

No. 2019- 5937

**Official Order
of the
Texas Commission of Insurance**

Date: APR 16 2019

Subject Considered:

All Savers Insurance Company
7440 Woodland Drive
Indianapolis, Indiana 46278-1719

Consent Order
TDI Enforcement File No. 12860

General remarks and official action taken:

The subject of this order is whether disciplinary action should be taken against All Savers Insurance Company (All Savers).

Waiver

All Savers acknowledges that the Texas Insurance Code and other applicable laws provide certain rights. All Savers 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), All Savers 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 TDI and All Savers maintains the existence of any violation is in dispute.

The following findings of fact and conclusions of law are adopted:

Findings of Fact

1. The Texas Department of Insurance (TDI) issued All Savers life, health, or accident license no. 94549 on November 16, 1995.

2. TDI issued United Healthcare Services, Inc. (UHC) third-party administrator license no. 95260 on August 19, 1998. UHC Services, Inc. administers All Savers' health plans.
3. Effective February 21, 2013, TDI adopted rules to implement statutory provisions related to exclusive provider benefit plans (EPBP). These rules specifically require an insurer to ensure that the insured is held harmless for any amounts beyond the copayment, deductible, and coinsurance percentage that the insured would have paid had the insured received services from a preferred provider.
4. On June 16, 2016, TDI's Consumer Protection Section received a complaint that All Savers did not correctly pay emergency care claims for services rendered at various free-standing emergency facilities. The health plans that were the subject of the complaint were offered by All Savers as Exclusive Provider Organization (EPO) plans and are subject to the EPBP requirements in Texas.
5. Through correspondence related to the complaints, UHC informed TDI that Texas statutes did not require it to hold insureds on EPBPs harmless. It only does so as a courtesy to its insureds.
6. An All Saver's EPBP contract contains language that informs insureds: ". . . you will be responsible for the difference between the amount billed by the non-network provider and the amount [UHC and All Savers] determines to be an eligible expense for reimbursement." This is known as a balance bill.
7. All Savers' EPBP contract language and statement that Texas statutes do not require it to hold EPBP insureds harmless is inconsistent with the plain language of the EPBP rules. The EPBP rules require that insurers hold insureds harmless, such that balance bills for emergency care services from nonpreferred providers are not the responsibility of the insured.
8. Because All Savers transferred its small group medical business to UHC effective March 28, 2016, and withdrew from the individual health insurance market in Texas effective January 1, 2017, it will not refile its policies with TDI.

Conclusions of Law

1. The commissioner has jurisdiction over this matter pursuant to TEX. INS. CODE §§ 31.002, 82.051-82.056, 84.021-84.022, 1301.001, 1301.003, 1301.0041, 1301.0042, 1301.0045, 1301.0051-1301.0053, 1301.0056, and 1301.0581; TEX. GOV'T CODE §§ 2001.051-2001.178; and 28 TEX. ADMIN. CODE §§ 3.3701, 3.3702, and 3.3720 - 3.3725.
2. The commissioner has authority to informally dispose of this matter as set forth under TEX. GOV'T CODE § 2001.056, TEX. INS. CODE §§ 36.104 and 82.055, and 28 TEX. ADMIN. CODE § 1.47.
3. All Savers 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. All Savers violated 28 TEX. ADMIN. CODE § 3.3725(d) because when it reimbursed a nonpreferred provider for emergency care services, it did not ensure that the insured was held harmless for amounts beyond the copayment, deductible, and coinsurance percentage that the insured would have paid had the insured received services from a preferred provider.

Order

It is ordered that All Savers Insurance Company comply with the following:

- a. Pay all EPBP claims in accordance with 28 TEX. ADMIN. CODE § 3.3725.
- b. Within 60 days of the date of this order:
 - i. review all complaints from EPO plan insureds received from February 21, 2014, to the present to determine whether or not any insureds are being balance billed for emergency care services, and
 - ii. reprocess all noncompliant claims in accordance with the requirements identified in the Order.

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- c. Within 90 days from the date of this order, provide TDI with a report outlining the EPO claims it reprocessed. This report shall be submitted to EnforcementReports@tdi.texas.gov.

It is further ordered that All Savers Insurance Company pay an administrative penalty of \$99,000 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, Legal and Enforcement Division 60851, MC 9999, P.O. Box 149104, Austin, Texas, 78714-9104.

Kent C. Sullivan
Commissioner of Insurance

By: _____


Doug Slape
Chief Deputy Commissioner
Commissioner's Order No. 2018-5528

Recommended and reviewed by:



Leah Gillum, Associate Commissioner
Enforcement Section



Jeannie Ricketts, Staff Attorney
Enforcement Section

