

No. **2024-8760**

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

Date: 8/5/2024

Subject Considered:

Superior HealthPlan, Inc.
5900 E Ben White Blvd
Austin, Texas 78741

Consent Order
TDI Enforcement File No. 33356

General remarks and official action taken:

This is a consent order with Superior HealthPlan, Inc. (Superior) for violations found in a triennial quality of care examination. Superior has agreed to pay a \$240,000 administrative penalty.

Waiver

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

Findings of Fact

Licensure and Background

1. Superior holds a basic service health maintenance organization certificate of authority, issued by the department on April 29, 1997. Superior also holds a third-party administrator certificate of authority, issued by the department on January 18, 2001.

2024-8760

Commissioner's Order
Superior HealthPlan, Inc.
Page 2 of 9

2. This triennial quality of care examination covers activity between January 1, 2020, and December 31, 2022, on Superior's Health Maintenance Organization and Children's Health Insurance Program lines of business.
3. On October 6, 2023, Superior provided the department with a corrective action plan to remedy the violations outlined below. This plan included, among other changes, staff education and system enhancements.
4. Superior contracted with the following companies for utilization review services:
 - a. Centene Company of Texas, LP, effective July 1, 2006;
 - b. Centene Management Company, LLC, effective July 1, 2006;
 - c. Centene Pharmacy Services, Inc. (formerly known as Envolve Pharmacy Solutions, Inc.), effective March 1, 2012;
 - d. Texas National Imaging Associates, Inc., effective January 1, 2014; and
 - e. TurningPoint Healthcare Solutions, LLC, effective October 1, 2019.
5. Superior contracted with the third-party administrator Centene Pharmacy Services, Inc. (formerly known as Envolve Pharmacy Solutions, Inc.), effective March 1, 2012, to process and adjudicate claims.
6. Superior contracted with the following companies to resolve oral and written complaints:
 - a. Envolve Vision Inc., effective October 1, 2002; and
 - b. Centene Pharmacy Services, Inc. (formerly known as Envolve Pharmacy Solutions, Inc.), effective March 1, 2012.
7. Superior contracted with the following provider networks:
 - a. Ambetter Value 2022, effective January 1, 2022; and
 - b. Ambetter Virtual Access 2022, effective January 1, 2022.

2024-8760

Commissioner's Order
Superior HealthPlan, Inc.
Page 3 of 9

Previous Examinations

2014 Examination

8. The department conducted a triennial quality of care examination of Superior for the period beginning December 14, 2011, through December 31, 2014. Multiple violations were discovered.

2017 Examination

9. The department conducted a triennial quality of care examination of Superior for the period beginning January 1, 2014, through December 31, 2017. Multiple violations were discovered.
10. Commissioner Order No. 2020-6419, dated August 4, 2020, addressed multiple violations, some which were repeat violations from Superior's 2014 Examination. The order imposed an administrative penalty of \$225,000.

Utilization Review

11. In 100% (1404 of 1404) of preauthorization exemption requests denied, Superior did not provide a notice denying a preauthorization exemption within five days of the denial of preauthorization exemption for the initial evaluation period.

Initial Adverse Determinations

12. The department reviewed a sample of 26 initial adverse determinations to determine statutory compliance.
13. In 7% (2 of 26) of initial adverse determinations reviewed, Superior did not afford the provider of record a reasonable opportunity to discuss a member's treatment plan and clinical basis prior to issuing the adverse determination. In Superior's 2017 examination, 35% (10 of 28) of initial adverse determinations reviewed were in violation. Similar violations were identified in Superior's 2014 examination.
14. In 23% (6 of 26) of initial adverse determinations staff reviewed, Superior did not include the URA's telephone number on the notice of determination to allow the provider to discuss the pending adverse determination. In Superior's 2017

2024-8760

Commissioner's Order
Superior HealthPlan, Inc.
Page 4 of 9

examination, 32% (9 of 28) of initial adverse determinations reviewed were in violation. Similar violations were identified in Superior's 2014 examination.

Adverse Determination Appeals

15. The department reviewed a sample of 15 adverse determination appeals to determine statutory compliance.
16. In 13% (2 of 15) of adverse determination appeals reviewed, Superior did not send an appeal acknowledgement letter.
17. In 13% (2 of 15) of adverse determination appeals reviewed, Superior did not provide written notice to the appealing party of the determination of the appeal as soon as practicable, but not later than the 30th calendar day, after the date the utilization review agent receives the appeal.
18. In 13% (2 of 15) of adverse determination appeals reviewed, Superior did not issue a response letter explaining the resolution of the appeal to the patient or a person acting on the patient's behalf and the patient's physician or other health care provider.

Sample Claims Review

19. The department reviewed a sample of 50 claims to determine statutory compliance.
20. Of the 50 claims reviewed, 22 were paid late. In 100% (22 of 22) of claims paid late, Superior did not pay applicable penalties, including, as appropriate, an 18% annual interest penalty to the department.
21. Superior has since paid all applicable penalties to the provider and the annual interest to the department.
22. Superior failed to provide copies of the semi-annual audit performed on Envolve Vision, Inc. for 2021 and 2022.
23. Superior's monitoring plan did not ensure that it obtained, on a monthly basis, a summary of the total amount paid by delegated entities to physicians and providers.

2024-8760

Commissioner's Order
Superior HealthPlan, Inc.
Page 5 of 9

Initial Complaints

24. The department reviewed a sample of 35 initial complaints to determine statutory compliance.
25. In 2% (1 of 35) of initial complaints reviewed, Superior did not maintain a complaint system that provides reasonable procedures to resolve an oral or written complaint initiated by a complainant concerning health care services.
26. In 5% (2 of 35) of initial complaints reviewed, Superior did not send to the complainant the response letter that explains the health maintenance organization's resolution of the complaint.
27. In 2% (1 of 35) of initial complaints reviewed, Superior did not send to the complainant a response letter that stated the specific medical and contractual reasons for the resolution.

Provider Directories

28. Superior did not, in its web-based health care provider directory, include a list of all network facilities.
29. In 64% (2,173 of 3,372) of directory update submissions reviewed, Superior did not correct its directory by the seventh day after the date the report, notice, or complaint was received.

Provider Notifications

30. In 20% (62 of 310) of provider network participation applications, Superior did not notify providers of acceptance or non-acceptance, in writing, within 90 days from receipt of an application for participation. This was a repeat violation from Superior's 2017 examination.

Conclusions of Law

1. The commissioner has jurisdiction over this matter under TEX. INS. CODE Chs. 38, 82, 84, 542, 843, 1451, 1456, 4001, and 4201, and 28 TEX. ADMIN. CODE Chs. 11, 19, and 21.

2024-8760

Commissioner's Order
Superior HealthPlan, Inc.
Page 6 of 9

2. The commissioner has the authority to dispose informally of this matter as set forth in TEX. GOV'T CODE § 2001.056, TEX. INS. CODE §§ 36.104 and 82.055, and 28 TEX. ADMIN. CODE § 1.47.
3. Superior 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. Superior violated 28 TEX. ADMIN. CODE § 19.1710(1) by failing to provide the utilization review agent's telephone number on the notice of determination.
5. Superior violated 28 TEX. ADMIN. CODE § 19.1732(c) by failing to provide a notice denying a preauthorization exemption within five days of the denial of preauthorization exemption for the initial evaluation period.
6. Superior violated TEX. INS. CODE § 843.251 by failing to maintain a complaint system that provides reasonable procedures to resolve an oral or written complaint initiated by a complainant concerning health care services.
7. Superior violated TEX. INS. CODE § 843.253(b)(1) by failing to send to the complainant the response letter that explains the health maintenance organization's resolution of the complaint.
8. Superior violated TEX. INS. CODE § 843.253(b)(2) by failing to send to the complainant a response letter that stated the specific medical and contractual reasons for the resolution.
9. Superior violated TEX. INS. CODE § 843.305(c) and 28 TEX. ADMIN. CODE § 11.1402(c) by failing to notify providers of acceptance or non-acceptance, in writing, within 90 days from receipt of an application for participation.
10. Superior violated TEX. INS. CODE § 1272.053(2)(B) by failing to ensure its monitoring plan obtained, on a monthly basis, a summary of the total amount paid by delegated entities to physicians and providers.
11. Superior violated TEX. INS. CODE § 1451.505(a) and 1451.504(c)(4) by failing to include a list of all network facilities in its web-based health care provider directory.

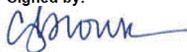
2024-8760

Commissioner's Order
Superior HealthPlan, Inc.
Page 7 of 9

12. Superior violated TEX. INS. CODE § 1451.505(e) by failing to correct its directory by the seventh day after the date the report, notice, or complaint was received.
13. Superior violated TEX. INS. CODE § 4151.1042 and 28 TEX. ADMIN. CODE § 7.1611 by failing to provide copies of the semi-annual audit performed on Envolve Vision, Inc. for 2021 and 2022.
14. Superior violated TEX. INS. CODE § 4201.206 and 28 TEX. ADMIN. CODE § 19.1703(b)(26)(A) by failing to afford the provider who ordered, requested, provided, or is to provide the service a reasonable opportunity to discuss treatment no less than one working day prior to issuing the adverse determination.
15. Superior violated TEX. INS. CODE § 4201.355(a) by failing to send an appeal acknowledgment letter.
16. Superior violated TEX. INS. CODE § 4201.358(2) and 28 TEX. ADMIN. CODE § 19.1711(a)(8) by failing to send an appeal response letter to the enrollee or individual acting on behalf of the enrollee, and the provider of record.
17. Superior violated TEX. INS. CODE § 4201.359(a) and 28 TEX. ADMIN. CODE § 19.1711(a)(9) and (b) by failing to send a written notice to the appealing party of the determination of the appeal as soon as practicable, but not later than the 30th calendar day after the date the utilization review agent received the appeal.

Order

It is ordered that Superior HealthPlan, Inc. pay an administrative penalty of \$240,000 within 30 days from the date of this order. The administrative penalty must be paid as instructed in the invoice, which the department will send after entry of this order.

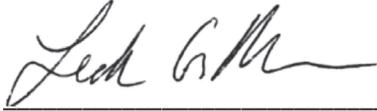
Signed by:

FC5D7EDDFFB84F8...

Cassie Brown
Commissioner of Insurance

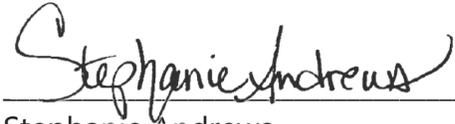
2024-8760

Commissioner's Order
Superior HealthPlan, Inc.
Page 8 of 9

Recommended and reviewed by:



Leah Gillum, Deputy Commissioner
Fraud and Enforcement Division



Stephanie Andrews
Enforcement

2024-8760

Commissioner's Order
Superior HealthPlan, Inc.
Page 9 of 9

Affidavit

STATE OF Texas §

§

COUNTY OF Travis §

Before me, the undersigned authority, personally appeared Mark D. Sanders, who being by me duly sworn, deposed as follows:

"My name is Mark D. Sanders. 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 President and CEO and am the authorized representative of Superior HealthPlan, Inc. I am duly authorized by said organization to execute this statement.

Superior HealthPlan, 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."

Mark D. Sanders

Affiant

SWORN TO AND SUBSCRIBED before me on July 11, 2024.

(NOTARY SEAL)



Katelind Freeman
Signature of Notary Public

Katelind Freeman
Printed Name of Notary Public