

No. 2020-6447

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

Date: 08/21/2020

Subject Considered:

SHA, L.L.C.
1206 W Campus Drive
Temple, Texas 76502-7124

Consent Order
TDI Enforcement File No. 20885

General remarks and official action taken:

This is a consent order with SHA, L.L.C. (SHA) for repeat violations found in a triennial quality of care examination. SHA was the subject of a previous consent order for violations found during a 2014 quality of care triennial examination and paid an administrative penalty of \$80,000. SHA's current triennial quality of care examination found similar violations. SHA has agreed to pay a \$125,000 administrative penalty.

Waiver

SHA acknowledges that the Texas Insurance Code and other applicable laws provide certain rights. SHA 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 SHA a basic service health maintenance organization (HMO) license number 94393, effective February 10, 1995.

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2014 Triennial Examination

2. TDI conducted a triennial quality of care examination of SHA for the period beginning February 10, 2012, and ending December 31, 2014.
3. TDI issued the 2014 Triennial Final Examination Report on May 12, 2016.
4. Commissioner Order No. 4652, dated September 9, 2016, addressed numerous violations found during the 2014 triennial examination; three of these were repeat violations identified in SHA's first triennial examination in 2012. The order imposed an administrative penalty of \$80,000.

2017 Triennial Examination

5. TDI conducted another triennial quality of care examination of SHA for the period beginning January 1, 2015, and ending December 31, 2017.
6. On April 2, 2019, TDI held an exit conference call with SHA to discuss the 2017 examination findings. Sample files reviewed during this examination were dated after the implementation of SHA's corrective action plan from the 2014 examination.
7. TDI issued the 2017 Triennial Final Examination Report on May 6, 2019.

Adverse Determination Files

8. TDI reviewed 19 adverse determination files to determine statutory compliance.
9. In five instances, SHA failed to provide evidence that its utilization review agent issued the adverse determination within three calendar days after receiving the request for services for the enrollee. This was similar to issues TDI identified in the 2014 examination of SHA.

Appeal Adverse Determination Files

10. TDI reviewed 15 appeal adverse determination files to determine statutory compliance.

11. In 12 instances, SHA failed to provide evidence that its utilization review agent gave the provider of record a reasonable opportunity to discuss the plan of treatment for the enrollee prior to issuing the adverse determination letter. This was similar to issues TDI identified in the 2014 examination of SHA.
12. In eight instances, SHA failed to include the procedures for filing a complaint in the appeal resolution letter. This was similar to issues TDI identified in the 2014 examination of SHA.

Corrective Action Plan

13. SHA submitted a corrective action plan to address the deficiencies cited in the final examination report issued by TDI on June 3, 2019.

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, 843.348, and 4201.206; 28 TEX. ADMIN. CODE §§ 19.1703, 19.1710; 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. SHA 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. SHA violated TEX. INS. CODE § 843.348(d) and 28 TEX. ADMIN. CODE § 19.1718(d)(1) because it failed to provide evidence that its utilization review agent issued the adverse determination within three calendar days after receiving the request for services for the enrollee.
5. SHA violated TEX. INS. CODE § 4201.206 and 28 TEX. ADMIN. CODE §§ 19.1710 and 19.1711(a)(5) because it failed to provide evidence that its utilization review agent gave the provider of record a reasonable opportunity to discuss the plan of treatment for the enrollee prior to issuing the adverse determination letter.

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6. SHA violated 28 TEX. ADMIN. CODE § 19.1711(a)(8)(H) because it failed to include the procedures for filing a complaint in the appeal resolution letter.

Order

It is ordered that SHA, L.L.C. must pay an administrative penalty of \$125,000 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 SHA, L.L.C. report to TDI on or before 30 days from the date of this order. The report will affirm that SHA, L.L.C. has fully implemented its post-exam corrective action plan. If SHA, L.L.C. has not yet fully implemented its post-exam corrective action plan, the report will detail how SHA, L.L.C. 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.

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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

