

No. 4217

**OFFICIAL ORDER
of the
TEXAS COMMISSIONER OF INSURANCE**

Date: DEC 10 2015

Subject Considered:

AMERIGROUP TEXAS, INC.
3800 Buffalo Speedway, Suite 400
Houston, Texas 77098

CONSENT ORDER
TDI ENFORCEMENT FILE NO. 10028

General remarks and official action taken:

The commissioner of insurance considers whether disciplinary action should be taken against AmeriGroup Texas, Inc. (AmeriGroup).

WAIVER

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

FINDINGS OF FACT

1. TDI issued AmeriGroup health maintenance organization (HMO) license number 94502 effective January 25, 1996, and utilization review agent (URA) license number 4848 effective October 27, 1999, through October 27, 2015.

2011 and 2015 Triennial Examinations

2. On June 1, 2011, TDI conducted a triennial quality of care examination of AmeriGroup for the period beginning April 1, 2008, and ending February 1, 2011.
3. In 2014 and 2015, TDI conducted another triennial quality of care examination of AmeriGroup for the period beginning March 3, 2011, and ending June 11, 2014.
4. On March 25, 2015, TDI held an on-site exit conference with AmeriGroup to discuss the 2011 to 2014 examination findings.

5. In AmeriGroup's 2014 and 2015 examination, TDI found that AmeriGroup committed seven violations that TDI previously identified in AmeriGroup's 2011 examination.
6. AmeriGroup also failed to correct complaint acknowledgment letter deficiencies within 90 days from receipt of its 2011 examination report in accordance with its 2011 plan of correction.
7. In a desk review letter response, AmeriGroup agreed that it failed to remove non-compliant language from its letters and implement new letters until December 2013, 26 months after the plan of correction date.
8. On May 27, 2015, AmeriGroup submitted a plan of correction to address the deficiencies cited in the final audit report issued by TDI on April 28, 2015.

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, 843.252, 843.253, 4201.206, 4201.303, 4201.304, and 1272.052; 28 TEX. ADMIN. CODE §§ 19.1703, 19.1709, 19.1710, 19.1712, 11.2611, 11.301; and TEX. GOV'T CODE §§ 2001.051-2001.178.
2. The commissioner has authority to informally dispose of this matter as set forth under TEX. GOV'T CODE § 2001.056; TEX. INS. CODE §§ 82.055 and 36.104; and 28 TEX. ADMIN. CODE § 1.47.
3. AmeriGroup violated TEX. INS. CODE § 843.252(b)(2) by failing to send the complainant a letter acknowledging the date of receipt of the complaint within five days and a one-page complaint form for oral complaints that prominently and clearly states that the form must be returned to the HMO for prompt resolution of the complaint.
4. AmeriGroup violated TEX. INS. CODE § 843.253(b)(4) by failing to issue a response letter to the complainant that contains a complete description of the process for appeal, including the deadlines for the appeals process and the deadlines for the final decision on the appeal.
5. AmeriGroup violated TEX. INS. CODE § 4201.206 and 28 TEX. ADMIN. CODE § 19.1710 by failing, before issuing an adverse determination, to provide the health care provider who ordered the health care services a reasonable opportunity, within the timeframes stated in § 19.1703(26), to discuss with a physician the patient's treatment plan and the clinical basis for the URA's determination.
6. AmeriGroup violated TEX. INS. CODE § 4201.303(a)(4) and 28 TEX. ADMIN. CODE

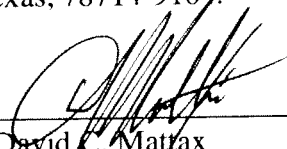
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§ 19.1709 by failing to include in its notice of an adverse determination a description of the procedure for the complaint and appeal process, including notice to the enrollee of the enrollee's right to appeal an adverse determination to an IRO and of the procedures to obtain that review.

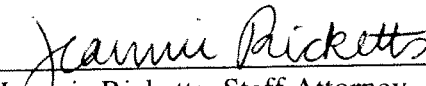
7. AmeriGroup violated TEX. INS. CODE § 4201.303(b) and 28 TEX. ADMIN. CODE § 19.1709(b)(9) by failing to include a description of the enrollee's right to an immediate review by an IRO and of the procedures to obtain the review for an enrollee who has a life-threatening condition.
8. AmeriGroup violated TEX. INS. CODE § 4201.304(2) and 28 TEX. ADMIN. CODE § 19.1709(d)(3) by failing to provide notice of an adverse determination within three working days in writing to the provider of record and the patient.
9. AmeriGroup violated TEX. INS. CODE § 1272.052(b) and 28 TEX. ADMIN. CODE §§ 11.2611(a) and (b) and 11.301 by failing to file a written delegation agreement with TDI not later than the 30th day after the date the agreement is executed.
10. AmeriGroup violated 28 TEX. ADMIN. CODE § 11.303(d)(6) by failing to correct the deficiencies cited within its plan of correction within 90 days from the receipt of the written examination report.

The commissioner orders AmeriGroup Texas, Inc. to pay an administrative penalty of \$40,000 within 30 days from the date of this order. The administrative penalty must be paid by company check, cashier's check, or money order made payable to the "State of Texas." Mail the administrative penalty to the Texas Department of Insurance, Attn: Enforcement Section, Division 40111, P.O. Box 149104, Austin, Texas, 78714-9104.



David C. Mattox
Commissioner of Insurance

Approved as to Form and Content:



Jeannie Ricketts, Staff Attorney
Enforcement Section, Compliance Division
Texas Department of Insurance

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AFFIDAVIT

STATE OF Texas §

COUNTY OF Tarrant §


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

"My name is LeAnn Behrens. 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, Medicaid Health Plan, TX and am the authorized representative of AmeriGroup Texas, Inc. I am duly authorized by said organization to execute this statement.

AmeriGroup Texas, Inc. waives rights provided by the Texas Insurance Code and other applicable laws, and acknowledges the jurisdiction of the Texas commissioner of insurance.

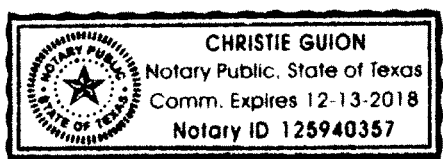
AmeriGroup Texas, Inc. is voluntarily entering into this consent order. AmeriGroup Texas, Inc. consents to the issuance and service of this consent order."

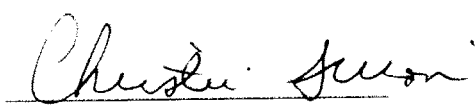


Affiant

SWORN TO AND SUBSCRIBED before me on December 4, 2015.

(NOTARY SEAL)





Signature of Notary Public