

No. 2018-5519

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

Date: MAY 24 2018

Subject Considered:

HUMANA INSURANCE COMPANY
HUMANA HEALTH PLAN OF TEXAS, INC.
P.O. Box 740036
Louisville, KY 40201

CONSENT ORDER
TDI ENFORCEMENT FILE NOS. 14558 and 15608

General remarks and official action taken:

The subject of this order is whether disciplinary action should be taken against Humana Insurance Company (HIC) and Humana Health Plan of Texas, Inc. (HHPTX) (collectively Humana).

WAIVER

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

Pursuant to TEX. INS. CODE § 82.055(b), Humana agrees to this consent order with the express reservation that it does not admit to a violation of any provision of the Insurance Code or rule or regulation of the department and Humana maintains the existence of any violation is in dispute.

FINDINGS OF FACT

1. TDI issued HIC life, health, and accident license number 93526, effective May 2, 1980, and third party administrator license number 93525, effective January 5, 1994, and issued HHPTX basic health maintenance organization license number 93827, effective March 15, 1982.
2. In September 2017, Humana self-reported to TDI a systemic error in its payment of certain orally administered anticancer medication.

3. TEX. INS. CODE § 1369.204 requires parity between prescribed orally administered anticancer medication and intravenously administered medication covered as medical benefits under the plan.
4. Between January 1, 2012, and May 15, 2017, Humana applied an incorrect cost share to 656 Texas enrollees (191 HIC and 467 HHPTX – two enrollees had plans with both entities) for their claims for prescribed orally administered anticancer medication. Humana's failure to correctly pay these claims meant that these clean claims were not paid in a timely manner as required by statute.
5. Humana implemented a corrective action plan, sent notification letters to all impacted members, along with refunds and interest. Each member received an average payment of \$3,000.00. Total restitution paid to Texas enrollees amounted to \$2,098,409.21 (\$702,673.57 HIC and \$1,395,735.64 HHPTX).
6. Humana has represented to TDI that all enrollees requiring restitution have been identified and paid.

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, 1301.101-138, and 1369.204; 28 TEX. ADMIN. CODE §§ 21.2801-2816; 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. Humana violated TEX. INS. CODE § 1369.204 because it failed to provide parity of coverage between orally administered anticancer medication and intravenously administered medications covered under a medical benefits plan.
4. Humana violated TEX. INS. CODE §§ 1301.101-138 and 28 TEX. ADMIN. CODE §§ 21.2801-2816 because it failed to pay clean claims in a timely manner.

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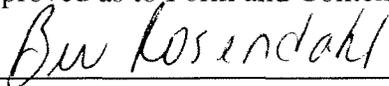
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It is ordered that Humana Insurance Company and Humana Health Plan of Texas Inc. pay an administrative penalty of \$ 60,000 within 30 days from the date of this order. The administrative penalty must be paid by company check, cashier's check, or money order made payable to the "State of Texas." Mail the administrative penalty to the Texas Department of Insurance, Attn: Enforcement Section, Division 60851, MC 9999, P.O. Box 149104, Austin, Texas, 78714-9104.



Kent C. Sullivan
Commissioner of Insurance

Approved as to Form and Content:



Bev Rosendahl, Staff Attorney
Enforcement Section
Texas Department of Insurance

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AFFIDAVIT

STATE OF KENTUCKY §
 §
COUNTY OF JEFFERSON §

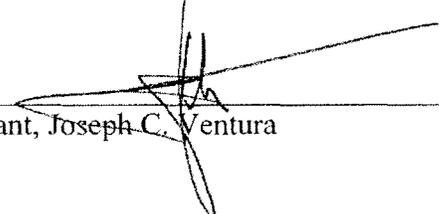
Before me, the undersigned authority, personally appeared the affiant, who being by me duly sworn, deposed as follows:

“My name is Joseph C. Ventura. 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 Vice President and Corporate Secretary, and am the authorized representative of Humana Insurance Company and Humana Health Plan of Texas, Inc. I am duly authorized by said organization to execute this statement.

Humana Insurance Company and Humana Health Plan of Texas, Inc. waive rights provided by the Texas Insurance Code and other applicable laws, and acknowledges the jurisdiction of the Texas commissioner of insurance.

Humana Insurance Company and Humana Health Plan of Texas, Inc. have voluntarily entered into this consent order. Humana Insurance Company and Humana Health Plan of Texas, Inc. consent to the issuance and service of this consent order.”

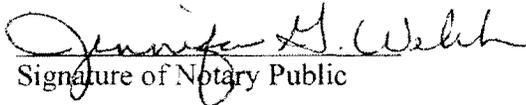


Affiant, Joseph C. Ventura

SWORN TO AND SUBSCRIBED before me on March 8, 2018.

(NOTARY SEAL)

JENNIFER G. WEBB
NOTARY PUBLIC
STATE-AT-LARGE, KENTUCKY
MY COMMISSION EXPIRES:
MAY 23, 2019



Signature of Notary Public