

No. **2022-7430**

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

**Date: 08/11/2022**

**Subject Considered:**

Humana Health Plan of Texas, Inc.  
P.O. Box 740036  
Louisville, Kentucky 40201-7436

Consent Order  
TDI Enforcement File No. 29477

**General remarks and official action taken:**

This is a consent order with Humana Health Plan of Texas, Inc. (Humana Health Plan). The Texas Department of Insurance conducted a market conduct examination and found Humana Health Plan violated several provisions of the Texas Insurance Code and Title 28 of the Texas Administrative Code. Humana Health Plan has agreed to pay a \$300,000 administrative penalty for these violations.

**Waiver**

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

**Findings of Fact**

1. Humana Health Plan holds an authorization to act as a health maintenance organization in Texas issued by the department.
2. Humana Health Plan is affiliated with Humana, Inc.

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3. Humana Health Plan delegated utilization review duties to Humana Insurance Company as its utilization review agent (URA).
4. Humana Health Plan also delegated utilization review duties to the following non-affiliated companies: OrthoNet of the South, Inc.; HealthHelp, LLC; Oncology Analytics; Exlservice Philippines, Inc.; and HGS Healthcare, LLC.
5. The department conducted a market conduct examination for the period of January 1, 2018, through December 30, 2020. The examination reviewed quality improvement, claims, complaints, enrollee identification cards, health care provider network directories, and notifications related to Humana Health Plan's health maintenance organization commercial line of business.
6. The purpose of the examination was to verify compliance with the Texas Insurance Code and Title 28 of the Texas Administrative Code.
7. During the exam, the department found violations of the Texas Insurance Code and the Texas Administrative Code in the samples of policies and claims reviewed.

### Initial Adverse Determinations

8. The department reviewed 34 initial adverse determinations for statutory compliance.
9. In six percent (2 of 34) of initial adverse determinations reviewed, Humana Health Plan's URA did not afford the provider of record a reasonable opportunity to discuss the services under review during normal business hours no less than one working day prior to issuing the prospective adverse determination.
10. In three percent (1 of 34) of initial adverse determinations reviewed, Humana Health Plan's URA did not provide the URA's telephone number so the provider of record could contact the URA to discuss the pending adverse determination.
11. In nine percent (3 of 34) of initial adverse determinations reviewed, Humana Health Plan's URA did not include the screening criteria that is objective, clinically valid, compatible with established principles of health care, and flexible enough to allow a deviation from the norm when justified on a case-by-case basis.

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12. In 15 percent (5 of 34) of initial adverse determinations reviewed, Humana Health Plan's URA did not include the professional specialty of the physician, doctor, or other health care provider who made the adverse determination.

### Appeal Adverse Determinations

13. The department reviewed 16 appeal adverse determinations for statutory compliance.
14. In 25 percent (4 of 16) of appeal adverse determinations reviewed, the appeal acknowledgment letter did not include a list of relevant documents the appealing party must submit for review.
15. In six percent (1 of 16) of appeal adverse determinations reviewed, Humana Health Plan's URA did not afford the provider of record a reasonable opportunity to discuss the plan of treatment for the enrollee with a physician during normal business hours, no less than one working day prior to issuing the prospective appeal adverse determination.
16. In six percent (1 of 16) of appeal adverse determinations reviewed, Humana Health Plan's URA did not afford the provider of record a reasonable opportunity to discuss the plan of treatment for the enrollee with a physician during normal business hours and prior to issuing the concurrent appeal adverse determination.
17. In six percent (1 of 16) of appeal adverse determinations reviewed, Humana Health Plan's URA did not complete the expedited appeal within one working day from the date all information necessary to complete the appeal was received.

### Claims

18. The department reviewed 50 claims received and processed in 2020 for statutory compliance.
19. In two percent (1 of 50) of claims reviewed, Humana Health Plan paid noninstitutional preferred providers claims between 30 and 45 days late without paying applicable prompt pay penalties.

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20. In 14 percent (7 of 50) of claims reviewed, Humana Health Plan paid the claim later than the 15th day after the date Humana Health Plan received the requested information.

### Complaints

21. The department reviewed 20 member complaints Humana Health Plan received and responded to in 2019 and 2020 for statutory compliance.
22. In five percent (1 of 20) of member complaints reviewed, Humana Health Plan did not acknowledge an oral complaint during calls prior to receiving the written complaint.
23. In 45 percent (9 of 20) of member complaints reviewed, Humana Health Plan did not include the description of Humana Health Plan's complaint procedures and timeframes in the acknowledgment letter.
24. In 35 percent (7 of 20) of member complaints reviewed, Humana Health Plan did not provide the appeals process to the complainant.

### Provider Directories

25. The department reviewed health care provider lists and directories to determine statutory compliance.
26. Humana Health Plan did not maintain an accurate written or electronic list of contracted providers participating in Humana Health Plan's approved delivery network.
27. Humana Health Plan's paper directory did not disclose which providers were willing to accept new enrollees.
28. Humana Health Plan did not maintain an accurate written and electronic list of contracted providers by conducting an ongoing review of its directory, to correct or update the information as necessary, but no less than once a month.
29. In 100 percent (225 of 225) of directory update submissions reviewed, Humana Health Plan did not correct its directory by the seventh day after the date the report, notice, or complaint was received.

**Conclusions of Law**

1. The commissioner has jurisdiction over this matter under TEX. INS. CODE §§ 82.051–82.055, 84.021–84.044, 843, 1301, 1451.505, 4001.201, and 4201; 28 TEX. ADMIN. CODE §§ 3.3705, 3.8001-3.80320, 11.1600, 11.1607, 19.1703, 19.1705, 19.1709-19.1711, 19.1718, 21.2804, and 21.2815; and TEX. GOV'T CODE §§ 2001.051-2001.178.
2. The commissioner has the authority to dispose informally 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. Humana Health Plan 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. Humana Health Plan violated TEX. INS. CODE § 4201.206 and 28 TEX. ADMIN. CODE §§ 19.1703(b)(26)(A) and 19.1710 by failing to provide the provider of record a reasonable opportunity to discuss the services under review during normal business hours no less than one working day prior to issuing the prospective adverse determination.
5. Humana Health plan violated TEX. INS. CODE § 4201.206 and 28 TEX. ADMIN. CODE § 19.1710(1) by failing to provide the URA's telephone number so the provider of record could contact the URA to discuss the pending adverse determination.
6. Humana Health Plan violated TEX. INS. CODE § 843.348(d) and 28 TEX. ADMIN. CODE § 19.1718(d)(1) by failing to issue adverse determinations within three calendar days of receiving the request for preauthorization for HMO enrollees not hospitalized at the time of the request.
7. Humana Health Plan violated TEX. INS. CODE § 4201.153(b) and 28 TEX. ADMIN. CODE §§ 3.8001-3.80230 and 19.1705(c) by failing to include screening criteria that is objective, clinically valid, compatible with established principles of health care, and flexible enough to allow a deviation from the norm when justified on a case-by-case basis.

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8. Humana Health Plan violated 28 TEX. ADMIN. CODE § 19.1709(b)(4) by failing to include the professional specialty of the physician, doctor, or other health care provider who made the adverse determination.
9. Humana Health Plan violated TEX. INS. CODE § 4201.355(b)(2) and 28 TEX. ADMIN. CODE § 19.1711(a)(3)(C) by failing to include a list of relevant documents the appealing party must submit for review in its appeal acknowledgment letter.
10. Humana Health Plan violated TEX. INS. CODE § 4201.206 and 28 TEX. ADMIN. CODE §§ 19.1703(b)(26)(A) and 19.1711(a)(5) by failing to afford the provider of record a reasonable opportunity to discuss the plan of treatment for the enrollee with a physician during normal business hours and prior to issuing the concurrent appeal adverse determination.
11. Humana Health Plan violated TEX. INS. CODE § 4201.357(b) and 28 TEX. ADMIN. CODE § 19.1711(a)(7)(B) by failing to complete the expedited appeal within one working day from the date all information necessary to complete the appeal was received.
12. Humana Health Plan violated TEX. INS. CODE § 843.342(d) and (m) and 28 TEX. ADMIN. CODE § 21.2815(c)(1) by paying noninstitutional preferred providers claims between 30 and 45 days late without paying applicable prompt payment penalties.
13. Humana Health Plan violated TEX. INS. CODE § 843.3385(c) and 28 TEX. ADMIN. CODE § 21.2804(c) by paying claims later than the 15th day after the date Humana Health Plan received the requested information.
14. Humana Health Plan violated TEX. INS. CODE § 843.251 by failing to acknowledge oral complaints during calls prior to receiving the written complaints.
15. Humana Health Plan violated TEX. INS. CODE § 843.252(b)(1) by failing to include the description of Humana Health Plan's complaint procedures and timeframes in its complaint acknowledgment letter.
16. Humana Health Plan violated TEX. INS. CODE §§ 843.254(a)-(c) by failing to provide the appeals process to the complainant.
17. Humana Health Plan violated TEX. INS. CODE § 843.2015 and 28 TEX. ADMIN. CODE §§ 11.1607(b) and 11.1600(b)(12)-(13) by failing to maintain an accurate written or

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electronic list of contracted providers participating in Humana Health Plan's approved delivery network.

18. Humana Health Plan violated TEX. INS. CODE § 843.2015 by failing to disclose which providers were willing to accept new enrollees in its paper directory.
19. Humana Health Plan violated TEX. INS. CODE § 1451.505(d) by failing to maintain accurate written and electronic lists of contracted providers by conducting an ongoing review of its directory, to correct or update the information as necessary, but no less than once a month.
20. Humana Health Plan violated TEX. INS. CODE § 1451.505(e) by failing to correct its directory by the seventh day after the date the report, notice, or complaint was received.

## Order

It is ordered that Humana Health Plan of Texas, Inc. must pay an administrative penalty of \$300,000 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.

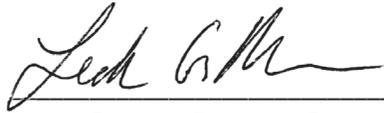
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Cassie Brown  
Commissioner of Insurance

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Recommended and reviewed by:



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Leah Gillum, Deputy Commissioner  
Fraud and Enforcement Division



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Cassie Tigue, Staff Attorney  
Enforcement

**Affidavit**

STATE OF Kentucky §  
§  
COUNTY OF Jefferson §

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

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

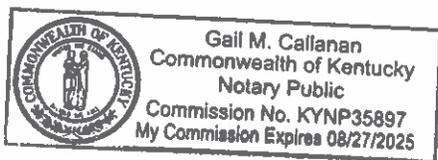
I hold the office of Segment President and am the authorized representative of Humana Health Plan Health Plan of Texas, Inc. I am duly authorized by said organization to execute this statement.

Humana Health Plan Health Plan of Texas, 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."

Sue Schick  
Affiant

SWORN TO AND SUBSCRIBED before me on July 28, 2022.

(NOTARY SEAL)



Gail M Callanan  
Signature of Notary Public

Gail M. Callanan  
Printed Name of Notary Public