

No. **2021-7032**

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

Date: 10/25/2021

Subject Considered:

Aetna Dental Inc.
Three Sugar Creek Center Blvd.
Sugar Land, Texas 77478

Consent Order
TDI Enforcement File No. 26420

General remarks and official action taken:

This is a consent order with Aetna Dental Inc. (Aetna Dental) for violations found in a triennial quality of care examination. Aetna Dental has agreed to pay a \$150,000 administrative penalty.

Waiver

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

Findings of Fact

Licensure

1. The Texas Department of Insurance (TDI) issued Aetna Dental a single service health maintenance organization (HMO) license, number 5628, effective September 3, 1991.

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2019 Triennial Quality of Care Examination

2. TDI conducted a triennial quality of care examination of Aetna Dental's dental line of business, for the period of January 1, 2017, through December 31, 2019.
3. On July 14, 2020, TDI held an exit conference with Aetna Dental to discuss the examination findings. Aetna Dental chose not to provide comments to the draft report.
4. On August 6, 2020, TDI sent a certified copy of the final Quality of Care Examination Report to Aetna Dental. The company sent a corrective action plan on September 4, 2020. Aetna Dental represents it has taken or will take all necessary steps to fully implement the plan to address the findings in the examination.
5. The findings of the examination in the Final Examination Report dated August 6, 2020, included violations of the Texas Insurance Code and the Texas Administrative Code.

Claim File Review

6. TDI reviewed 55 claim files for statutory compliance.
7. In four percent of the claims reviewed, Aetna Dental paid the claims later than 30 days after the date of receipt of the electronic clean claims.
8. In two percent of the claims reviewed, Aetna Dental failed to determine if the electronic claim was payable within 30 days and failed to notify the participating provider, in writing, that the claim was deficient within 30 days after receipt.

Complaint File Review

9. TDI reviewed 25 complaint files for statutory compliance.
10. In 24 percent of the complaints reviewed, Aetna Dental failed to send an acknowledgement letter within five business days after receipt of the complaint.
11. In four percent of the complaints reviewed, Aetna Dental failed to acknowledge an oral complaint.

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12. In four percent of the complaints reviewed, Aetna Dental failed to resolve the complaint within 30 days after receipt of the written complaint.
13. In 20 percent of the complaints reviewed, Aetna Dental failed to provide the member appeal rights.
14. In four percent of the complaints appeals reviewed, Aetna Dental failed to send an appeal acknowledgement letter within five business days after receipt of the complaint appeal.
15. In 20 percent of the complaints appeals reviewed, Aetna Dental failed to demonstrate that it had, not later than the fifth business day before the date the appeals panel was scheduled to meet, provided the complainant or their designee with: any documentation to be presented to the panel, the specialization of any physicians or providers consulted during the investigation, and the name and affiliation of each HMO representative on the panel.
16. In 20 percent of the complaints appeals reviewed, Aetna Dental's complaint appeal panel was not composed of an equal number of Aetna Dental's staff members, physicians or other providers, and enrollees.
17. In 12 percent of the complaints appeals reviewed, Aetna Dental failed to demonstrate that the physicians or other providers on the complaint appeal panel had experience in the area of care that was in dispute and were independent of any physician or provider who made the previous determinations.

Health Care Provider Networks, Directories, and Notifications

18. TDI reviewed 38 health care provider application files for statutory compliance.
19. In 13 percent of health care provider applicants reviewed, Aetna Dental failed to notify the physicians or providers of acceptance or non-acceptance of the application for participation not later than 90 days from receipt.

Health Care Provider Credentialing

20. TDI reviewed 11 recredentialing files for statutory compliance.

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21. In 27 percent of recredentialing files reviewed, Aetna Dental failed to recredential health care providers within 36 months of the previous recredentialing.

Conclusions of Law

1. The commissioner has jurisdiction over this matter pursuant to TEX. INS. CODE §§ 82.051–82.055, 84.021–84.044, 401.055, and 843.071; and TEX. GOV'T CODE §§ 2001.051–2001.178.
2. The commissioner has the 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. Aetna Dental 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. Aetna Dental violated TEX. INS. CODE § 843.338(1) by paying electronic clean claims later than 30 days after the date of receipt.
5. Aetna Dental violated TEX. INS. CODE § 843.338(3) and 28 TEX. ADMIN. CODE § 21.2808 by failing to determine if the electronic claim was payable and failing to notify the participating provider in writing, that the claim was deficient within 30 days of receipt.
6. Aetna Dental violated TEX. INS. CODE § 843.252(a) by sending complaint acknowledgement letters later than the fifth business day after the complaints were received.
7. Aetna Dental violated TEX. INS. CODE § 843.252(a) and (b) by failing to acknowledge oral complaints.
8. Aetna Dental violated TEX. INS. CODE § 843.252(c) by failing to resolve complaints within 30 calendar days after the complaints were received.
9. Aetna Dental violated TEX. INS. CODE § 843.254(a)–(c) by failing to provide the member appeal rights.

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10. Aetna Dental violated TEX. INS. CODE § 843.254(b) by sending complaint appeal acknowledgement letters later than the fifth business day after the complaint was received.
11. Aetna Dental violated TEX. INS. CODE § 843.256(1)–(3) by failing to demonstrate that not later than the fifth business day before the panel met it had provided the complainant or designee with: any documentation to be presented to the panel, the specialization of any physicians or providers consulted during the investigation, and the name and affiliation of each HMO representative on the panel.
12. Aetna Dental violated TEX. INS. CODE § 843.255(b) by utilizing complaint appeal panels that were not composed of an equal number of its staff members, physicians or other providers, and enrollees.
13. Aetna Dental violated TEX. INS. CODE § 843.255(c) by failing to demonstrate that the physicians or other providers on the complaint appeal panel had experience in the area of care that was in dispute and were independent of any physician or provider who made the previous determinations.
14. Aetna Dental violated TEX. INS. CODE § 843.305(c) and 28 TEX. ADMIN. CODE § 11.1402(c) by failing to notify physician or provider applicants of acceptance or non-acceptance of their applications for participation not later than 90 days from receipt.
15. Aetna Dental violated TEX. INS. CODE § 1452.006, 28 TEX. ADMIN. CODE § 11.1902(4) and National Committee for Quality Assurance standard CQA CR4 Element A, by failing to recredential health care providers within 36 months of the previous recredentialing.

Order

It is ordered that Aetna Dental Inc. pay an administrative penalty of \$150,000 within 30 days from the date of this order. The administrative penalty must be paid as instructed in the invoice, which the department will send after entry of this order.

It is also ordered that Aetna Dental Inc. report to TDI on or before 30 days from the date of this order. The report will affirm that Aetna Dental Inc. has fully implemented its post-exam corrective action plan. If Aetna Dental Inc. has not yet fully implemented its post-

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exam corrective action plan, the report will detail how Aetna Dental Inc. intends to fully implement its corrective action plan, including specifying resources dedicated to implementation, timelines, and a process for independent verification of objective progress to comply with Texas law. Subsequent reports with updated information must be made by the first of each month until the department states no further reporting is required. The report must be sent to EnforcementReports@tdi.texas.gov.

DocuSigned by:


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Cassie Brown

Commissioner of Insurance

Recommended and reviewed by:



Leah Gillum, Deputy Commissioner
Enforcement Division



Amanda Atkinson Cagle, Staff Attorney
Enforcement Division

Affidavit

STATE OF Pennsylvania §
§
COUNTY OF Dauphin §

Before me, the undersigned authority, personally appeared Chad T. Cressler
who being by me duly sworn, deposed as follows:

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

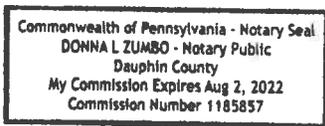
I hold the office of President and am the authorized representative of Aetna Dental Inc. I am duly authorized by said organization to execute this statement.

Aetna Dental 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."

Chad T. Cressler
Affiant

SWORN TO AND SUBSCRIBED before me on October 15, 2021.

(NOTARY SEAL)



Donna L Zumbo
Signature of Notary Public

Donna L. Zumbo
Printed Name of Notary Public