

No. **2025-9465**

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

Date: 8/11/2025

Subject Considered:

Oscar Insurance Company
75 Varick Street, Floor 5
New York, New York 10013

Consent Order
TDI Enforcement File No. 31094

General remarks and official action taken:

This is a consent order with Oscar Insurance Company (Oscar) for violations found in a triennial quality of care examination. Oscar has agreed to pay a \$225,000 administrative penalty.

Waiver

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

Findings of Fact

Licensure and Background

1. Oscar holds a life, accident, and health certificate of authority, issued by the Texas Department of Insurance on July 1, 2015.

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2. The department conducted the first quality of care examination on Oscar's exclusive provider organization marketplace exchange and commercial lines of business, covering activity between January 1, 2020, and December 31, 2021.
3. Oscar contracted services with the following companies:
 - a. Third-party administrators to process and adjudicate claims:
 - i. CaremarkPCS Health, L.L.C, effective August 4, 2011;
 - ii. United Behavioral Health, effective January 1, 2017;
 - iii. Evicore Healthcare MSI LLC, effective January 1, 2017; and
 - iv. American Specialty Health Group, Inc., effective January 1, 2021.
 - b. To perform prospective, concurrent, and retrospective utilization review:
 - i. CaremarkPCS Health, L.L.C, effective August 4, 2011;
 - ii. United Behavioral Health, effective January 1, 2017; and
 - iii. Evicore Healthcare MSI LLC, effective January 1, 2017.
 - c. Provider Networks:
 - i. Quest, effective January 1, 2016;
 - ii. CVS Caremark, effective January 1, 2016; and
 - iii. Optum, effective January 1, 2017.

Utilization Review

4. The department reviewed 40,704 utilization review requests to determine statutory compliance.
5. In 3% (1,380 of 40,704) of approved utilization review requests staff reviewed, a notice of determination made by the utilization review agent (URA) was sent later than the second working day after the date of the request.

Initial Adverse Determinations

6. The department reviewed a sample of 50 initial adverse determinations to determine statutory compliance.

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7. In 14% (7 of 50) of initial adverse determinations reviewed, Oscar's URA and its URA delegates issued adverse determinations late.
 - a. In five pre-authorization requests, Oscar's URA delegate issued the adverse determination later than three working days from receipt of the request.
 - b. In two retrospective requests, Oscar issued the adverse determination later than 30 days after the date on which the claim was received.
8. In 8% (4 of 50) of initial adverse determinations reviewed, Oscar's URA or its URA delegates failed to provide a peer-to-peer review with a Texas licensed physician.
9. In 42% (21 of 50) of initial adverse determinations reviewed, Oscar's URA or its URA delegates failed to offer a peer-to-peer review to the treating physician prior to an adverse determination.
10. In 2% (1 of 50) of initial adverse determinations reviewed, Oscar's URA or its URA delegate failed to refer the request to an appropriate physician, doctor, or other healthcare provider with appropriate credentials to determine medical necessity.
11. In 4% (2 of 50) of initial adverse determinations reviewed, Oscar failed to issue a notice of a determination to the provider of record.

Adverse Determination Appeals

12. The department reviewed a sample of 25 adverse determination appeals to determine statutory compliance.
13. In 52% (13 of 25) of adverse determination appeals reviewed, Oscar's URA or its URA delegates failed to offer the provider a reasonable opportunity to discuss the treatment plan with a physician during normal business hours and prior to issuing the adverse determination.
14. In 20% (5 of 25) of adverse determination appeals reviewed, Oscar failed to send an appeal acknowledgment letter to the appealing party.
15. In 8% (2 of 25) of adverse determination appeals reviewed, Oscar's URA or its URA delegate failed to send written notice to the appealing party within 30 calendar days after the date the appeal was received.

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Sample Claims Review

16. The department reviewed a sample of 65 claims to determine statutory compliance. Of the 65 claims reviewed, seven were paid late.
17. In 43% (3 of 7) of the late claims reviewed, Oscar failed to pay penalties to an institutional preferred provider on claims paid between 30 and 45 days late, including all applicable prompt payment penalties payable to the department.
18. In 29% (2 of 7) of the late claims reviewed, Oscar failed to pay the penalty on the payable portion of a non-institutional preferred provider's claims paid between 30 and 45 days late.
19. On July 18, 2024, the department was provided a claims impact report containing 287 claims with unpaid penalties and interest totaling \$1,670,806.71. Oscar will begin a penalty payment process and anticipates this to occur on July 1, 2024.
20. In 8% (5 of 65) of claims reviewed, Oscar failed to send written notice within 30 days explaining why an electronic clean claim would not be paid.
21. In 4.5% (3 of 65) of claims reviewed, Oscar failed to pay in accordance with prompt pay requirements an out-of-network provider that provided emergency care.
22. In 3% (2 of 65) of claims reviewed, Oscar failed to, within 30 days of receipt of the claim, send written notice to the provider explaining why an electronic claim was deficient.
23. In 17% (11 of 65) of claims reviewed, Oscar failed to provide the balance billing prohibition notification in the explanation of benefits.
24. In 17% (11 of 65) of claims reviewed, the explanation of benefits displayed misleading information regarding balance billing. The language incorrectly indicated that a member may be balance billed.
25. In 5% (3 of 65) of claims reviewed, Oscar failed to pay a claim from an out-of-network provider of an emergency care service within 30 days after the date the company received the claim.

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26. In 2% (1 of 65) of claims reviewed, Oscar failed to notify a claimant in writing of the acceptance or rejection of a claim within 15 business days.
27. In 8% (5 of 65) of claims reviewed, Oscar sent explanation of payment documents to providers reflecting no payment was owed for specific services. These included remark codes that referenced medical necessity as a basis for the determination that nothing was owed. Therefore, Oscar denied the claims for lack of medical necessity without following the retrospective utilization review process.

Initial Complaints

28. The department reviewed a sample of 30 initial complaints to determine statutory compliance.
29. In 30% (9 of 30) of the initial complaints reviewed, Oscar sent an explanation of benefits to a member without the required prohibition notification regarding balance billing.
30. In 30% (9 of 30) of the initial complaints reviewed, Oscar sent an explanation of benefits with misrepresentations of pertinent facts or policy provisions. The explanation of benefits incorrectly stated the member could be balance billed and included the entire billed amount as the total the member owed.

Provider Directories

31. The department reviewed Oscar's health care provider lists and directories to determine statutory compliance.
32. Oscar's network provider directories do not clearly identify which facilities have providers that do not participate in the network.
33. Oscar's provider list and directories include providers in counties which are located outside of Oscar's approved service area.

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Provider Notifications

34. The department reviewed published notifications of the opportunity for health care providers to contract with Oscar to determine statutory compliance.
35. Oscar failed to notify all non-contracting physicians and practitioners in the health benefit plan's service area at least annually of the existence of the plan(s) and the opportunity to become a provider.

Corrective Action Plan

36. Oscar provided the department with a Corrective Action Plan on October 7, 2024, to remedy the practices that resulted in the violations discovered during the exam process.

Conclusions of Law

1. The commissioner has jurisdiction over this matter under TEX. INS. CODE §§ 82.051–82.055, 84.021–84.044, 542.003, 542.056, 1301.0053, 1301.010, 1301.069, 1301.103, 1456.003, 4201.206, 4201.301, 4201.302, 4201.304, 4201.305, 4201.355, 4201.359; and 28 TEX. ADMIN. CODE §§ 3.3704, 3.3706, 19.1703, 19.1705, 19.1709, 19.1710, 19.1711, and 21.2808.
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. Oscar 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. Oscar violated 28 TEX. ADMIN. CODE § 3.3704(f)(2) and (3) by including in its provider list and directories, providers located outside of the required time and distance standards.

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5. Oscar violated 28 TEX. ADMIN. CODE § 3.3706(a)(2) by failing to annually notify all non-contracting physicians and practitioners in Oscar's covered service area of the existence of the plan and the opportunity to apply to participate.
6. Oscar violated 28 TEX. ADMIN. CODE § 19.1705(d) by failing to refer an adverse determination request to an appropriate physician, doctor, or other healthcare provider with appropriate credentials to determine medical necessity.
7. Oscar violated 28 TEX. ADMIN. CODE § 21.2808 by failing to, within 30 days of receipt of the electronic claim, send written notice to the preferred provider submitting the claim that the claim was deficient.
8. Oscar violated TEX. INS. CODE § 542.003(b)(1) by knowingly misrepresenting to a claimant pertinent facts or policy provisions relating to coverage at issue.
9. Oscar violated TEX. INS. CODE § 542.056(a) by failing to notify a claimant in writing of the acceptance or rejection of a claim not later than the 15th business day after the date Oscar received all items, statements, and forms required to secure final proof of loss.
10. Oscar violated TEX. INS. CODE § 1301.0053(a)(1) by failing to reimburse an out-of-network provider of an emergency care service not later than the 30th day after the date Oscar received an electronic clean claim that included all information necessary to pay the claim.
11. Oscar violated TEX. INS. CODE § 1301.010(1) by failing to provide a written balance billing prohibition notification in the explanation of benefits to the insured and the physician or health care provider.
12. Oscar violated TEX. INS. CODE § 1301.069 by failing to pay in accordance with prompt pay requirements, an out-of-network provider that provided emergency care.
13. Oscar violated TEX. INS. CODE § 1301.103(3) by failing, not later than the 30th day after the date Oscar received an electronic clean claim from a preferred provider, to send written notice explaining why the claim would not be paid.
14. Oscar violated TEX. INS. CODE § 1301.137(a) and (l) and 28 TEX. ADMIN. CODE § 21.2815(a)(4) by failing to pay penalties to an institutional preferred provider on

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- claims paid between 30 and 45 days late, including all applicable prompt payment penalties payable to the department.
15. Oscar violated TEX. INS. CODE § 1301.137(d) and (l) and 28 TEX. ADMIN. CODE § 21.2815(c)(1), by failing to pay the penalty on the payable portion of a non-institutional preferred provider's claims paid between 30 and 45 days late.
 16. Oscar violated TEX. INS. CODE § 1456.003(c) by failing to clearly identify any health care facilities within the provider network in which facility-based physicians do not participate in the health benefit plan's provider network. Oscar's network provider directories do not clearly identify which facilities have providers that do not participate in the network. Such facilities must be identified in a separate and conspicuous manner in any provider network directory or website directory.
 17. Oscar violated TEX. INS. CODE CHAP. 4201 by denying a claim for lack of medical necessity and failing to follow the retrospective review process.
 18. Oscar violated TEX. INS. CODE § 4201.206 and 28 TEX. ADMIN. CODE §§ 19.1703(b)(26) and 19.1710 by failing to provide the health care provider who ordered, requested, provided, or is to provide the service a reasonable opportunity to discuss with a physician licensed to practice medicine the treatment plan and clinical basis, prior to issuing the adverse determination. Such opportunity must be with a physician licensed to practice medicine in this state and who has the same or similar specialty as the physician.
 19. Oscar violated TEX. INS. CODE § 4201.301 and 28 TEX. ADMIN. CODE § 19.1709(a) by failing to provide notice of a determination to the provider of record.
 20. Oscar violated TEX. INS. CODE § 4201.302 by sending a notice of determination later than the second working day after the date of the request and receipt of all information necessary to complete the review.
 21. Oscar violated TEX. INS. CODE § 4201.304(a)(2) by failing to issue a written notice of adverse determination to the provider of record and the insured, within three working days.
 22. Oscar violated TEX. INS. CODE § 4201.305(a) and 28 TEX. ADMIN. CODE § 19.1709(f) by failing to issue a written notice of adverse determination under the retrospective

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utilization review to the provider of record and the insured, not later than 30 days after the date on which the claim is received.

23. Oscar 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 within five working days from receipt of the appeal.
24. Oscar violated TEX. INS. CODE § 4201.359(a) by failing to send written notice to the appealing party of the determination of the appeal not later than the 30th calendar day after the date the appeal was received.

Order

It is ordered that Oscar Insurance Company pay an administrative penalty of \$225,000 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 Oscar report to the department on or before 30 days from the date of this order. The report will affirm that Oscar has fully implemented its post-exam corrective action plan. If Oscar has not yet fully implemented its post-exam corrective action plan, the report will detail how the company intends to fully implement its plan, resources dedicated to implementation, timelines, and a process for independent verification of objective progress to comply with Texas law. Oscar must send the report to EnforcementReports@tdi.texas.gov.

Signed by:

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Cassie Brown
Commissioner of Insurance

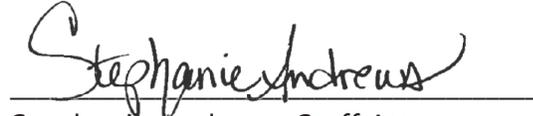
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Recommended and reviewed by:

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Leah Gillum, Deputy Commissioner
Fraud and Enforcement Division

A handwritten signature in cursive script, appearing to read "Stephanie Andrews", written over a horizontal line.

Stephanie Andrews, Staff Attorney
Enforcement

