

BEFORE THE DIVISION OF INSURANCE
DEPARTMENT OF LABOR AND REGULATION
STATE OF SOUTH DAKOTA

IN THE MATTER OF
AVERA HEALTH PLANS, INC.

)
)

CONSENT ORDER

In resolution of the above matter and in lieu of issuance of a Notice of Hearing and a formal hearing, the undersigned parties do hereby agree to the following:

AVERA HEALTH PLANS, INC., whose address of record is 5300 S. Broadband Lane, Sioux Falls, SD 57108, is a health maintenance organization holding a Certificate of Authority to transact business in the State of South Dakota;

AVERA HEALTH PLANS, INC. is aware that the South Dakota Division of Insurance (“Division”) has conducted an investigation into its insurance related business in South Dakota related to issues arising from a system change;

The Division alleges the following as regards AVERA HEALTH PLANS, INC.:

- 1) AVERA HEALTH PLANS, INC. instituted a comprehensive internal system change on or about April 2022;
- 2) AVERA HEALTH PLANS, INC.’s experienced significant system implementation issues, resulting in widespread delays in payments to health care providers, miscalculation of pharmacy out-of-pocket maximums for consumers, as well as administrative issues with identification cards and billing notices;
- 3) AVERA HEALTH PLANS, INC. has been the subject of consumer and health care provider inquiries and complaints to the Division due to claim delays and other administrative issues arising from the foregoing;
- 4) The foregoing constitutes violations of SDCL §§ 58-12-19 to 58-12-21, 58-12-33, 58-12-34, and 58-33-67;
- 5) The above-cited conduct may be grounds for the revocation or suspension of AVERA HEALTH PLANS, INC.’s Certificate of Authority pursuant to SDCL §§ 58-4-28.1, 58-12-19 to 58-12-21, 58-12-33, 58-12-34, 58-33-67, 58-41-81, and 58-41-85;

AVERA HEALTH PLANS, INC. timely self-reported the issue to the Division and provided the Division with ongoing, detailed updates regarding its system implementation and remediation efforts;

AVERA HEALTH PLANS, INC. has reported its system issues have been resolved, that member claims have been readjudicated as necessary, and providers are now being timely and appropriately paid for services rendered;

AVERA HEALTH PLANS, INC. is aware of and understands the nature of the allegations and has been informed that it has the right to notice, hearing, and appeal, and that by agreeing to and signing this Consent Order waives these rights;

In return for AVERA HEALTH PLANS, INC. agreeing to and complying with the provisions of this Consent Order, the Division agrees not to proceed to administrative hearing and agrees that this Consent Order will constitute an informal disposition of this licensing matter pursuant to SDCL § 1-26-20;

By the execution of this Consent Order and the payment of a penalty pursuant to this Consent Order, AVERA HEALTH PLANS, INC. neither admits to nor denies any violations of the laws of the State of South Dakota, but waives its right to contest the allegations contained in this Consent Order in any future actions or licensing procedures with the Division;

AVERA HEALTH PLANS, INC. agrees to pay a monetary penalty in the amount of \$125,000 pursuant to SDCL §§ 58-4-28.1 and 58-41-85, in lieu of an administrative hearing and Final Decision;

AVERA HEALTH PLANS, INC. further agrees to conduct itself in accordance with the insurance laws and regulations of the State of South Dakota;

AVERA HEALTH PLANS, INC. further agrees that this Consent Order may be considered for the purpose of determining the appropriate sanction in any future actions with the Division for any violations of the laws or regulations of the State of South Dakota or for failing to abide by any order of the Director;

Wherefore, good cause appearing from the foregoing, it is hereby ORDERED that AVERA HEALTH PLANS, INC. pay a monetary penalty in the amount of \$125,000 payable to "South Dakota Division of Insurance" for deposit in the General Fund of the State of South Dakota; and it is further


ORDERED that should AVERA HEALTH PLANS, INC. fail to comply with the provisions of this Order, the Division may seek the suspension or revocation of AVERA HEALTH PLANS, INC.'s Certificate of Authority at hearing pursuant to SDCL Ch. 58-41, or seek other remedies available at law; and it is further

ORDERED that AVERA HEALTH PLANS, INC. abide by the agreements made by it in this Consent Order; and it is further

ORDERED that the use of this Consent Order for competitive purposes by an insurance agent or third-party administrator holding a license in the State of South Dakota, or by any company holding a Certificate of Authority, or by anyone on their behalf, may be deemed unfair competition and be grounds for suspension or revocation of said license or authority; and it is further

ORDERED that the provisions of this Consent Order shall be effective from the date the Director signs this Order.

Dated at Pierre, South Dakota this 28th day of June, 2023.



Larry Deiter, Director
South Dakota Division of Insurance

[Signature page for AVERA HEALTH PLANS, INC. follows.]

The undersigned, on behalf of AVERA HEALTH PLANS, INC. represents it understands the terms of this Consent Order and the waiver of its due process rights and voluntarily enters into this Consent Order.

Dated this 28th day of June, 2023.


Signature of Authorized Representative

Debra K. Muller
Printed Name

Chief Executive Officer
Title