

STATE OF TEXAS §

§

COUNTY OF TRAVIS §

The Commissioner of Insurance, as the chief administrative and executive officer and custodian of records of the Texas Department of Insurance has authorized the undersigned to certify the authenticity of documents filed with or maintained by or within the custodial authority of the Office of the General Counsel and Chief Clerk of the Texas Department of Insurance.

Therefore, I certify that the attached document is a true and correct copy of the documents described below. I further certify that the documents described below are filed with or maintained by or within the custodial authority of the Office of the General Counsel and Chief Clerk of the Texas Department of Insurance.

The certified document consists of a complete copy of:

COMMISSIONER'S ORDER No. 2019-5883

**DATED FEBRUARY 28, 2019
CONSISTING OF SEVEN (7) PAGES**

Subject considered:

**MOLINA HEALTHCARE OF TEXAS, INC.
5605 NORTH MACARTHUR BLVD SUITE 400
IRVING, TEXAS 75038**

**CONSENT ORDER
TDI ENFORCEMENT FILE No. 17316**

This certification does not include records relevant to an inquiry, if any, by the Texas Department of Insurance's Insurance Fraud Unit which are confidential pursuant to Tex. Ins. Code art. 5701.151, 55(a) and an Op. Tex. Att'y Gen. No. OR95-1536 (1995).

IN TESTIMONY WHEREOF, witness my hand and seal of office at Austin, Texas, this

8 day of October A.D. 2020

DOUG SLAPE
CHIEF DEPUTY COMMISSIONER
TEXAS DEPARTMENT OF INSURANCE
TEX. GOV'T CODE § 601.002
COMMISSIONER'S ORDER NO. 2018-5528



By: *Victoria L. Ortega*
Victoria L. Ortega
Chief Clerk's Office

No. 2019- 5883

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

Date: FEB 28 2019

Subject Considered:

Molina Healthcare of Texas, Inc.
5605 North MacArthur Blvd Suite 400
Irving, Texas 75038

Consent Order
TDI Enforcement File No. 17316

General remarks and official action taken:

The subject of this order is whether disciplinary action should be taken against Molina Healthcare of Texas, Inc. (Molina).

Waiver

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

Findings of Fact

1. The Texas Department of Insurance (TDI) issued Molina a basic service health maintenance organization (HMO) license number 95943, effective June 22, 2005.

2016 Triennial Examination

2. TDI conducted a triennial quality of care examination of Molina for the period beginning September 15, 2014 and ending December 31, 2016.

3. On May 22, 2018, TDI held an exit conference call with Molina to discuss the 2016 examination findings.

Examination Findings

4. Molina failed to correct its one-page complaint form within 90 days from receipt of the 2014 Final Examination Report in accord with its 2014 Corrective Action Plan. This was similar to issues TDI previously identified in a 2014 examination of Molina.
5. Molina failed to timely file an access plan that demonstrates corrections of the deficiencies found during the 2016 examination. This was similar to issues TDI previously identified in a 2014 examination of Molina.
6. Molina's adverse determination notice failed to consistently include the professional specialty of the physician, doctor, or other health provider that made the adverse determination. This was similar to issues TDI previously identified in a 2014 examination of Molina.
7. Molina's adverse determination notice failed to consistently include a description of the procedure to its utilization review agents for the complaint system and the appeal process. This was similar to issues TDI previously identified in a 2014 examination of Molina.
8. Molina's appeal resolution letter failed to include procedures for filing a complaint. This was similar to issues TDI previously identified in a 2014 examination of Molina.
9. Molina's utilization review agent failed to consistently afford the provider of record a reasonable opportunity to discuss the services under review during normal business hours within no less than one working day prior to issuing the adverse determination.
10. Molina's adverse determination letter failed to consistently include a copy of the request for a review by an independent review organization form with instructions that the form must include the denial of prescription drugs or intravenous infusions.
11. Molina failed to accurately calculate prompt pay penalties to the providers and TDI and failed to file accurate prompt pay reports to TDI.

12. Molina submitted a plan of correction to address the deficiencies cited in the final examination report issued by TDI on July 23, 2018.

Prompt Pay Reporting

13. From January 1, 2014 through December 31, 2017, Molina adjudicated and paid approximately 20,633,749 commercial or marketplace claims.
14. In 2018 Molina discovered programming errors that resulted in miscalculating the amount due to providers in penalty and interest on clean claims paid late, which also resulted in inaccurate prompt pay reports to TDI. Molina voluntarily self-disclosed the calculation errors to TDI and has corrected the programming errors.
15. In 2018, Molina reconciled and corrected its prompt pay reports from 2014 through 2017. Molina voluntarily paid TDI \$4,022,610.28 in penalties and interest for 2014 through 2017.
16. From 2014 through 2017, Molina voluntarily paid penalties and interest to providers for clean claims paid late. Once Molina corrected the programming errors, it paid additional money to any providers who were underpaid in these years. Molina voluntarily paid providers \$3,798,132.66 in penalties and interest for 2014 through 2017.

Complaints

17. Molina received a number of complaints from contracted providers in 2017 – 2018 pertaining to loading issues affecting providers that had multiple locations. Most of these complaints have been resolved, and Molina represents that it will resolve the remaining known complaints by March 11, 2019.
18. Molina has cooperated with TDI in its investigation and resolution of this matter.

Conclusions of Law

1. The commissioner has jurisdiction over this matter pursuant to TEX. INS. CODE §§ 31.002; 82.051-82.055, 84.021-84.022, 401.055, and 4201.206; 28 TEX. ADMIN. CODE §§ 19.1710 and 19.1711; and TEX. GOV'T CODE §§ 2001.051–2001.178.

2. The commissioner has authority to informally dispose of this matter as set forth under TEX. GOV'T CODE § 2001.056; TEX. INS. CODE §§ 82.055 and 36.104; and 28 TEX. ADMIN. CODE § 1.47.
3. Molina 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. Molina violated TEX. INS. CODE § 843.252(b)(2) and 28 TEX. ADMIN. CODE § 11.303(c)(6) because it failed to correct its one-page complaint form within 90 days from receipt of the 2014 Final Examination Report in accord with its 2014 Corrective Action Plan.
5. Molina violated TEX. INS. CODE § 843.151 and 28 TEX. ADMIN. CODE §§ 11.301 and 11.1607 because it failed to timely file an access plan that demonstrates compliance of the deficiencies found during the 2016 examination.
6. Molina violated 28 TEX. ADMIN. CODE § 19.1709(b) because its adverse determination notice failed to include the professional specialty of the physician, doctor, or other health provider that made the adverse determination.
7. Molina violated TEX. INS. CODE § 4201.303(a)(4) and 28 TEX. ADMIN. CODE § 19.1709(b)(5) and (6) because its adverse determination notice failed to include a description of the procedure to its utilization review agents for the complaint system and the appeal process.
8. Molina violated 28 TEX. ADMIN. CODE § 19.1711(a)(8)(H) because its appeal resolution letter failed to include procedures for filing a complaint.
9. Molina violated TEX. INS. CODE § 4201.206 and 28 TEX. ADMIN. CODE §§ 19.1703(b)(26)(A) and 1917.10 because its utilization review agent failed to afford the provider of record a reasonable opportunity to discuss the services under review during normal business hours within no less than one working day prior to issuing the adverse determination.
10. Molina violated TEX. INS. CODE § 4202.003(1) and 28 TEX. ADMIN. CODE § 19.1709(b)(8) because its adverse determination letter failed to include a copy of the request for

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a review by an independent review organization form with instructions that the form must include the denial of prescription drugs or intravenous infusions.

11. Molina violated TEX. INS. CODE §§ 843.338-843.342 and 28 TEX. ADMIN. CODE §§ 21.2815 and 21.2821 because it failed to pay correct prompt pay penalties to the providers and TDI and failed to file accurate prompt pay reports to TDI.

Order

It is ordered that Molina Healthcare of Texas, Inc. pay an administrative penalty of \$500,000 within 30 days from the date of this order. The administrative penalty must be paid by company check, cashier's check, or money order made payable to the "State of Texas." Mail the administrative penalty to the Texas Department of Insurance, Attn: Enforcement Section, Division 60851, MC 9999, P.O. Box 149104, Austin, Texas, 78714-9104.

It is ordered that Molina Healthcare of Texas, Inc. provide the department, no later than March 22, 2019, a complete listing of all provider payments and prompt pay penalties paid pursuant to the contracted provider complaints received by Molina from HCMS ("Payment Report"). Molina Healthcare of Texas, Inc. must send this Payment Report by email to EnforcementReports@tdi.texas.gov.



Kent C. Sullivan
Commissioner of Insurance

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Recommended and reviewed by:

Burkoscandahl for Leah Gillum

Leah Gillum, Associate Commissioner
Enforcement Section

Patrick S. Quigley

Patrick S. Quigley, Staff Attorney
Enforcement Section

