

No. **2020-6339**

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

Date: 04/30/2020

Subject Considered:

Envolve Pharmacy Solutions, Inc.
2425 W. Shaw Avenue
Fresno, California 93711

Consent Order
TDI Enforcement File No. 18615

General remarks and official action taken:

This is a consent order with Envolve Pharmacy Solutions, Inc. The Texas Department of Insurance (TDI) performed a desk audit of Envolve's utilization review business. The audit discovered that a system error had replaced the physician reviewer information with pharmacist information on the utilization review denial notifications sent by Envolve and that its procedures did not always offer providers a reasonable opportunity for a peer-to-peer discussion before denial. Envolve has agreed to modify its procedures and pay a \$120,000 administrative penalty.

Waiver

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

Findings of Fact

Corporate Structure and Delegation Agreements

1. TDI certified Envolve, firm identification number 64095, as a health utilization review company effective July 16, 2012.

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2. Currently in the Texas insurance market, Envolve performs pre-authorization coverage reviews for prescriptions drugs on behalf of Celtic Insurance Company, specifically its Superior Healthplan, by Ambetter product.
3. Envolve employs one physician, its Medical Director, and several pharmacists who complete the initial claims review portion of its utilization review business.
4. Envolve contracts with a third-party physician reviewer group, Medical Review Institute of America (MRIOA), to provide external medical peer reviews. TDI certified MRIOA as a health utilization review company effective October 4, 2001.

Audit Findings

5. On October 24, 2018, TDI commenced a desk audit of adverse determinations issued by Envolve. TDI audited a sample of 49 of the 14,848 adverse determinations Envolve issued between September 1, 2017, and August 31, 2018. In this sampling, TDI found evidence of multiple violations of Texas insurance laws and regulations.
6. Envolve sent denial notifications to providers and policyholders that identified pharmacists as the reviewers of the claim, instead of physicians, as required by Texas insurance law. These notifications stated that the pharmacist had determined that the prescription was not medically necessary—a determination a pharmacist is not legally qualified to make.
7. Envolve responded to this finding that all denial determinations had been made by physicians, but that a system error had replaced the physician information with pharmacist information on the notices.
8. Envolve did not always afford prescribing physicians a reasonable opportunity to discuss the plan of treatment with a physician before denial.
9. Envolve's system grouped outgoing letters into batches. The system for batching letters would, at times, create letters on the third working day after Envolve had received the claim, but not send the letter until the fourth working day.

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10. Envolve's system included multiple codes that populated the reason for denial in its notices. Some of these codes read as though reviewers were denying claims for reasons other than the requested treatment not being medically necessary.

Procedural Changes

11. To ensure future compliance, Envolve has made multiple changes to its utilization review procedures.
 - a. Envolve will continue to ensure that only physicians, not pharmacists, are making denial determinations.
 - b. Envolve has fixed the system error it says was causing reviewing physician identification information to be replaced with pharmacists' information.
 - c. Envolve will give providers reasonable opportunities to discuss patients' treatment plans after claims are reviewed by physician reviews at MRloA.
 - d. Envolve has instructed MRloA to have its physicians make a phone call to the prescribing physicians as well as send a fax notification before a claim is finalized as a denial.
 - e. Envolve has made changes to its faxed pre-denial notification to include a callback number for MRloA.
 - f. Envolve has modified language in its denial letters to eliminate the appearance that a pharmacist made the denial.

Conclusions of Law

1. The commissioner has jurisdiction over this matter pursuant to TEX. INS. CODE chs. 82, 84, and 4201; 28 TEX. ADMIN. CODE § 19.1715; and TEX. GOV'T CODE §§ 2001.051–2001.178.
2. The commissioner has the authority to dispose of this case informally pursuant to TEX. GOV'T CODE § 2001.056, TEX. INS. CODE §§ 36.104 and 82.055, and 28 TEX. ADMIN. CODE § 1.47.
3. Envolve 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.

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4. Envolve violated TEX. INS. CODE § 4201.206 and 28 TEX. ADMIN. CODE § 19.1710 by failing to provide prescribing health care providers reasonable opportunities to discuss patient treatment plans and the clinical bases for Envolve's determinations with a physician prior to the issuance of adverse determinations.
5. Envolve violated TEX. INS. CODE § 4201.303(a)(1) and 28 TEX. ADMIN. CODE § 19.1709(b)(1) by sending adverse determination notices that did not include the principal reasons for the adverse determination.
6. Envolve violated 28 TEX. ADMIN. CODE § 19.1709(b)(4) by sending adverse determination notices that did not include the professional specialty of the physician, doctor, or other health care provider that made the adverse determination.
7. Envolve violated TEX. INS. CODE § 4201.304 by sending notices of adverse determination for patients who were not hospitalized at the time of the adverse determination more than three working days after receiving the claim.
8. Envolve violated TEX. INS. CODE § 4201.153 by allowing reviewing physicians to make determinations on claims other than whether the requested treatment was medically necessary.

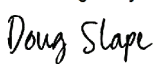
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Order

It is ordered that Envolve Pharmacy Solutions, Inc. must pay an administrative penalty of \$120,000 within 30 days from the date of this order. The penalty must be paid by company check, cashier's check, or money order made payable to the "State of Texas" and sent 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

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

Recommended and reviewed by:



Leah Gillum, Deputy Commissioner
Enforcement Division



Erin Dinsmore, Staff Attorney

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Affidavit

STATE OF Florida §

§

COUNTY OF Hillsborough §

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

"My name is Laura Hungerville. I am of sound mind, capable of making this statement, and have personal knowledge of these facts which are true and correct.

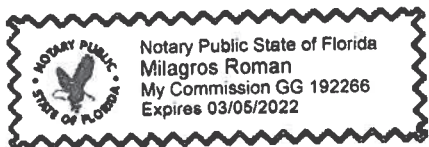
I hold the office of Chief Pharmacy Officer and am the authorized representative of Envolve Pharmacy Solutions, Inc. I am duly authorized by said organization to execute this statement.

Envolve Pharmacy Solutions, Inc. has knowingly and voluntarily entered into the foregoing consent order and agrees with and consents to the issuance and service of the same by the commissioner of insurance of the state of Texas."

Laura M Hungerville
Affiant

SWORN TO AND SUBSCRIBED before me on February 25, 2020.

(NOTARY SEAL)



Milagros Roman
Signature of Notary Public