

No. 2019 5924

Confidential Information Redacted  
Texas Labor Code §§402.083 & 402.092

**OFFICIAL ORDER**  
*of the*  
**TEXAS COMMISSIONER OF WORKERS' COMPENSATION**

Date: APR 05 2019

**Subject Considered:**

**ACIG INSURANCE COMPANY**  
2600 North Central Expressway, Suite 800  
Richardson, Texas 75080-2064

**CONSENT ORDER**  
TDI-DWC ENFORCEMENT FILE NO. 14236

**General remarks and official action taken:**

The commissioner of workers' compensation (commissioner) considers whether disciplinary action should be taken against ACIG Insurance Company (ACIG).

**WAIVER**

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

**FINDINGS OF FACT**

The commissioner makes the following findings of fact:

1. ACIG holds a certificate of authority issued by the Texas Department of Insurance to transact the business of insurance pursuant to TEX. INS. CODE §§ 801.051–801.053, and is licensed to write multiple lines of insurance, including workers' compensation/employers' liability.
2. ACIG was classified as "average tier" in the 2009 Performance Based Oversight (PBO) assessment. It was not classified in the 2007, 2010, 2012, 2014, 2016, or 2018 PBO assessments.

**FAILURE TO TIMELY INITIATE TEMPORARY INCOME BENEFITS**

3. On [REDACTED], ACIG received the first notice of injury.
4. ACIG filed a dispute of disability with the Texas Department of Insurance, Division of Workers' Compensation (DWC) on [REDACTED], which was 50 days late.
5. ACIG failed to pay temporary income benefits (TIBs) owed to the injured employee for the period of [REDACTED] to [REDACTED].

**ASSESSMENT OF SANCTION**

6. Failure to provide appropriate income benefits in a manner that is timely and cost-effective is harmful to injured employees and to the workers' compensation system of the state.
7. In assessing the sanction for this case, DWC appropriately and fully considered the following factors set forth in TEX. LAB. CODE § 415.021(c) and 28 TEX. ADMIN. CODE § 180.26(e):
  - the seriousness of the violation, including the nature, circumstances, consequences, extent, and gravity of the prohibited act;
  - the history and extent of previous administrative violations;
  - the demonstrated good faith of the violator, including actions taken to rectify the consequences of the prohibited act;
  - the penalty necessary to deter future violations;
  - whether the administrative violation has negative impact on the delivery of benefits to an injured employee;
  - the history of compliance with electronic data interchange requirements;
  - other matters that justice may require, including but not limited to:
    - PBO assessments;
    - the promptness and earnestness of actions to prevent future violations;
    - self-report of the violation;
    - the size of the company or practice;
    - the effect of a sanction on the availability of health care; and
    - evidence of heightened awareness of the legal duty to comply with the Texas Workers' Compensation Act and DWC rules; and
  - to the extent reasonable, the economic benefit resulting from the prohibited act.
8. In assessing the sanction for this case, DWC found the following factors set forth in Tex. Lab. Code § 415.021(c) and 28 Tex. Admin. Code § 180.26(e) to be aggravating: the seriousness of the violation; the history and extent of previous administrative violations; and whether the administrative violation has a negative impact on the delivery of benefits to an injured employee.
9. In assessing the sanction for this case, DWC found the following factors set forth in TEX. LAB. CODE § 415.021(c) and 28 TEX. ADMIN. CODE § 180.26(e) to be mitigating: other matters that justice may require including ACIG's performance on PBO assessments.
10. ACIG acknowledges that DWC and ACIG communicated regarding the relevant statutes and rules violated; the facts establishing that the administrative violation occurred; and the appropriateness of the proposed sanction, including how DWC considered the factors under Tex. Lab. Code § 415.021(c) and 28 Tex. Admin. Code § 180.26(e).
11. ACIG acknowledges that, in assessing the sanction, DWC considered the factors set forth in Tex. Lab. Code § 415.021(c) and 28 Tex. Admin. Code § 180.26(e).

**CONCLUSIONS OF LAW**

The commissioner makes the following conclusions of law:

1. The commissioner has jurisdiction over this matter pursuant to TEX. LAB. CODE §§ 402.001, 402.00111, 402.00114, 402.00116, 402.00128, 414.002, 414.003, 415.002, and 415.021.
2. The commissioner has authority to informally dispose of this matter as set forth under TEX. GOV'T CODE § 2001.056, TEX. LAB. CODE § 402.00128(b)(7), and 28 TEX. ADMIN. CODE § 180.26(h).
3. Pursuant to TEX. LAB. CODE § 415.021, the commissioner may assess an administrative penalty against a person who commits an administrative violation.
4. Pursuant to TEX. LAB. CODE § 415.002(a)(20), an insurance carrier or its representative commits an administrative violation each time it violates a DWC rule.
5. Pursuant to TEX. LAB. CODE § 415.002(a)(22), an insurance carrier or its representative commits an administrative violation each time it fails to comply with the Texas Workers' Compensation Act.
6. Pursuant to TEX. LAB. CODE §§ 408.081, 408.082, and 409.021 and 28 TEX. ADMIN. CODE §§ 124.3 and 124.7, insurance carriers are required to initiate payment of TIBs not later than the 15th day after the date on which the insurance carrier receives written notice of the injury, or the seventh day after the accrual date, unless the insurance carrier has notified DWC and the injured employee in writing of its refusal to pay.
7. ACIG violated TEX. LAB. CODE §§ 415.002(a)(20) and 415.002(a)(22) when it failed to timely initiate TIBs.
8. Pursuant to 28 TEX. ADMIN. CODE § 124.3(a)(2), if the carrier files a notice of denial after the 15th day but on or before the 60th day after receipt of written notice of the injury, the insurance carrier is liable for and shall pay all income benefits that had accrued and were payable prior to the date the carrier filed the notice of denial.
9. ACIG violated 28 TEX. ADMIN. CODE § 124.3(a)(2) and TEX. LAB. CODE § 415.002(a)(20) each time it failed to pay all income benefits that had accrued and were payable to the injured employee for the period of April 9, 2016, through May 4, 2016.

**ORDER**

ACIG Insurance Company is ORDERED to pay an administrative penalty of \$4,500 within 30 days from the date of this consent order.

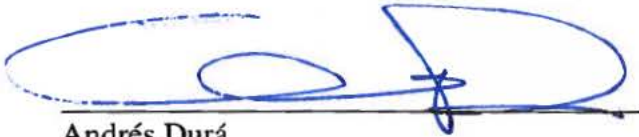
The administrative penalty must be paid by company check, cashier's check, or money order made payable to the "State of Texas." Mail the administrative penalty to the Texas Department of Insurance, Attn: DWC Enforcement, MC 9999, P.O. Box 149104, Austin, Texas, 78714-9104.



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Cassie Brown *msj*  
Commissioner of Workers' Compensation

Approved as to Form and Content:



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Andrés Durá  
Staff Attorney, DWC Enforcement  
Texas Department of Insurance

