

No. **2024-8679**

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

Date: 6/4/2024

Subject Considered:

Sendero Health Plans, Inc.
2028 E. Ben White Blvd Ste 400
Austin, Texas 78741

Consent Order
TDI Enforcement File No. 32052

General remarks and official action taken:

This is a consent order with Sendero Health Plans, Inc. (Sendero) for violations found in a triennial quality of care examination. Sendero's current examination found repeat and additional violations. Sendero has agreed to pay a \$80,000 administrative penalty.

Waiver

Sendero acknowledges that the Texas Insurance Code and other applicable law provide certain rights. Sendero 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. Sendero holds a basic service health maintenance organization certificate of authority, issued by the department on November 1, 2011.

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2. This triennial quality of care examination covers activity between January 1, 2019, and December 31, 2021, on Sendero's Health Maintenance Organization marketplace exchange line of business.
3. On or about January 1, 2013, Sendero contracted with Navitus Health Solutions, LLC. (Navitus) for utilization review services. Sendero continued to perform its own utilization review while contracted with Navitus.

Previous Examination

4. The department conducted a triennial quality of care examination of Sendero for the period beginning January 1, 2016, through December 31, 2018.
5. The department discovered during the examination that Sendero had repeat violations and failed to timely implement some corrective action plans provided during the previous examination.
6. Commissioner Order No. 2022-7214, dated February 8, 2022, addressed multiple violations, including repeat violations described in this consent order. The 2022 order imposed an administrative penalty of \$50,000.

Utilization Review

7. The department reviewed 11,970 utilization review requests.
8. In less than 1% (39 of 11,970) of the requests, the notice of determination was sent later than the second working day after the date of the request.

Initial Adverse Determinations

9. The department reviewed a sample of 30 initial adverse determinations to determine statutory compliance.
10. In 27% (8 of 29) of the instances, Sendero issued the adverse determination without affording the provider of record a reasonable opportunity to discuss treatment.
11. In Sendero's previous 2018 triennial examination, similar violations were found; 3% (1 of 38) of the initial adverse determinations reviewed were in violation.

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Adverse Determination Appeals

12. The department reviewed a sample of 30 adverse determination appeals to determine statutory compliance.
13. In 29% (8 of 28) of the adverse determination appeals reviewed, Sendero did not provide or include a list of relevant documents the appealing party must submit for review. In Sendero's previous 2018 examination, 33% (2 of 6) of the adverse determination appeals reviewed were in violation.
14. In 4% (1 of 28) of the adverse determination appeals reviewed, Sendero did not afford the requesting physician a reasonable opportunity to discuss the patient's treatment plan with a utilization review agent physician who is licensed to practice medicine in this state prior to issuing the adverse determination.
15. In 29% (8 of 28) of the adverse determination appeals reviewed, Sendero did not complete the expedited appeal of a prescription drug request based on the immediacy of the condition and within one working day from the date all information necessary to complete the appeal was received.
16. In 83% (5 of 6) of the oral adverse determination appeals staff reviewed, the appeal acknowledgement letter did not include a one-page appeal form.
17. In 11% (3 of 28) of the adverse determination appeals staff reviewed, the appeal was not reviewed by a provider not previously involved in the adverse determination decision. In Sendero's previous 2018 examination, 17% (1 of 6) of adverse determination appeals reviewed were in violation.

Sample Claims Review

18. The department reviewed a sample of 50 claims to determine statutory compliance.
19. In 17% (6 of 35) of claims staff reviewed, Sendero did not clearly indicate on the explanations of payment, the amount of the contracted rate paid and the amount paid as a penalty when claims payment deadlines were exceeded.
20. In 6% (2 of 35) of claims staff reviewed, Sendero sent an explanation of benefits that included incorrect out-of-pocket accumulators.

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21. In 3% (1 of 35) of claims staff reviewed, Sendero did not send written notice to the provider explaining why an electronic claim was deficient and would not be paid within 30 days of receipt of the claim.
22. In 3% (1 of 35) of the claims reviewed, Sendero did not pay the penalty and applicable interest at the time of the exam. Sendero paid the penalty amount to the department on October 18, 2022.

Initial Complaints

23. The department reviewed a sample of 30 initial complaints to determine statutory compliance.
24. In 20% (1 of 5) of complaints to the department reviewed, Sendero failed to respond to an inquiry from the department in writing not later than the 15th day after the date the inquiry was received.
25. In 5% (1 of 20) of the complaints reviewed, Sendero did not resolve the complaint within 30 calendar days after receiving the written complaint or one-page complaint form. In Sendero's previous 2018 examination, 2% (1 of 50) of the initial complaints reviewed were in violation.

Provider Notifications

26. The department reviewed Sendero's published notifications of the opportunity for health care providers to contract with Sendero.
27. In 7% (23 of 325) of providers requesting in-network participation, Sendero did not notify a provider of acceptance or non-acceptance in writing within 90 days from receipt of an application for participation by that provider.

Provider Directories

28. Sendero did not maintain consistent records indicating the timing of updates to the provider directory. Sendero is required to investigate and correct as necessary, its provider directory by the seventh day after receiving a report that specifically identifies information that may be inaccurate.

29. Sendero has agreed to update its recordkeeping processes to enable tracking of these requirements.

Conclusions of Law

1. The commissioner has jurisdiction over this matter under TEX. INS. CODE Chs. 38, 82, 84, 542, 843, 1451, 1456, 4001, and 4201, and 28 TEX. ADMIN. CODE Chs. 11, 19, and 21.
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. Sendero 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. Sendero violated 28 TEX. ADMIN. CODE § 11.1402(c) by failing to notify a provider of acceptance or non-acceptance, in writing, no later than 90 days from receipt of an application for participation by that provider in a network.
5. Sendero violated 28 TEX. ADMIN. CODE § 19.1711(a)(4) by failing to have the appeal decision made by a physician who has not previously reviewed the case.
6. Sendero violated 28 TEX. ADMIN. CODE § 21.2808 by failing to, within 30 days of receipt of an electronic claim, send written notice to the preferred provider submitting the claim that the claim was deficient.
7. Sendero violated TEX. INS. CODE § 843.342(j) and 28 TEX. ADMIN. CODE § 21.2815(h) by failing to clearly indicate on the explanations of payment, when claims payment deadlines were exceeded, the amount of the contracted rate paid and the amount paid as a penalty.
8. Sendero violated TEX. INS. CODE § 38.001 by failing to respond to an inquiry from the department in writing not later than the 15th day after the date the inquiry was received.

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9. Sendero violated TEX. INS. CODE § 542.003(b)(7) and 28 TEX. ADMIN. CODE § 21.203(9) by failing to promptly provide to a policyholder a reasonable explanation of the basis in the insurance policy in relation to the facts or applicable law for denial of a claim or for the offer of a compromise settlement.
10. Sendero violated TEX. INS. CODE § 843.252(c) by failing to acknowledge, investigate, and resolve a complaint not later than the 30th calendar day after the date a written complaint or one-page complaint form is received.
11. Sendero violated TEX. INS. CODE § 4201.206 and 28 TEX. ADMIN. CODE § 19.1703(b)(26)(A) by failing to afford the provider who ordered, requested, provided, or is to provide the service a reasonable opportunity to discuss treatment no less than one working day prior to issuing the adverse determination.
12. Sendero violated TEX. INS. CODE § 4201.206(a) by failing to afford the provider who ordered, requested, provided, or is to provide the service a reasonable opportunity to discuss treatment prior to denying the adverse determination appeal.
13. Sendero violated TEX. INS. CODE § 4201.302 by mailing or otherwise transmitting the required notice later than the second working day after the date of the request for utilization review and the agent receives all the information necessary to complete the review.
14. Sendero violated TEX. INS. CODE § 4201.355(b)(2) and 28 TEX. ADMIN. CODE § 19.1711(a)(3)(C) by failing to provide or include in the appeal acknowledgment letter a list of relevant documents the appealing party must submit for review.
15. Sendero violated TEX. INS. CODE § 4201.355(c) and 28 TEX. ADMIN. CODE § 19.1711(a)(3)(D) by failing, in an oral appeal of an adverse determination, to include in the appeal acknowledgement letter a one-page appeal form.
16. Sendero violated TEX. INS. CODE § 4201.357(b) and 28 TEX. ADMIN. CODE § 19.1711(a)(7)(B) by failing to make a determination on an expedited appeal based on the medical immediacy of the condition, procedure, or treatment, but not to exceed one working day from the date all information necessary to complete the appeal is received.

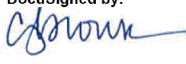
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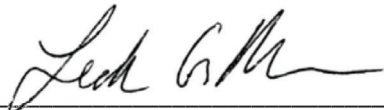
It is ordered that Sendero Health Plans, Inc. pay an administrative penalty of \$80,000 within 30 days from the date of this order. The administrative penalty must be paid as instructed in the invoice, which the department will send after entry of this order.

It is also ordered that Sendero Health Plans, Inc. report to the department on or before 30 days from the date of this order. The report will affirm that Sendero Health Plans, Inc. has fully implemented its post-exam corrective action plan. If the company 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. The company must send the report to EnforcementReports@tdi.texas.gov.

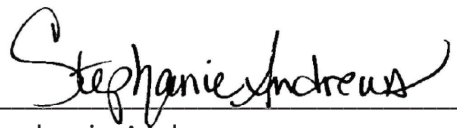
DocuSigned by:

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Cassie Brown
Commissioner of Insurance

Recommended and reviewed by:



Leah Gillum, Deputy Commissioner
Fraud and Enforcement Division



Stephanie Andrews
Enforcement

Affidavit

STATE OF Texas §
§
COUNTY OF Travis §

Before me, the undersigned authority, personally appeared Sharon J. Alvis, who being by me duly sworn, deposed as follows:

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

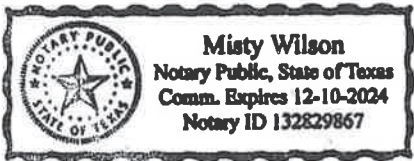
I hold the office of PRESIDENT & CEO and am the authorized representative of Sendero Health Plans, Inc. I am duly authorized by said organization to execute this statement.

Sendero Health Plans, 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."

Sharon J. Alvis
Affiant

SWORN TO AND SUBSCRIBED before me on April 30th, 2024.

(NOTARY SEAL)



Misty Wilson
Signature of Notary Public

Misty Wilson
Printed Name of Notary Public