

No. **2020-6443**

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

Date: **08/20/2020**

Subject Considered:

Scott and White Health Plan
1206 West Campus Drive
Temple, Texas 76502

Consent Order
TDI Enforcement File No. 18981

General remarks and official action taken:

This is a consent order with Scott and White Health Plan (SWHP) for violations found in a triennial quality of care examination. SWHP was the subject of a previous consent order for violations found during a 2014 quality of care triennial examination and paid an administrative penalty of \$90,000. SWHP's current triennial quality of care examination found repeat and additional violations. SWHP has agreed to pay a \$200,000 administrative penalty.

Waiver

SWHP acknowledges that the Texas Insurance Code and other applicable laws provide certain rights. SWHP 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 SWHP a basic service health maintenance organization (HMO) license number 93742, effective October 13, 1981.

2020-6443

Commissioner's Order
Scott and White Health Plan
Page 2 of 6

2014 Triennial Examination

2. TDI conducted a triennial quality of care examination of SWHP for the period beginning April 12, 2012, and ending December 31, 2014.
3. TDI issued the 2014 Triennial Final Examination Report on March 24, 2017.
4. Commissioner Order No. 2018-5529, dated May 29, 2018, addressed numerous violations found during the 2014 triennial examination; one of these was a repeat violation identified in SWHP's first triennial examination in 2012. The order imposed an administrative penalty of \$90,000.

2017 Triennial Examination

5. TDI conducted another triennial quality of care examination of SWHP for the period beginning January 1, 2015, and ending December 31, 2017.
6. On November 29, 2018, TDI held an exit conference call with SWHP to discuss the 2017 examination findings. Sample files reviewed during this examination were dated after the implementation of SWHP's corrective action plan from the 2014 examination.
7. TDI issued the 2017 Triennial Final Examination Report on December 14, 2018.

Adverse Determination Files

8. TDI reviewed 25 adverse determination files to determine statutory compliance.
9. In six instances, the utilization review agent failed to issue the adverse determination within three calendar days of receiving the request. This was similar to issues TDI identified in the 2014 examination of SWHP.

Complaint Files

10. TDI reviewed 25 complaint files to determine statutory compliance.
11. In six instances, SWHP failed to provide evidence that it sent any acknowledgment letter at all, and in eight instances, it failed to provide evidence that the

2020-6443

Commissioner's Order
Scott and White Health Plan
Page 3 of 6

acknowledgment letter was sent by it not later than the fifth business day after the complaint file was received.

12. In 18 instances, SWHP failed to provide evidence that it included a complete description of the appeal process in the complaint resolution letter.
13. In six instances, SWHP failed to complete the appeal process not later than the 30th calendar day after the date the written request for an appeal was received.

Delegated Entity

14. SWHP failed to provide evidence that it monitored its delegate, Superior Vision, for compliance with all applicable statutes and rules.

Prompt Pay

15. During this time, Superior Vision paid 188 claims late and failed to pay any related prompt pay penalties.
16. SWHP has paid all prompt pay penalties and has provided updated adjustments to the quarterly prompt payment claims reports filed with TDI. Updates to the quarterly claims reports would not have caused SWHP to exceed the two percent threshold for prompt pay compliance set forth in TEX. INS. CODE § 843.342.

Corrective Action Plan

17. SWHP submitted a corrective action plan to address the deficiencies cited in the final examination report issued by TDI on January 11, 2019.

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, 843.252, 843.253, 843.254, 843.342, 843.348, and 1272.056; 28 TEX. ADMIN. CODE §§ 11.2603, 19.1718, 21.2815, and 21.2821; and TEX. GOV'T CODE §§ 2001.051-2001.178.
2. The commissioner has 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.

2020-6443

Commissioner's Order
Scott and White Health Plan
Page 4 of 6

3. SWHP 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. SWHP violated TEX. INS. CODE § 843.348(d) and 28 TEX. ADMIN. CODE § 19.1718(d)(1) because its utilization review agent failed to issue the adverse determination within three calendar days of receiving the request.
5. SWHP violated TEX. INS. CODE § 843.252(a) because it failed to provide evidence that it sent any acknowledgment letter at all in certain claim files, and in other claim files, it failed to provide evidence that the acknowledgment letter was sent by it not later than the fifth business day after the complaint file was received.
6. SWHP violated TEX. INS. CODE § 843.253(b)(4) because it failed to provide evidence that it included a complete description of the appeal process in the complaint resolution letter.
7. SWHP violated TEX. INS. CODE § 843.254(c) because it failed to complete the appeal process not later than the 30th calendar day after the date the written request for an appeal was received.
8. SWHP violated TEX. INS. CODE § 1272.056 and 28 TEX. ADMIN. CODE § 11.2603(h) because it failed to provide evidence that it monitored its delegate, Superior Vision, for compliance with all applicable statutes and rules.
9. SWHP violated TEX. INS. CODE § 843.342 and 28 TEX. ADMIN. CODE § 21.2815 because it failed to pay prompt pay penalties.

Order

It is ordered that Scott and White Health Plan must pay an administrative penalty of \$200,000 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, Division 60851, MC 9999, P.O. Box 149104, Austin, Texas, 78714-9104.

2020-6443

Commissioner's Order
Scott and White Health Plan
Page 5 of 6

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

DocuSigned by:
Kent Sullivan
73DEDCF32E5F411...

Kent C. Sullivan
Commissioner of Insurance

Recommended and reviewed by:



Leah Gillum, Deputy Commissioner
Enforcement Division



Bev Rosendahl, Special Counsel
Enforcement Division

