

No. **2024-8761**

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

Date: 8/5/2024

Subject Considered:

Celtic Insurance Company
200 E. Randolph St. Suite 3600
Chicago, Illinois 60601

Consent Order
TDI Enforcement File No. 33338

General remarks and official action taken:

This is a consent order with Celtic Insurance Company (Celtic) for violations found in a triennial quality of care examination. Celtic has agreed to pay a \$190,000 administrative penalty.

Waiver

Celtic acknowledges that the Texas Insurance Code and other applicable law provide certain rights. Celtic 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. Celtic holds a life, accident, and health certificate of authority, issued by the Texas Department of Insurance (department) on August 23, 1973.
2. This triennial quality of care examination covers activity between January 1, 2020, and December 31, 2022, on Celtic's Exclusive Provider Benefit Plan line of business.

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3. On October 6, 2023, Celtic provided the department with a corrective action plan to remedy the violations outlined below. This plan included, among other changes, education of staff for both Celtic and its contracted companies, updating or revising template letters, and system enhancements.
4. Celtic contracted with the following companies for utilization review services:
 - a. Centene Company of Texas, LP, effective July 1, 2006;
 - b. Centene Management Company, LLC, effective July 1, 2006;
 - c. Centene Pharmacy Services, Inc. (formerly known as Envolve Pharmacy Solutions, Inc.), effective March 1, 2012;
 - d. Texas National Imaging Associates, Inc., effective January 1, 2014; and
 - e. TurningPoint Healthcare Solutions, LLC, effective October 1, 2019.
5. Celtic contracted with the following companies as third-party administrators to process and adjudicate claims:
 - a. Centene Pharmacy Services, Inc. (formerly known as Envolve Pharmacy Solutions, Inc.), effective March 1, 2012;
 - b. Centene Management Company, effective January 1, 2014;
 - c. Envolve Vision Inc., effective January 1, 2014; and
 - d. Envolve Dental of Texas, effective January 1, 2016.
6. Celtic contracted with the following companies to resolve oral and written complaints:
 - a. Centene Pharmacy Services, Inc. (formerly known as Envolve Pharmacy Solutions, Inc.), effective March 1, 2012; and
 - b. Envolve Vision, effective January 1, 2014.
7. Celtic contracted with the following provider networks:
 - a. Envolve Vision, Inc., effective October 1, 2002;
 - b. Centene Pharmacy Services, Inc. (formerly known as Envolve Pharmacy Solutions, Inc.), effective March 1, 2012;
 - c. Ambetter Essential/Balance/Secure, effective January 1, 2016; and
 - d. Envolve Dental of Texas, effective October 6, 2020.

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Previous Examination

8. The department conducted a triennial quality of care examination of Celtic for the period beginning January 1, 2017, through December 31, 2019.
9. Commissioner Order No. 2021-7002, dated September 30, 2021, addressed multiple violations found during the examination and additional violations discovered during a desk audit and a consumer complaint received by the department. The order imposed an administrative penalty of \$475,000.

Utilization Review

10. In 100% (1455 of 1455) of preauthorization exemption requests denied, Celtic did not provide a notice denying a preauthorization exemption within five days of the denial of preauthorization exemption for the initial evaluation period.

Initial Adverse Determinations

11. The department reviewed a sample of 35 initial adverse determinations to determine statutory compliance.
12. In 20% (7 of 35) of initial adverse determinations staff reviewed, Celtic did not provide the health care provider a reasonable opportunity to discuss the patient's treatment plan before rendering the adverse determination.
13. In 17% (6 of 35) of initial adverse determinations staff reviewed, Celtic did not provide the URA's telephone number on the notice of determination to allow the provider of record to discuss the pending adverse determination.
14. In 2% (1 of 35) of initial adverse determinations staff reviewed, Celtic did not provide notice of an adverse determination within one working day by either telephone or electronic transmission to the provider of record of a patient who is hospitalized at the time of the request.
15. In 5% (2 of 35) of initial adverse determinations staff reviewed, Celtic did not send written notification of an adverse determination that included the professional specialty of the physician, doctor, or other health care provider who made the adverse determination.

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Adverse Determination Appeals

16. The department reviewed a sample of 27 adverse determination appeals to determine statutory compliance.
17. In 14% (4 of 27) of adverse determination appeals reviewed, Celtic did not send acknowledgement of an appeal within five working days of the receipt of the request. In the previous examination, 13% (3 of 23) of adverse determination appeals reviewed were in violation.
18. In 3% (1 of 27) of adverse determination appeals staff reviewed, Celtic failed to include a one-page appeal form with the first communication after the adverse determination.
19. In 3% (1 of 27) of adverse determination appeals reviewed, Celtic failed to include the date in the appeal acknowledgment letter following an oral appeal.
20. In 3% (1 of 27) of adverse determination appeals reviewed, Celtic did not send written notice of the appeal decision to the enrollee or person acting on behalf of the enrollee and the enrollee's provider of record.
21. In 3% (1 of 27) of adverse determination appeals reviewed, Celtic did not send an appeal resolution letter that contained the specific medical or contractual reason for the resolution.
22. In 11% (3 of 27) of adverse determination appeals reviewed, Celtic did not send an appeal resolution letter that contained the clinical basis for the decision, a description of the source of the screening criteria utilized in making the determination, and the professional specialty of the physician who made the determination. In the previous examination, 9% (2 of 23) of adverse determination appeals reviewed were in violation.

Initial Complaints

23. The department reviewed a sample of 40 initial complaints to determine statutory compliance.
24. In 5% (2 of 40) of initial complaints reviewed, Celtic failed to respond to an inquiry from the department in writing not later than the 15th day after the date the inquiry

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was received. In the previous examination, 44% (565 of 1290) of initial complaints submitted on Celtic's complaint log were in violation.

25. In 2% (1 of 40) of initial complaints reviewed, Celtic did not handle a complaint filed concerning dissatisfaction or disagreement with an adverse determination as an appeal of that adverse determination.

Advertising

26. The department reviewed a sample of 15 advertising materials to determine statutory compliance.
27. In 84% (11 of 13) of the advertising materials reviewed, Celtic did not display the full licensed name of the insurer in an invitation to inquire or invitation to contract advertisements.

Provider Directories

28. Celtic did not, in its web-based health care provider directories, clearly identify a list of all network facilities in Texas included in the directory.

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 dispose informally 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. Celtic 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. Celtic violated 28 TEX. ADMIN. CODE § 19.1709(b)(4) by failing to send written notification of an adverse determination that included the professional specialty of

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- the physician, doctor, or other health care provider who made the adverse determination.
5. Celtic violated 28 TEX. ADMIN. CODE § 19.1710(1) by failing to provide the utilization review agent's telephone number on the notice of determination.
 6. Celtic violated 28 TEX. ADMIN. CODE § 19.1711(a)(8)(A) by failing to send an appeal resolution letter that contained the specific medical or contractual reason for the resolution.
 7. Celtic violated 28 TEX. ADMIN. CODE § 19.1732(c) by failing to provide a notice denying a preauthorization exemption within five days of the denial of preauthorization exemption for the initial evaluation period.
 8. Celtic violated 28 TEX. ADMIN. CODE § 21.104(a)(1) by failing to display the full licensed name of the insurer in an invitation to inquire or invitation to contract advertisements.
 9. Celtic 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.
 10. Celtic violated TEX. INS. CODE § 1451.504(c)(4) by failing to clearly identify a list of all network facilities in Texas in its web-based health care provider directories.
 11. Celtic 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. Celtic violated TEX. INS. CODE § 4201.206 and 28 TEX. ADMIN. CODE § 19.1703(b)(26)(B) by failing to afford the provider who ordered, requested, provided, or is to provide the service a reasonable opportunity to discuss treatment within five working days prior to issuing the adverse determination.
 13. Celtic 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.

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14. Celtic violated TEX. INS. CODE § 4201.304(1) and 28 TEX. ADMIN. CODE § 19.1709(d)(3) by failing to provide notice of an adverse determination within one working day by either telephone or electronic transmission to the provider of record of a patient who is hospitalized at the time of the request.
15. Celtic violated TEX. INS. CODE § 4201.325(2) and 28 TEX. ADMIN. CODE § 19.1711(a)(8) by failing to send written notice of the appeal decision to the enrollee or person acting on behalf of the enrollee and the enrollee's provider of record.
16. Celtic violated TEX. INS. CODE § 4201.351 by failing to handle a complaint filed concerning dissatisfaction or disagreement with an adverse determination as an appeal of that adverse determination.
17. Celtic violated TEX. INS. CODE § 4201.355 (a) and 28 TEX. ADMIN. CODE § 19.1711(a)(3)(A) by failing to send to the appealing party, within five working days from the date the utilization review agent receives the appeal, a letter acknowledging the date of receipt.
18. Celtic violated TEX. INS. CODE § 4201.355 (a)-(c) and 28 TEX. ADMIN. CODE § 19.1711(a)(3)(B)-(D) by failing to send an appeal acknowledgment letter that included the date the utilization review agent received the appeal and by failing to include a one-page appeal form following an oral appeal.
19. Celtic violated TEX. INS. CODE § 4201.359(b) and 28 TEX. ADMIN. CODE § 19.1711(a)(8)(A-D) by failing to send an appeal resolution letter that contained the clinical basis for the decision, a description of the source of the screening criteria utilized in making the determination, and the professional specialty of the physician who made the determination.

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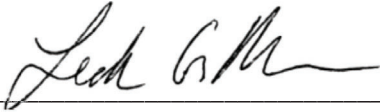
It is ordered that Celtic Insurance Company pay an administrative penalty of \$190,000 within 30 days from the date of this order. The administrative penalty must be paid as instructed in the invoice, which the department will send after entry of this order.

Signed by:

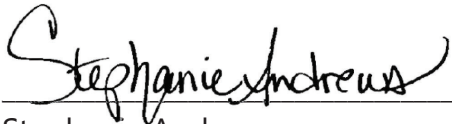
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Cassie Brown
Commissioner of Insurance

Recommended and reviewed by:



Leah Gillum, Deputy Commissioner
Fraud and Enforcement Division



Stephanie Andrews
Enforcement

Affidavit

STATE OF Missouri §

COUNTY OF Jefferson §

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

"My name is Kevin Counihan. 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 Chief Executive Officer and am the authorized representative of Celtic Insurance Company I am duly authorized by said organization to execute this statement.

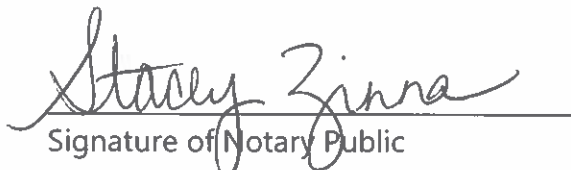
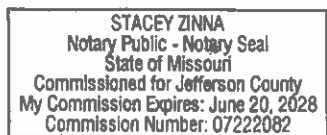
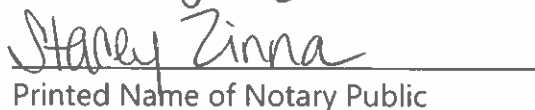
Celtic Insurance Company has knowingly and voluntarily entered into the foregoing consent order and agrees with and consents to the issuance and service of the same by the commissioner of insurance of the State of Texas."



Affiant

SWORN TO AND SUBSCRIBED before me on July 29, 2024.

(NOTARY SEAL)


Signature of Notary Public
Printed Name of Notary Public