051–2001.178.
2. The commissioner has 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. UHC 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. UHC violated TEX. INS. CODE § 1301.0046 because the insured's coinsurance applicable to payment to nonpreferred providers exceeded 50 percent of the total covered amount applicable to the health care service.
5. UHC violated TEX. INS. CODE § 1301.005(b) because it failed to reimburse the nonpreferred health care providers at the same percentage level as preferred providers when services weren't available through preferred providers within a designated service area.
6. UHC violated § 28 TEX. ADMIN. CODE § 3.3708(a) and (b) because it failed to pay the claims at the preferred benefit coinsurance level and credit out of pocket amounts charged for covered services toward the insured's deductible and annual out of pocket maximum applicable to preauthorized out-of-network services when preferred providers weren't reasonably available in the designated service area.
7. UHC violated TEX. INS. CODE § 1301.069 and 28 TEX. ADMIN. CODE § 21.2823 because it failed to apply the prompt pay provisions when it preauthorized health care services provided by nonpreferred health care providers because health care services weren't reasonably available from a preferred provider in the network.

8. UHC violated TEX. INS. CODE § 1301.103 and 28 TEX. ADMIN. CODE § 21.2807 because it failed to determine the claims were payable and pay the claims on or before the 30<sup>th</sup> day after receiving electronic claims.
9. UHC violated TEX. INS. CODE § 542.003(b)(4) because it failed to attempt in good faith to effect a prompt, fair, and equitable settlement of claims submitted in which liability became reasonably clear.
10. UHC violated TEX. INS. CODE § 1456.003(d) because it failed to include the telephone number to TDI's Consumer Protection Division on the insured's explanation of benefits which contained remark codes indicating a payment was made to a nonpreferred provider

**Order**

It is ordered that UnitedHealthcare Insurance Company must pay an administrative penalty of \$125,000 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

2019- 5936

Commissioner's Order  
UnitedHealthcare Insurance Company  
Page 5 of 6

Recommended and reviewed by:



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Leah Gillum, Associate Commissioner  
Enforcement Section



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Bev Rosendahl, Director  
Enforcement Section

2019- 5936

Commissioner's Order  
UnitedHealthcare Insurance Company  
Page 6 of 6

**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 David Milich. 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 Chief Executive Officer – Texas/Oklahoma, and am the authorized representative of UnitedHealthcare Insurance Company and I am duly authorized by said organization to execute this statement.

UnitedHealthcare Insurance Company waives rights provided by the Texas Insurance Code and other applicable laws and acknowledges the jurisdiction of the Texas commissioner of insurance.

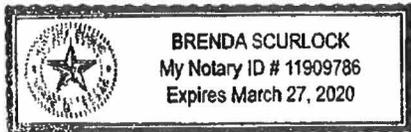
UnitedHealthcare Insurance Company is voluntarily entering into this consent order. UnitedHealthcare Insurance Company consents to the issuance and service of this consent order."



Affiant

SWORN TO AND SUBSCRIBED before me on March 1, 2019.

(NOTARY SEAL)

  
Signature of Notary Public