

No. **2025-9168**

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

Date: 3/4/2025

Subject Considered:

Managed DentalGuard, Inc.
5850 Granite Pkwy, Suite 800
Plano, TX 75024-0017

Consent Order
TDI Enforcement File No. 35379

General remarks and official action taken:

This is a consent order with Managed DentalGuard, Inc. (MDG) for violations found in a triennial quality of care examination. MDG has agreed to pay a \$200,000 administrative penalty.

Waiver

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

Findings of Fact

Background and Licensure

1. MDG has held a single service health maintenance organization certificate of authority since March 24, 2000.

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2. On June 2, 2016, the commissioner entered Order No. 4486 against MDG. The order imposed a \$20,000 penalty, for failing to promptly pay clean claims and failing to timely file quarterly claims payment information with TDI.
3. TDI conducted a triennial quality of care examination which covered activity between January 1, 2020, and December 31, 2022, for MDG's dental line of business.

Quality Improvement

4. TDI reviewed MDG's quality improvement work plans and meeting minutes for 2021 and 2022.
5. MDG did not include practicing physicians and providers on the quality improvement committee.

Utilization Review

6. TDI reviewed utilization review requests and sampled adverse determinations issued in 2022, using stratified sampling to include initial and appeal adverse determinations comprised of either prospective or retrospective reviews involving medical and surgical services.

Initial Adverse Determinations

7. In 100% (31 of 31) of initial adverse determinations reviewed, MDG issued the adverse determinations without affording the provider of record a reasonable opportunity to discuss treatment.
 - a. In 12 instances of prospective requests, MDG did not afford the provider of record a reasonable opportunity to discuss treatment no less than one working day prior to issuing the adverse determination.
 - b. In 19 instances of retrospective requests, MDG did not afford the provider of record a reasonable opportunity to discuss treatment within five working days prior to issuing the adverse determination.

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8. In 84% (26 of 31) of initial adverse determinations reviewed, MDG did not issue an adverse determination letter to the enrollee, or a person acting on behalf of the enrollee, as well as the provider.
9. In 16% (5 of 31) of initial adverse determinations reviewed, MDG did not include the description of procedures for the utilization review agent's complaint system on the adverse determination letter.
10. In 16% (5 of 31) of initial adverse determinations reviewed, MDG did not include on the adverse determination letter the professional specialty of the physician, doctor, or other health care provider that made the adverse determination.

Adverse Determination Appeals

11. In 100% (2 of 2) of adverse determination appeals reviewed, MDG did not send an appeal acknowledgement letter to the appealing party.
12. In 100% (2 of 2) of adverse determination appeals reviewed, MDG issued the adverse determination appeal without affording the provider of record a reasonable opportunity to discuss treatment.
13. In 50% (1 of 2) of adverse determination appeals reviewed, MDG did not review the appeal using a provider not previously involved in the adverse determination decision.
14. In 100% (2 of 2) of adverse determination appeals reviewed, MDG's appeal resolution letter did not include the specialty of the physician who made the determination.

Claims

15. TDI sampled claims MDG received in 2022 using stratified sampling to include claims that involved in-network services, out-of-network services, and requests for additional information.
16. In 18% (9 of 50) of claims reviewed, MDG paid the claim late.

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- a. In 11% (1 of 9) of these late claims reviewed, MDG did not pay penalties on a non-institutional preferred provider's clean claim that was paid between one to 45 days after the end of the applicable statutory claims payment period.
 - b. In 11% (1 of 9) of these late claims reviewed, MDG did not pay the statutory 18% annual interest penalty to TDI, on a non-institutional preferred provider's clean claim that was paid on or after 91 days after the end of the applicable statutory claims payment period.
17. In 6% (3 of 50) of claims reviewed, MDG did not process claims requiring additional information by the 15th day after MDG received the requested information.
 18. In 6% (3 of 50) of claims reviewed, MDG sent explanation of benefits (EOBs) to enrollees stating the requested service was not medically necessary and without submitting the request through the utilization review process.
 19. In 4% (2 of 50) of claims reviewed, MDG included language in EOBs stated the member would be charged a \$50 fee for an external appeal of a final adverse determination.

Agent Licensing and Appointments

20. TDI randomly sampled 20 policies issued in 2022 to determine compliance with agents' licensing and appointment requirements.
21. In 30% (6 of 20) of the policies reviewed, MDG allowed an agent who was not properly appointed to issue or service policies.

Provider Directories

22. TDI reviewed health care provider lists and directories to determine compliance with applicable statutes and regulations.
23. MDG did not send notice to its enrollees describing how to obtain a nonelectronic copy of a current list of all network providers on a cost-free basis.

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Mitigating Events During the Exam

24. After TDI found late-paid claims within the reviewed sample, MDG paid penalties to the provider and paid interest to TDI for the late-paid claims. MDG also provided TDI with a claims impact report representing the penalties it had already paid in 2021 and 2022.
25. MDG submitted a utilization review impact report to TDI representing that it identified a total of five claims with EOBs stating a requested service was not medically necessary and without submitting the request through the proper utilization review process.
26. MDG submitted an independent review organization fee impact report to TDI representing that it identified a total of 15 claims with EOBs stating that members would be charged a \$50 fee for an external appeal of a final adverse determination. MDG represents it did not actually collect any fees from members.
27. MDG represents that as of April 1, 2024, it has modified and removed from its EOBs any reference to a \$50 member fees for external appeals of final adverse determinations.

Conclusions of Law

1. The commissioner has jurisdiction over this matter under TEX. INS. CODE §§ 82.051–82.055, 84.021–84.044, 843.071–843.075, 843.083, 843.461–843.464.
2. The commissioner has the authority to informally dispose of this matter as set forth in TEX. GOV'T CODE § 2001.056; and TEX. INS. CODE §§ 36.104 and 82.055.
3. MDG 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. MDG violated 28 TEX. ADMIN. CODE § 11.1901(b)(1) by failing to include practicing physicians and providers on the quality improvement committee.

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5. MDG violated TEX. INS. CODE § 4201.206 and 28 TEX. ADMIN. CODE § 19.1703(b)(26)(A)-(B) by failing to afford the provider of record a reasonable opportunity to discuss treatment:
 - a. in prospective requests, no less than one working day prior to issuing an adverse determination;
 - b. in retrospective requests, within five working days prior to issuing an adverse determination; and
 - c. in adverse determination appeals.
6. MDG violated TEX. INS. CODE § 4201.301 and 28 TEX. ADMIN. CODE § 19.1709(a) by failing to issue an adverse determination letter to the enrollee, or a person acting on behalf of the enrollee.
7. MDG violated TEX. INS. CODE § 4201.303(a)(4) and 28 TEX. ADMIN. CODE § 19.709(c)(5) by failing to include the description of procedures for the utilization review agent's complaint system on the adverse determination letter.
8. MDG violated 28 TEX. ADMIN. CODE § 19.1709(c)(4) by failing to include on the adverse determination letter the professional specialty of the physician, doctor, or other health care provider that made the adverse determination.
9. MDG violated TEX. INS. CODE § 4201.355(a) and 28 TEX. ADMIN. CODE § 19.1711(a)(3)(A) by failing to send an appeal acknowledgment letter to the appealing party.
10. MDG violated 28 TEX. ADMIN. CODE § 19.1711(a)(4) by failing to review an appeal using a provider not previously involved in the adverse determination decision.
11. MDG violated TEX. INS. CODE § 4201.359(b)(2) and 28 TEX. ADMIN. CODE § 19.1711(a)(8)(D) by failing to include the specialty of the physician who made the determination in an appeal resolution letter.
12. MDG violated TEX. INS. CODE § 843.342(a), (c), and (m) and 28 TEX. ADMIN. CODE § 21.2815(a)(1) and (a)(3) by failing to pay penalties on non-institutional preferred providers' clean claims that were paid:
 - a. between one to 45 days after the end of the applicable statutory claims payment period; and

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- b. on or after 91 days after the end of the applicable statutory claims payment period.
13. MDG violated TEX. INS. CODE § 843.3385(c) and 28 TEX. ADMIN. CODE § 21.2804(c) by failing to process claims requiring additional information by the 15th day after receiving the requested information.
14. MDG violated 28 TEX. ADMIN. CODE § 19.1709 by sending EOBs to enrollees stating that a requested service was not medically necessary without submitting the request through the utilization review process.
15. MDG violated TEX. INS. CODE §§ 541.003, 541.061, and 542.003(b)(1) by making false, misleading, or deceptive statements to its members in EOBs that they would be charged a fee for an appeal of an adverse determination, which is contrary to and prohibited by TEX. INS. CODE § 4201.403 and 28 TEX. ADMIN. CODE §§ 19.1711(a)(8)(E) and 19.1717(c)(3).
16. MDG violated TEX. INS. CODE § 4001.201 by allowing an agent who was not properly appointed to issue or service policies.
17. MDG violated 28 TEX. ADMIN. CODE § 11.1612(d) by failing to send notice to its enrollees describing how to obtain a nonelectronic copy of a current list of all network providers on a cost-free basis.

Order

It is ordered that Managed DentalGuard, Inc. pay an administrative penalty of \$200,000 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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It is further ordered that Managed DentalGuard, Inc. report to TDI on or before 30 days from the date of this order. The report will affirm Managed DentalGuard, Inc. has fully implemented its post-exam corrective action plan. If Managed DentalGuard, Inc. has not yet fully implemented its post-exam corrective action plan, the report will detail how Managed DentalGuard, 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. Subsequent reports with updated information must be made by the first of each month until TDI states no further reporting is required. The report must be sent to EnforcementReports@tdi.texas.gov.

Signed by:

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Cassie Brown
Commissioner of Insurance

Recommended and reviewed by:



Leah Gillum, Deputy Commissioner
Fraud and Enforcement Division



Kaycee Crisp, Staff Attorney
Enforcement

Affidavit

STATE OF Maine §

COUNTY OF York §

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

"My name is Jill Purcell. 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 CEO and President and am the authorized representative of
Managed DentalGuard, Inc. I am duly authorized by said organization to execute this
statement.

Managed DentalGuard, 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."

[Signature]
Affiant

SWORN TO AND SUBSCRIBED before me on February 7th 2025.



[Signature]
Signature of Notary Public

Joshua R Chambers
Printed Name of Notary Public

JOSHUA R. CHAMBERS
Notary Public, State of Maine
My Commission Expires
March 5, 2026