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SEP 24 2018  
  
Texas Department of  
Insurance

September 19, 2018

Texas Department of Insurance  
Attn: Associate Commissioner Melissa Field, JD  
PO Box 149104  
Austin, Texas 78714-9104

Dear Associate Commissioner Field:

On behalf of our more than 11,500 physician and medical school members, the Harris County Medical Society (HCMS) has deemed it necessary to file a formal complaint with the Texas Department of Insurance regarding the implementation and ongoing issues related to the Molina Healthcare insurance marketplace products.

Over the past nine months HCMS has received an unusually high number of complaints from members regarding the lack of payments from Molina marketplace products, which has been an issue since 2016 according to our research. To date, we have received complaints about Molina from UT-Houston Physicians Group, Baylor Physicians in Houston, Oncology Consultants, Texas Oncology (filed TDI complaint), Houston Eye Associates (filed TDI complaint) and Coastal Eye Associates (filed TDI complaint). It has also been noted on the TDI website that complaints against Molina are on the rise, see below.

	Dec 31, 2016		Dec 31, 2017		Aug 31, 2018
<b>Confirmed Complaints:</b>					
Life and Annuity	0	0	0	0	0
Accident and Health	3	13			82
Homeowner	0	0	0	0	0
Automobile	0	0	0	0	0
Workers' Compensation	0	0	0	0	0
<b>Complaint Ratio/Index</b>	<b>Ratio</b>	<b>Index</b>	<b>Ratio</b>	<b>Index</b>	
Life and Annuity	N/A	N/A	N/A	N/A	N/A
Accident and Health	.0031	1.0968	.0096	4.2509	N/A
Homeowner	N/A	N/A	N/A	N/A	N/A
Automobile	N/A	N/A	N/A	N/A	N/A
Workers' Compensation	N/A	N/A	N/A	N/A	N/A

Several group practices and physicians have filed TDI complaints on Molina. Some of these complaints have been filed for months. One TDI staffer informed HCMS staff that physician complaints are at "the bottom of the totem pole" which seems accurate given the lack of response from TDI. After Molina drastically decreased any

communication with physicians for months and TDI not responding to complaints, the physicians and their administrators have been calling HCMS for assistance.

HCMS has reached out to its Molina contacts to try and resolve the issues, but all we have received are promises to fix issues and non-responsiveness just like the physicians. It is HCMS policy to work out payment issues with payers on behalf of the membership prior to involving any government agency. This is the type of relationship we have built with payers in Harris County over the past two decades. This process has been very successful which is demonstrated by the very low number of HCMS complaints filed with TDI. Conversely, HCMS does see a trend of non-compliance to state prompt pay laws with other fully-insured and marketplace payers. Hence, TDI may see an increase in complaints from HCMS.

Presently, Molina is now offering settlements at 30% - 50% of what is owed which we find unlawful since Molina did not follow prompt pay laws. According to state law, these physicians are entitled to full payment plus penalties.

It is interesting to see in a Nasdaq publication dated July 31, 2018 "*Molina Healthcare, Inc. (NYSE:MOH) today reported its financial results for the second quarter of 2018. "Our second quarter results are a strong indication that the early stages of our margin recovery and sustainability plan are working," said Joe Zubretsky, President and Chief Executive Officer. "Our focus on managed care fundamentals and a more rigorous performance management process is reflected in our improved earnings"* as patient care has been affected by these group practices and physicians limiting or not seeing Molina patients because they cannot afford to deal with the laborious administrative burdens and nonpayment. A few of the group practices have or are considering terminating their Molina contract.

Attached is a summary of some of the physician issues with Molina for your review.

HCMS is requesting the following actions from TDI on Molina regarding noncompliance with state laws:

- TDI enforce state prompt pay laws by penalizing Molina marketplace products for noncompliance with these state laws.
- TDI require Molina pay the total payment owed to any physician who has been dealing with this noncompliance payment issue, including penalties.
- TDI enforce a plan to mandate that Molina follow state laws.

If you have any questions, please contact me at 713-524-4267 or email at [REDACTED]

If you would like contact information for any of the physician and group practices mentioned, please let me know. Since some of the groups have filed TDI complaints contact information may be on those documents.

Thank you for your time and consideration into this matter. I look forward to your response.

Sincerely,



Patricia A. Harris  
Senior Vice President

CC: Commissioner Kent Sullivan, JD, Texas Dept. of Insurance  
Deputy Commissioner Mark Einfalt, JD, Compliance, Texas Dept. of Insurance  
Deputy Commissioner Michael Nored, JD, Legal and Enforcement Division, Texas Dept. of Insurance  
Anthony Chappel, Associate VP, Division of Medical Economics, Texas Medical Association  
Genevieve Davis, VP Payment Advocacy, Texas Medical Association  
Sen. Kelly Hancock, Ch. Senate Business & Commerce committee  
Sen. Brandon Creighton, V-Ch, Senate Business & Commerce committee  
Rep. Larry Phillips, Ch. House Insurance committee  
Rep. Sergio Munoz, Jr., V-Ch, House Insurance committee

Enclosures



## Molina Issues

September 19, 2018

Author – April Bellard, HCMS Director of Payment Advocacy and Practice Management

### Imran S. Nathani, MD:

In February 2017, Pat Winn contacted us to assist in getting Dr. Nathani's taxonomy code updated at Molina so Molina patients could select him as their PCP (he was erroneously listed as a specialist). She was able to update the taxonomy with TMHP, effective 2/21/2017, to Internal Medicine and now needed to Molina to do the same. As she had encountered difficulty getting the taxonomy issue resolved with Molina in the past, she requested our assistance. I emailed Vicki Charlot requesting the change and attached a copy of the TMHP letter verifying the update to the taxonomy code. Pat received a letter dated 3/3/2017 from Molina indicating they had approved Dr. Nathani's credentialing as an Internal Medicine/PCP provider and would be sending contracts for signature.

By 5/19/2017 the contracts had not been received and patients still could not select Dr. Nathani as a PCP, so Pat emailed us for assistance again. I emailed Vicki and told her patients are still not able to select Dr. Nathani as their PCP and are being told he is an ER physician, Dr. Nathani still had not received an executed contract, and Pat had tried to contact Mary Kelly multiple times to no avail. Vicki replied she'd forwarded the issue to Toni Pierre and she would address the problem. Toni emailed stating that she had just been in Dr. Nathani's office and nothing was mentioned to her about this issue. I replied that nonetheless, there was a problem that needed to be rectified. On 5/19/2017 Toni replied that Dr. Nathani was credentialed as a PCP but was loaded incorrectly in QNXT as Emergency Medicine. She also stated the request from Pat had been received but appeared to not have been completed. I asked if it was now being corrected and she replied *"As previously communicated below, it was submitted for the system to be updated on Wednesday. Please keep in mind, this change could take anywhere from 30-45 days for completion. However, it could be sooner. As for the executed agreement, that should have been sent to the provider from our contract coordination department; they are responsible for the end-to-end process, which is providing everyone with a copy of their executed agreement, along with their welcome letter."* In a separate email she replied *"The assigned contract coordinator is Harris is Selina Gutierrez and her information is as follow: [REDACTED] 888-562-5442, extension 203167."*

On 6/22/2017, Pat emailed Toni to see if the taxonomy had been changed as 30 days had elapsed. Toni replied it had not been completed and to allow 30-45 business days. At this point I sent an email to Pat Harris for assistance as the original taxonomy change request had been sent to Molina in February and 30-45 business days had more than elapsed. Pat Harris emailed Carl Kidd and asked for another contact at Molina as our issues were not being addressed timely.

On 7/19/2017 I emailed Toni for an update. She replied she had received a requested claim form from Pat Winn on 6/28/17 which was submitted to the coding department and advised to wait 30-45 business days. I replied 45 business days had elapsed several times over since the initial request was sent in February, and the correction needed to be expedited. Toni replied they had needed the claim form to proceed and the 30-45 days started on the date they received it.

I emailed Pat Harris again for escalation. The first request made in February. At no time did Molina ask for a claim form, nor did they process the request. A second request was made on 5/16/2017 but 6 weeks transpired before Molina requested a claim form, further delaying the process another 30-45 days. Pat Harris emailed Carl Kidd and he was able to escalate the processing of the request and the online directory should reflect the change as of 7/30/17.

On 9/29/2017 Pat Winn emailed that patients were still not able to select Dr. Nathani as a PCP. Eight months had elapsed since this case began, and still the problem was not resolved. She had emailed Toni Pierre, but the email was returned undeliverable. I checked the directory and he was listed as a PCP. I suggested she call Molina to determine what the problem was, and to let me know if she needed us to intervene. This issue was finally resolved.

**Kaushal K. Gupta, MD (TDI complaint filed):**

In February, Dr. Gupta contacted us regarding refund requests beyond the 180-day time limit. Molina requested refunds for a marketplace member for dates of service 2/28/17, 3/28/17, 3/31/17, 6/8/17, 6/16/17, 9/21/17, and 10/5/17. On 2/2/2017 I emailed Sharon Washington and asked her to rescind the refund request for the Marketplace dates of service and provided an excerpt from SB418 relating to recoups/refunds. Sharon stated this provider was assigned to Tracey Kimble and she forwarded the email to her. On 2/6/18 I emailed Tracey as I had not heard from her regarding the case. I emailed her again on 2/12/18 as she had not responded. Tracey replied she had sent an inquiry to the recoupment department. On 2/13/18 Tracey emailed that the recoups are due to eligibility and if Dr. Gupta believed the members were eligible to contact the enrollment department. I replied and stated again that the refund request was not timely per SB418 and provided a screen shot of section 21.2818 regarding overpayments. Several dates of service exceeded the 180-day time limit (which is calculated from the date of initial payment) and as such, the refund requests for those dates needed to be rescinded. She said she would send this information to the recoup department.

On 2/13/18 Tracey replied that the office could appeal the claims, but the response from the recoupment department was *"For Molina Marketplace line of business, Recovery guidelines state that Molina has 360 days to pursue the overpayment, not 180 days."*. At this point I emailed Sharon Washington as Tracey's responses did not address the issue and she did not seem to have the authority to do so. Sharon replied she had forwarded my email to Timothy Blue, her supervisor.

On 2/21/18 I emailed Sharon again because no one had contacted me about this case. She did not respond so I emailed her again on 2/23/18 and informed her if we could not resolve this directly with Molina, we would proceed by filing a complaint with TDI. By 2/26/18 I still had no response from anyone at Molina. I emailed Pat Harris and she emailed Carl Kidd on 2/26/18. By 3/7/18, Carl Kidd had not responded so she resent the email.

I emailed Sharon one last time on 3/20/18 before proceeding with filing a TDI complaint. When she had not responded by 3/27/18, I proceeded with the TDI complaint (#207840) with Dr. Gupta's approval.

On 4/18/18 a conference call was held with Carl Kidd, Pat Harris, and myself. We explained the case to him and forwarded him the documentation regarding the case. On 5/10/18 Carl emailed he had referred the issue for legal

review and would keep us posted. On 5/22/18 I emailed Carl for an update. He replied with a copy of a letter from Molina dated 5/21/18 acknowledging that the claims should have not been recouped as the Marketplace claims were subject to SB418.

In mid-June I received two letters from Molina dated 6/1/2018 and 6/14/2018. The first stated that the complaint could not be addressed because we had failed to provide claim numbers or member information. However, we had submitted the recoupment letters and affected EOBs that provided all that information when we first sent the case to Molina. Molina did in fact have this information many times over as it has been sent to Sharon Washington, Tracey Kimble, Timothy Blue, and Carl Kidd. The second letter stated that the complaint was being addressed, conflicting with the information provided in the first letter. On 6/28/18 I emailed the letters to Carl as he had indicated in May this case had been resolved and the claims would be repaid. He replied he would get back with me. On 7/9/18 I emailed Carl again for a status. He replied he would reach out to their corporate centralized claims processing department to understand the reason for the delay. When I did not hear back from Carl, I emailed him again on 7/24/18. He replied he would look in to why the claims had not paid.

On 7/25/18 I received a call from Robin Carr at Molina stating she'd received the complaint from TDI but there was not enough information in the documents to find the member or claims. Evidently, TDI had provided the primary insured's information, not the patient's information. I informed her the complaint was about someone else, probably a dependent, and explained what the situation was. She said she would research and get back with me. Robin called later and stated the claims were recouped because the member did not have coverage. I explained that Molina, per SB418, had 180 days from the date of payment to discover this error and request a refund however, Molina did not recoup within this timeframe. Therefore, the recoupment is in violation of SB418 and the monies cannot be recouped. I explained that this had already been researched and Molina admitted the recoupment was in violation of SB418 in a letter dated 5/21/18. All that was left to do was pay the money back. I emailed her the letter and suggested she get with Carl Kidd before proceeding as he was handling this case. Robin emailed the claims would be paid and she'd provide the payment info when it is finalized. On 8/3/18 Dr. Gupta emailed that payment had been received.

On 8/21/18 Dr. Gupta emailed that he received another refund request from Molina for these same claims. I sent it to Robin and copied Carl Kidd and asked that they stop the refund/recoupment process. Robin replied that the refund processed had been stopped.

#### **Hunaid Dollar, MD:**

On 1/23/2018 Mrs. Dollar contacted us regarding payments from Molina that had not been received by the office, but Molina indicated has been paid for dates of service 9/17/17 and 10/17/17. She contacted Molina in October 2017 and several times thereafter to no avail. I emailed Vicki Charlot and Tracey Kimble as my email to Toni Pierre was returned undeliverable. Vicki indicated Sharon Washington was the appropriate representative and forwarded my email to her and asked her to assist. Sharon reviewed the claims and other documents I'd sent and stated the claims had just been received by Molina on 1/24/18. I replied the EOB dated 9/29/17 was proof this was not the case as did the log of the phone calls made to Molina beginning in November on the various claims where representatives indicated the claim had paid. I then called Molina to obtain the information directly regarding when payments were made, etc. The claims for two members were showing they were received on 1/24/18 because they were being reprocessed. They had initially been

received and processed in October and the payments were sent to the wrong address repeatedly, per Jacqueline (ref. [REDACTED]). The remaining claims for three other members had also been paid and processed months ago and were to be reissued to Dr. Dollar but had not been because someone at Molina "didn't push the little button", per Sonia (ref. [REDACTED]). Sonia "pushed the button" and said to wait 2 weeks for receipt of payment. I emailed Sharon this information.

On 2/2/18 Sharon emailed that most of the checks had reissued to the correct address, but two had been reissued to the wrong address again. She would need to research to find the root cause. On 2/25/18, Sharon emailed the matter was still being researched and a request to reissue a check for a third time for two members had been placed. On 3/13/18 I emailed Sharon and asked if the matter had been resolved. She replied it had not. She asked Mrs. Dollar (who was copied on the reply) to explain which NPI number they wanted to be loaded in the system. Once this is determined the problem would be fixed. This matter was finally resolved in April 2018.

#### **Hunaid Dollar, MD (TDI complaints filed):**

On 8/01/2018 Mrs. Dollar faxed claims processed by Molina as if Dr. Dollar was a specialist instead of the PCP (he is the PCP on the cards). As a result, a much bigger co-pay was assigned to the patients leaving the entire balance of the claims the patients' responsibility. Mrs. Dollar contacted Molina about the error and Molina sent the claims back for reprocessing about 3 weeks ago. When she called to check status, she discovered the claims had not be sent for reprocessing. I called Molina and verified this info. I was informed because of a backlog, it would be 6-8 months before they were reproessed (ref #s [REDACTED] [REDACTED] [REDACTED]). The TMA has been notified and complaints have been filed with TDI (#s: 221826, 221825, 221823, 221821).

On 8/13/18 I emailed Carl Kidd for assistance. He replied that he had passed this on to a team member. Timothy Blue then emailed that he would research the issue and get back with me by the end of business the following day. On 8/15/18 Timothy replied that Dr. Dollar's record has been corrected and he will forward affected claims to be reprocessed. On 8/22/18 Timothy called and left a message for me stating these claims were sent urgently for reprocessing and to allow 2-3 weeks. Business Analytics was also researching why the claims processed as if Dr. Dollar was a specialist as their QNXT system shows him as a PCP.

On 9/12/18 payment still had not been received so I emailed Timothy for status. He replied he would check with Business Analytics and get back with me by the end of business on 9/13/18.

#### **Houston Eye Associates (TDI complaint filed):**

On 5/30/2018 Houston Eye Associates (HEA) contacted us about claims denied in error as out-of-network (OON). Originally 162 claims billed at \$256,959.69 were denied. Currently 139 claims at \$175,535.00 were still outstanding. According to Molina, the organization's NPIs were not linked to the facility addresses which resulted in OON denials. This issue began 8/2016. A complaint was filed with TDI (#186691) for the Marketplace claims in August 3, 2017, and HHSC for the Medicaid claims. HEA met with Vicki Charlot and Timothy Blue and the issue was to be resolved, but only a few claims were paid. Further attempts to contact

both parties were fruitless. I called and left a message for Esmeralda Rodriguez at HHSC as they never replied to the complaint other than to confirm receipt. I also called TDI and was told by Roderick they had the complaint and Molina replied in October 2017, but physician complaints were their lowest priority and currently they averaged 5-6 months for resolution. I pointed out this complaint was filed 9 months ago.

I spoke with Pat Harris about the TDI delay and she contacted Genevieve and Clayton at the TMA, who contacted Melissa Hield at TDI.

On 5/31/18 I received a call from Angelica Perez at TDI. She was reviewing the case and I sent her the original and updated claims spreadsheet and email thread. I also emailed Timothy Blue and Carl Kidd regarding the case along with the latest spreadsheet of outstanding claims.

On 6/1/18 Robin Carr at Molina called with questions about the facility locations. I gave her Jeri Lynn's number as she could better answer those questions.

On 6/4/18 Timothy sent back the spreadsheet with comments indicating only \$72,140 was outstanding. I sent it to Jeri Lynn and asked her to verify the claims' status. HEA reviewed the spreadsheet noted that \$130,839 was still outstanding, not \$72,140. I forwarded it to Timothy. Timothy replied he would review the spreadsheet and get back with me by the end of business the following day. He did not.

On 6/12/18 I emailed Timothy for an update as he did not provide one as promised on 6/6/18 and did not respond to my 6/12/18 email. He did not respond.

On 6/20/18 I called and left a message for Carl Kidd as Timothy had not provided updates as promised and had not responded to my last two emails. He did not return my call.

On 6/26/18 - I called and left a message for Timothy Blue and Carl Kidd. Timothy replied *"I will provide you with a full update before close of business today regarding your various claim issues. I apologize for not calling you, but I am traveling and am unable to get a good signal."* I find it doubtful he was unable to get a signal for 20 days. Timothy emailed later that day that senior leadership was reviewing the case and they wanted to know if HEA would accept a settlement minus penalties and fees. He stated he would provide more information on Friday. On 6/28/18 I emailed Timothy that HEA would not accept a settlement minus penalties and fees. he emailed he would provide an update by 7/5/18. He did not.

On 7/9/18 I emailed Timothy for the update. He replied another spreadsheet had been sent to Jeri Lynn so they could agree on amounts owed before a settlement was made.

As I had not been contacted by Timothy again, I emailed Carl on 7/24/18 for an update. He replied he would check with Tim. Neither responded.

On 8/6/2018 I emailed Carl for an update as he did not respond to my 7/24/18 email. He did not respond. On 8/10/18 I mailed Carl again and asked if he'd received my emails. He did not respond.

On 8/13/18 Robin Carr called wanting to confirm the last spreadsheet she'd received was the final one. I spoke with Jeri Lynn at HEA and we went over the spreadsheet to make sure the comments were clear. I then sent it to Robin Carr. She replied it had been forwarded to Timothy.

On 8/21/18 I emailed Carl a third time and asked if he'd received my prior emails. He replied he forwarded my email to Tim and his supervisor, Josette Hubbard for handling. On 8/22/18 Timothy called and left a message stating the spreadsheet was forwarded urgently to the Business Analytics department on 8/22/18 for review and settlement and to allow 30-45 business days for resolution.

**Coastal Eye Associates (TDI complaints filed):**

On 8/27/18 I emailed Carl Kidd a case involving Coastal Eye Associates (CEA) who contacted HCMS for assistance in resolving an issue that has persisted since March 2017.

In April 2015 CEA entered into agreements with Molina for all physicians at all locations. Claims were paid accordingly without issue. However, in March 2017 CEA started to receive out-of-network denials on a few providers. They contacted Teresa Sanchez with Molina regarding these denials. Teresa researched the issue and discovered not all providers had been loaded at all locations. She stated the issue had been escalated to management and all providers and locations were being loaded. Four months later in September Teresa contacted CEA and stated all providers and locations were loaded with the exception of Dr. Kris Gibson at the Pasadena location. They were still working on it, but the other physicians could begin seeing patients again at all locations.

In October 2017 CEA received out-of-network denials on Dr. Moffitt, as well as a few others. They contacted Teresa and she confirmed he was loaded on all plans for that location. They were unable to resolve the issue with Teresa and contacted Teresa's supervisor, Timothy Blue. He stated he would look into the matter and remedy the problem.

In January 2018 CEA asked for an update from Timothy and Teresa. They did not respond. A month later, in February, Teresa contacted CEA and stated all denied claims for all affected providers had been sent back for reconsideration.

By March, claims payments were still outstanding and on 3/8/2018 CEA emailed Timothy and Teresa for an update. They were told they were still working on the issue. A few weeks later they inquired again and again were told Molina was still working on it.

As the issue remained unresolved, on April 3 CEA asked for the supervisor for Timothy Blue and Teresa Sanchez and were provided with Josette Hubbard's contact information. They again emailed Timothy and Teresa for an update and copied Josette. No one responded. On April 18 they again emailed Timothy, Teresa, and Josette for an update. They were informed that nothing had been done to resolve the matter or reprocess the claims due to the restructuring of departments. This contradicted what they had been told by Teresa in February.

Due to the length of time this issue had gone without resolution, CEA requested a meeting for 5/3/18 with Josette Hubbard, Timothy Blue and Teresa Sanchez. They convened on a conference call where Molina asked that they accept 30% of what was owed on the outstanding claims and indicated they would resolve the issue by 6/1/2018. A week later CEA was notified that timeframe would be pushed back to 7/1/18.

On May 10, after reviewing claims, CEA emailed Molina and indicated they would like to discuss the settlement offer on the outstanding claim. They received no response.

On June 7, 2018 CEA asked for a response to their May 10<sup>th</sup> email. They received no response.

On July 25, 2018 they again asked for a response to their prior emails. Again, they received no response.

On August 9, 2018 CEA asked for a third time for a response to their prior emails. Teresa called and stated she was unsure that Molina would agree to accept anything less than the 30% settlement and asked if CEA would be willing to waive fees and penalties on the denied claims. Given that the error was on Molina's part, and CEA was not required to agree to *any* discount or waive fees and penalties, they felt this stance was inappropriate as in reality, Molina owes 100% of billed charges on these claims and all applicable penalties and interest. CEA requested another phone conference to discuss the matter. Teresa stated she could not confirm when or if she could get Josette Hubbard to commit to a call.

In August, CEA informed Teresa a phone conference would not be necessary as they were moving forward with a different course of action. Further, due to the amount of time this problem had persisted with no resolution they would not agree to a settlement. On 8/27/18 a TDI complaint was filed.

On 8/27/18 I also emailed Carl Kidd with the details of this case. He replied he was in Austin and would address it the following day. He did not get back with me the following day. I emailed him on 8/30/18 and asked if he'd been able to look over the case. I received an automatic reply stating he would be out of the office until 8/31/18. I received no further response from Carl and emailed him a 3<sup>rd</sup> time on 9/4/18. He did not respond.

On 9/19/18 I emailed Carl stating this was the last time I would contact him about this case before I took the issues we were having with Molina to TDI. He did not respond, but Timothy Blue emailed he was working directly with CEA and they were still in the process of resolving the issues. I called Cecilia, and she stated she was *not* working with Timothy on this case. She received an email from him on 9/7/18 stating he was still working to resolve the issues, but this is the same email she has received from Molina for 18+ months. She did not respond because it was just a repetition of the stall tactics that had been utilized for months by Molina and is why she asked for our assistance. I emailed Timothy this information, along with the timeline of events that I'd emailed initially and asked him what precisely had been done to rectify this matter.