

No. 2020-6410

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

Date: 07/29/2020

Subject Considered:

Community Health Choice, Inc.
2636 S Loop W Ste 125
Houston, Texas 77054-7269

Consent Order
TDI Enforcement File No. 19370

General remarks and official action taken:

This is a consent order with Community Health Choice, Inc. (CHC). TDI conducted a triennial quality of care examination and found multiple violations, including repeat violations found in a prior exam. CHC has agreed to pay a \$115,000 administrative penalty.

Waiver

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

Pursuant to Tex. Inx. Code § 82.055(b), CHC agrees to this consent order with the express reservation that it does not admit to a violation of the Texas Insurance Code or of a rule of the TDI and that the existence of a violation is in dispute.

Findings of Fact

1. The Texas Department of Insurance (TDI) issued CHC a basic service health maintenance organization (HMO) license number 94693, effective February 26, 1997.

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2013 Triennial Examination

2. TDI conducted a triennial quality of care examination of CHC for the period beginning August 4, 2011, and ending December 31, 2013.
3. TDI issued the 2013 Triennial Final Examination Report on October 14, 2015.

2016 Triennial Examination

4. TDI conducted another triennial quality of care examination of CHC for the period beginning January 1, 2014, and ending December 31, 2016.
5. On September 4, 2018, TDI held an exit conference call with CHC to discuss the 2016 examination findings. Sample files reviewed during this examination were dated after the implementation of CHC's corrective action plan from the 2013 examination.
6. TDI issued the 2016 Triennial Final Examination Report on October 30, 2018.

Prospective and Retrospective Adverse Determination Files

7. TDI reviewed 15 prospective and retrospective adverse determination files to determine statutory compliance.
8. In 12 instances, CHC 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. This was similar to issues TDI previously identified in the 2013 examination of CHC.

Prospective and Retrospective Appeal Adverse Determination Files

9. TDI reviewed eight prospective and retrospective appeal adverse determination files to determine statutory compliance.
10. In seven instances, CHC 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. This was similar to issues TDI previously identified in the 2013 examination of CHC.

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Adverse Determination Files

11. TDI reviewed 14 adverse determination files to determine statutory compliance.
12. In 11 instances, the utilization review agent failed to provide evidence that the appeal acknowledgment letter included a list of relevant documents the appeal party must submit for review. This was similar to issues TDI identified in the 2013 examination of CHC.

Appeal Files

13. TDI reviewed 14 appeal files to determine statutory compliance.
14. In 11 instances, the utilization review agent failed to provide evidence that the appeal resolution letter included the procedures for filing a complaint. This was similar to issues TDI identified in the 2013 examination of CHC.

Claim Files

15. TDI reviewed 45 claim files to determine prompt pay statutory compliance.
16. In 11 instances, CHC did not pay prompt pay penalties when claims were processed after the applicable claims' payment periods. This was similar to issues TDI identified in the 2013 examination of CHC.
17. Because the 11 prompt pay claims were not identified by CHC as late and penalties were not appropriately paid, CHC failed to accurately report to TDI on a quarterly basis the number of claims paid within the statutory timeframes. This was similar to issues TDI identified in the 2013 examination of CHC.
18. CHC has now paid all prompt pay penalties per the exam and has filed accurate quarterly prompt payment claims reports with TDI.

Corrective Action Plan

19. CHC submitted a corrective action plan to address the deficiencies cited in the final examination report issued by TDI on November 13, 2019.

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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, 843.342, 4201.206, and 4201.355; 28 TEX. ADMIN. CODE §§ 19.1703, 19.1710, 19.1711, 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.
3. CHC 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. CHC violated TEX. INS. CODE § 4201.206 and 28 TEX. ADMIN. CODE §§ 19.1703(b)(26), 19.1710, and 19.1711 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.
5. CHC violated TEX. INS. CODE § 4201.355(b)(2) and 28 TEX. ADMIN. CODE § 19.1711(a)(3)(c) because it failed to provide evidence that the appeal acknowledgment letter included a list of relevant documents the appeal party must submit for review.
6. CHC violated 28 TEX. ADMIN. CODE §§ 19.1711(a)(8)(H) because it failed to provide evidence that the appeal resolution letter included the procedures for filing a complaint.
7. CHC violated TEX. INS. CODE § 843.342(a) and (m) and 28 TEX. ADMIN. CODE § 21.2815(a)(1) because it failed to pay prompt pay penalties when claims were processed after the applicable claims' payment periods.
8. CHC violated 28 TEX. ADMIN. CODE § 21.2821(c) because it failed to accurately report to TDI on a quarterly basis the number of claims paid within the statutory timeframes.

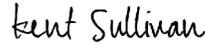
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Order

It is ordered that Community Health Choice, Inc. must pay an administrative penalty of \$115,000 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 Community Health Choice, Inc. report to TDI on or before 30 days from the date of this order. The report will affirm that Community Health Choice, Inc. has fully implemented its post-exam corrective action plan. If Community Health Choice, Inc. has not yet fully implemented its post-exam corrective action plan, the report will detail how Community Health Choice, Inc. 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:

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Kent C. Sullivan
Commissioner of Insurance

Recommended and reviewed by:



Leah Gillum, Deputy Commissioner
Enforcement Division



Bev Rosendahl, Special Counsel
Enforcement Division

Affidavit

STATE OF TEXAS §

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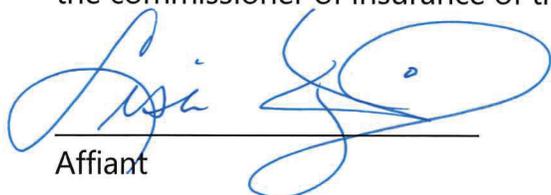
COUNTY OF HARRIS §

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

"My name is Lisa Wright. I am of sound mind, capable of making this statement, and have personal knowledge of these facts which are true and correct.

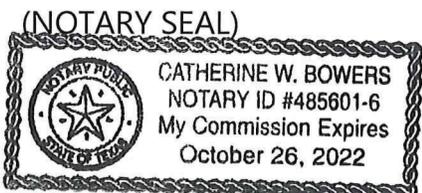
I hold the office of President and CEO and am the authorized representative of Community Health Choice, Inc., and I am duly authorized by said organization to execute this statement.

Community Health Choice, Inc. 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."



Affiant

SWORN TO AND SUBSCRIBED before me on June 17, 2020.





Signature of Notary Public

Catherine W. Bowers
Printed Name of Notary Public