

No. **2020-6482**

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

Date: 09/25/2020

Subject Considered:

UnitedHealthcare Community Plan of Texas, LLC
9800 Health Care Lane
MN006-W500
Minnetonka, Minnesota 55343-4542

Consent Order
TDI Enforcement File No. 19150

General remarks and official action taken:

This is a consent order with UnitedHealthcare Community Plan of Texas, LLC (UHC Community Plan). TDI conducted a triennial quality of care examination and found multiple violations, including repeat violations found in a prior exam. UHC Community Plan has agreed to pay a \$100,000 administrative penalty.

Waiver

UHC Community Plan acknowledges that the Texas Insurance Code and other applicable laws provide certain rights. UHC Community Plan 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 UHC Community Plan a basic health maintenance organization (HMO) license number 95598, effective August 9, 2001.

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2014 Triennial Examination

2. TDI conducted a triennial quality of care examination of UHC Community Plan for the period beginning April 6, 2011, and ending April 7, 2014.
3. TDI issued the 2014 Triennial Final Examination Report on July 31, 2014.

2016 Triennial Examination

4. TDI conducted another triennial quality of care examination of UHC Community Plan for the period beginning April 7, 2014, and ending December 31, 2016.
5. On May 2, 2018, TDI held an exit conference call with UHC Community Plan to discuss the 2016 examination findings. Sample files reviewed during this examination were dated after the implementation of UHC Community Plan's corrective action plan from the 2014 examination.
6. TDI issued the 2016 Triennial Final Examination Report on June 18, 2018.

2016 Examination Findings

7. TDI reviewed 23 complaint files to determine statutory compliance.
8. In 16 instances, UHC Community Plan failed to include a one-page complaint form that prominently and clearly stated that the form must be returned to UHC Community Plan for prompt resolution of the complaint. This was similar to issues TDI identified in the 2014 examination of UHC Community Plan.
9. In 23 instances, UHC Community Plan failed to provide evidence that the complaint resolution letter contained a complete description of UHC Community Plan's appeal process, including the deadlines for the appeal process and the deadlines for the final decision on the appeal. This was similar to issues TDI identified in the 2014 examination of UHC Community Plan.
10. TDI reviewed 26 adverse determination files to determine statutory compliance.
11. In 11 instances, UHC Community Plan failed to provide evidence that the utilization review agent provided the provider of record a reasonable opportunity to discuss the plan of treatment of the enrollee prior to issuing the adverse determination.

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This was similar to issues TDI identified in the 2014 examination of UHC Community Plan.

12. UHC Community Plan submitted a corrective action plan to address the deficiencies cited in the final examination report issued by TDI on August 27, 2018.

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, 1272.056, and 4201.206; 28 TEX. ADMIN. CODE §§ 11.2603, 19.1703, 19.1710, and 19.1711; 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.
3. UHC Community Plan 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 Community Plan violated TEX. INS. CODE § 843.252(b)(2) because it failed to include a one-page complaint form that prominently and clearly stated that the form must be returned to UHC Community Plan for prompt resolution of the complaint.
5. UHC Community Plan violated TEX. INS. CODE § 843.253(b)(4) because its complaint resolution letter failed to include a complete description of UHC Community Plan's appeal process, including the deadlines for the appeal process and the deadlines for the final decision on the appeal.
6. UHC Community Plan violated TEX. INS. CODE § 4201.206 and 28 TEX. ADMIN. CODE §§ 19.1703(b)(26) and 19.1710 because it failed to provide evidence that the utilization review agent provided the provider of record a reasonable opportunity to discuss the plan of treatment of the enrollee prior to issuing the adverse determination.

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Order

It is ordered that UnitedHealthcare Community Plan of Texas, LLC must pay an administrative penalty of \$100,000 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.

It is also ordered that UnitedHealthcare Community Plan of Texas, LLC report to TDI on or before 30 days from the date of this order. The report will affirm UnitedHealthcare Community Plan of Texas, LLC has fully implemented its post-exam corrective action plan. If UnitedHealthcare Community Plan of Texas, LLC has not yet fully implemented its post-exam corrective action plan, the report will detail how UnitedHealthcare Community Plan of Texas, LLC 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

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Kent C. Sullivan

Commissioner of Insurance

Recommended and reviewed by:

Leah Gillum

Leah Gillum, Deputy Commissioner
Enforcement Division

Bev Rosendahl

Bev Rosendahl, Special Counsel
Enforcement Division

Affidavit

STATE OF Texas §

COUNTY OF Harris §

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

"My name is Donald Langer. 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 Health Plan CEO, and am the authorized representative of UnitedHealthcare Community Plan of Texas, LLC and I am duly authorized by said organization to execute this statement.

UnitedHealthcare Community Plan of Texas, LLC 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."

Donald Langer

Affiant

SWORN TO AND SUBSCRIBED before me on September 22, 2020.

(NOTARY SEAL)

Christopher Dargin

Signature of Notary Public

Christopher Dargin

Printed Name of Notary Public

