

No. **2023-8025**

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

Date: 6/16/2023

Subject Considered:

Scott & White Care Plans
1206 W Campus Dr
Temple, Texas 76502

Consent Order
TDI Enforcement File No. 25951

General remarks and official action taken:

This is a consent order with Scott & White Care Plans for violations found during a quality of care examination. Scott & White Care Plans has agreed to pay a \$65,000 administrative penalty.

Waiver

Scott & White Care Plans acknowledges that the Texas Insurance Code and other applicable law provide certain rights. Scott & White Care Plans 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. Scott & White Care Plans (SWCP) holds a basic service health maintenance organization certificate of authority, issued by the department on September 25, 2018.

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2. This quality of care examination was SWCP's first exam and covered activity between January 1, 2019, and December 31, 2019, on its Health Maintenance Organization (HMO) health line of business.

Utilization Review

3. The department sampled and reviewed 25 utilization review requests.
4. In 8% (2 of 25) of the sample, the notice of determination was sent later than the second working day after the date of the request.

Initial Adverse Determinations

5. The department sampled and reviewed 29 initial adverse determinations.
6. In 7% (2 of 29) of the sample, one retrospective request and one prospective request, SWCP issued the adverse determination without affording the provider of record a reasonable opportunity to discuss treatment.
7. In 10% (3 of 29) of the sample, SWCP issued the adverse determination later than three calendar days from receipt of the request.

Adverse Determination Appeals

8. The department sampled and reviewed 24 adverse determination appeals.
9. In 42% (10 of 24) of the sample, SWCP did not provide or include provisions in the appeal acknowledgement letter.
 - a. In six such occurrences, SWCP did not send an acknowledgement letter as required.
 - b. In one such occurrence, SWCP failed to include the date the appeal was received in the appeal acknowledgement letter.
 - c. In three such occurrences, SWCP failed to provide a list of relevant documents that must be submitted by the appealing party to the utilization review agent.

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10. In 8% (2 of 24) of the sample, SWCP did not have a physician licensed to practice medicine make the decision on the appeal; instead a registered nurse made the determination.
11. In 4% (1 of 24) of the sample, SWCP did not afford the requesting provider a reasonable opportunity to discuss treatment during working hours and no less than one working day prior to issuing the appeal adverse determination.
12. In 4% (1 of 24) of the sample, for an expedited appeal SWCP failed to complete the appeal in one working day.
13. In 12% (3 of 24) of the sample, SWCP failed to send an appeal response letter to the enrollees' provider of record.

Sample Claims Review

14. The department sampled and reviewed 50 claims.
15. In 32% (16 of 50) of the claims reviewed, SWCP did not pay the penalty and applicable interest at the time of the exam. SWCP has since paid all applicable penalties and interests for the claims mentioned below.
 - a. In two institutional and six noninstitutional claims paid between one and 45 days late, SWCP did not pay 50% of the difference between the billed charges and the contracted rate or \$100,000, whichever was less.
 - b. In one institutional and one noninstitutional claim paid 91 days or more late, SWCP did not pay 100% of the difference between the billed charges and the contracted rate or \$200,000, whichever was less, plus 18% interest on that amount.
16. In 2% (1 of 40) of claims reviewed, SWCP provided an enrollee an explanation of benefits that included a remark code indicating a payment made to a non-network provider and did not include the number for the department's consumer protection division for complaints regarding payment. SWCP updated its explanation of benefits language on July 8, 2020.
17. SWCP filed prompt payment claims reports in 2019 with the department on a quarterly basis indicating the claims paid late. Based on the claims reviewed in this

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exam, there were clean claims processed late and penalties not paid in 2019. Therefore, SWCP's quarterly reports were incorrect. SWCP provided a report with 498 claims processed after February 22, 2021.

Initial and Appeal Complaints

18. The department sampled and reviewed 39 initial complaints regarding SWCP.
19. In 40% (2 of 5) of complaints made to the department, SWCP failed to respond to an inquiry from the department in writing not later than the 15th day after the date the inquiry was received.
20. In 50% (12 of 24) of the member complaints reviewed, SWCP did not send or include provisions in the acknowledgment letter.
 - a. In three instances, SWCP did not send an acknowledgment letter.
 - b. In one instance, SWCP did not include the correct date of receipt of the complaint.
 - c. In two instances, SWCP sent the acknowledgement letter later than the fifth business day after the date received.
 - d. In six oral complaints, SWCP did not include a one-page complaint form.
21. In 4% (1 of 24) of the member complaints reviewed, SWCP sent the resolution letter later than the 30th calendar day after receipt of the written complaint.
22. In 21% (5 of 24) of the member complaints reviewed, SWCP did not include the appeals process in the complaint resolution letter.
23. In 8% (2 of 24) of the member complaints reviewed, SWCP denied claims as experimental or investigational but did not treat the claim as an adverse determination.
24. SWCP provided a claim worksheet for 2019 with 307 claims denied for experimental and investigational.

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Complaint Appeals

25. In 75% (3 of 4) complaint appeals reviewed, SWCP sent the complainant the appeal packet panel letter later than the fifth business day before the date the appeal panel was scheduled to meet.

Unauthorized Agent

26. The department sampled and reviewed a sample of 14 policies. In 8% (1 of 14) of the sample, SWCP issued a policy where the agent was not appointed to act as an agent for SWCP.

Provider Directories and Notifications

27. The department reviewed SWCP's website and "HMO Network Group Directory" and discovered inaccuracies.
28. In a review of SWCP's monthly logs, the department found providers were not corrected or removed from the website.
29. In 20% (2 of 10) of directory update submissions reviewed, SWCP's network provider directory information was not corrected by the 7th day after the date the report, notice, or complaint was received.

Conclusions of Law

1. The commissioner has jurisdiction over this matter under TEX. INS. CODE Chs. 38, 82, 84, 843, 1451, 1456, 4001, and 4201, and 28 TEX. ADMIN. CODE Chs. 11, 19, and 21.
2. The commissioner has the authority to informally dispose 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. SWCP 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. SWCP violated 28 TEX. ADMIN. CODE § 19.1711(a)(3) because it failed to send an appeal acknowledgement letter.
5. SWCP violated 28 TEX. ADMIN. CODE § 19.1711(a)(3)(B) because it failed to include the date the appeal was received on the appeal acknowledgement letter.
6. SWCP violated 28 TEX. ADMIN. CODE § 19.1711(a)(3)(C) because it failed to include a list of relevant documents that must be submitted by the appealing party to the utilization review agent on the appeal acknowledgement letter.
7. SWCP violated 28 TEX. ADMIN. CODE § 19.1718(d)(1) by issuing an adverse determination later than three calendar days from receipt of the request.
8. SWCP violated 28 TEX. ADMIN. CODE § 21.2821 by submitting incorrect quarterly reports.
9. SWCP violated TEX. INS. CODE § 38.001(c) by failing to respond to an inquiry from the department in writing not later than the 15th day after the date the inquiry was received.
10. SWCP violated TEX. INS. CODE §§ 843.201, 843.2015, 1451.504, 1451.505 and 28 TEX. ADMIN. CODE § 11.1600(b)(12) due to inaccuracies contained on its website and "HMO Network Group Directory".
11. SWCP violated TEX. INS. CODE § 843.252(a), (b), and (c) by failing to send an acknowledgment letter, sending an acknowledgment letter later than the fifth business day after received, failing to include the correct date of receipt of the complaint, failing to include a one-page complaint form when the complaint was made orally, and sending a resolution letter later than the 30th calendar day after receipt of complaint.
12. SWCP violated TEX. INS. CODE § 843.253(b)(4) by not including the appeals process in its complaint resolution letter.
13. SWCP violated TEX. INS. CODE § 843.256(1)-(3) by sending the appeal packet panel letter later than the fifth business day before the date a complaint appeal panel was scheduled to meet.

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14. SWCP violated TEX. INS. CODE § 843.346 by failing to process a claim no later than the 45th day after the date on which the claim was received with the documentation reasonably necessary to process the claim.
15. SWCP violated TEX. INS. CODE § 843.349(b) and 28 TEX. ADMIN. CODE § 21.2815(e) because in coordination of other payment, SWCP extended the period for determining payment.
16. SWCP violated TEX. INS. CODE §§ 1451.504 and 1451.505(d) and 28 TEX. ADMIN. CODE §§ 11.1600(b)(12) and 11.1612(a) by failing to, on a monthly basis, correct or remove providers from its website.
17. SWCP violated TEX. INS. CODE § 1451.505(e) by failing to correct its network provider directory information by the 7th day after the date the report, notice, or complaint was received.
18. SWCP violated TEX. INS. CODE § 1456.003(d) by failing to include the number for the department's consumer protection division for complaints regarding payment in its explanation of benefits that included a remark code indicating a payment made to a non-network provider sent to an enrollee.
19. SWCP violated TEX. INS. CODE § 4001.201 by issuing policies with an agent that was not appointed to act as its agent.
20. SWCP violated TEX. INS. CODE CH. 4201 and 28 TEX. ADMIN. CODE CH. 19 by denying a claim for experimental or investigational and not treating it as an adverse determination.
21. SWCP violated TEX. INS. CODE § 4201.206 and 28 TEX. ADMIN. CODE §§ 19.1703(b)(26)(A) and 19.1710 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.
22. SWCP violated TEX. INS. CODE § 4201.206 and 28 TEX. ADMIN. CODE §§ 19.1703(b)(26)(B) and 19.1710 by failing to afford the provider who ordered, requested, provided, or is to provide the service a reasonable opportunity to discuss treatment within five working days prior to issuing the adverse determination.

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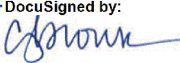
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23. SWCP violated TEX. INS. CODE § 4201.302 by mailing or otherwise transmitting the required notice later than the second working day after the date of the request for utilization review and the agent receives all the information necessary to complete the review.
24. SWCP violated TEX. INS. CODE § 4201.356(a) and 28 TEX. ADMIN. CODE § 19.1711(a)(4) by failing to have a physician licensed to practice medicine make the decision on the appeal.
25. SWCP violated TEX. INS. CODE § 4201.357(b) and 28 TEX. ADMIN. CODE § 19.1711(a)(7)(B) by failing to make a determination on an expedited appeal in one working day from the date all information necessary to complete the appeal is received.
26. SWCP 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 enrollees' provider of record.

Order

It is ordered that Scott & White Care Plans pay an administrative penalty of \$65,000 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.

It is also ordered that Scott & White Care Plans report to the department on or before 30 days from the date of this order. The report will affirm that Scott & White Care Plans has fully implemented its post-exam corrective action plan. If the company has not yet fully implemented its post-exam corrective action plan, the report will detail how the company intends to fully implement its plan, resources dedicated to implementation, timelines, and a process for independent verification of objective progress to comply with Texas law. The company must send the report to EnforcementReports@tdi.texas.gov.

DocuSigned by:

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Cassie Brown
Commissioner of Insurance

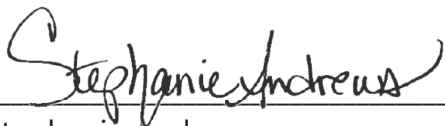
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Recommended and reviewed by:



Leah Gillum, Deputy Commissioner
Fraud and Enforcement Division



Stephanie Andrews
Enforcement

Affidavit

STATE OF Texas §

COUNTY OF Bell §

Before me, the undersigned authority, personally appeared Jeffrey C. Ingram, who being by me duly sworn, deposed as follows:

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

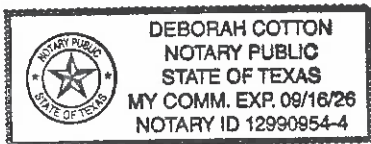
I hold the office of President/CEO and am the authorized representative of Scott & White Care Plans. I am duly authorized by said organization to execute this statement.

Scott & White Care Plans 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."

Jeffrey C. Ingram
Affiant

SWORN TO AND SUBSCRIBED before me on May 26, 2023.

(NOTARY SEAL)



D Cotton
Signature of Notary Public

Deborah Cotton
Printed Name of Notary Public