

No. **2022-7648**

**Official Order  
of the  
Texas Commissioner of Workers' Compensation**

**Date: 11/29/2022**

**Subject Considered:**

Rio Grande Regional Hospital  
101 East Ridge Road  
McAllen, Texas 78503-1248

Consent Order  
DWC Enforcement File No. 29248

**General remarks and official action taken:**

This is a consent order with Rio Grande Regional Hospital (Respondent). The commissioner of the Texas Department of Insurance, Division of Workers' Compensation (DWC) considers whether DWC should take disciplinary action against Respondent.

**Waiver**

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

**Findings of Fact**

1. Respondent is a health care provider operating in the Texas workers' compensation system.
2. Respondent was not selected to be tiered in the 2007, 2009, 2011, 2013, 2015, 2017, 2019, or 2021 Performance Based Oversight (PBO) assessments.

Failure to Timely Comply with a Refund Request from an Insurance Carrier

4. On [REDACTED] Respondent received a properly completed refund request from the insurance carrier in the amount of [REDACTED], for dates of service between [REDACTED] and [REDACTED]. Respondent was required to either refund the requested amount or submit an appeal to the insurance carrier not later than the 45th day of receipt of the request, which was [REDACTED].
5. As of [REDACTED] Respondent had failed to pay the requested amount or submit an appeal with a specific explanation of the reason for failure to pay, which was 294 days late at that time.

**Assessment of Sanction**

1. Failing to comply with the statutes and rules governing proper billing and reimbursements in the Texas workers' compensation system imposes an undue financial burden on system participants, increases the likelihood of disputes, and is contrary of DWC's goal of a fair and balanced workers' compensation system.
2. In assessing the sanction for this case, DWC fully considered the following factors 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 violator's demonstration of good faith, including actions it took to rectify the consequences of the prohibited act;
  - the penalty necessary to deter future violations;
  - whether the administrative violation had a negative impact on the delivery of benefits to an injured employee;
  - the history of compliance with electronic data interchange requirements;
  - to the extent reasonable, the economic benefit resulting from the prohibited act; and
  - other matters that justice may require, including, but not limited to:
    - PBO assessments;
    - prompt and earnest 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.
3. DWC found the following factors in Tex. Lab. Code § 415.021(c) and 28 Tex. Admin. Code § 180.26(e) to be aggravating: the seriousness of the violation; the penalty necessary to deter future violations; and other matters that justice may require, including evidence of heightened awareness of the legal duty to comply with the Texas Workers' Compensation Act and DWC rules, as demonstrated by Respondent's continued noncompliance after actual notice of Respondent's duty to reimburse the insurance carrier.
  4. DWC is aware of no mitigating factors pursuant to Tex. Lab. Code § 415.021(c) and 28 Tex. Admin. Code § 180.26(e).
  5. Respondent acknowledges communicating with DWC about the relevant statute and rule violations alleged; that the facts establish that the administrative violation(s) occurred; and that the proposed sanction is appropriate, including the factors DWC considered under Tex. Lab. Code § 415.021(c) and 28 Tex. Admin. Code § 180.26(e).
  6. Respondent acknowledges that, in assessing the sanction, DWC considered the factors in Tex. Lab. Code § 415.021(c) and 28 Tex. Admin. Code § 180.26(e).

### **Conclusions of Law**

1. The commissioner has jurisdiction over this matter pursuant to Tex. Lab. Code §§ 402.001, 402.00114, 402.00116, 402.00128, 414.002, and 414.003.
2. The commissioner has the authority to dispose of this case informally pursuant to Tex. Gov't Code § 2001.056, Tex. Lab. Code §§ 401.021 and 402.00128(b)(6)-(7), and 28 Tex. Admin. Code § 180.26(h) and (i).
3. Respondent 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 intent to institute disciplinary action, notice of hearing, a public hearing, a proposal for decision, a rehearing by the commissioner, and judicial review.

4. Pursuant to Tex. Lab. Code § 408.0271(c), a health care provider shall reimburse the insurance carrier for payments received by the provider for inappropriate charges not later than the 45th day after the date of the carrier's notice. The failure by the health care provider to timely remit payment to the carrier constitutes an administrative violation.
5. Pursuant to Tex. Lab. Code § 415.021, the commissioner may assess an administrative penalty against a person who commits an administrative violation.
6. Pursuant to Tex. Lab. Code §§ 415.003(5) and (6), a health care provider commits an administrative violation if he fails to comply with a DWC rule or a provision of the Texas Workers' Compensation Act.
7. Pursuant to 28 Tex. Admin. Code § 133.260(c), a health care provider shall respond to a request for a refund from an insurance carrier by the 45th day after receipt of the request, either by paying the requested amount or submitting an appeal to the insurance carrier with a specific explanation of the reason the health care provider has failed to remit payment.
8. Respondent violated Tex. Lab. Code §§ 408.0271(c); 415.003(5) and (6); and 28 Tex. Admin Code § 133.260(c) by failing to timely comply with a refund request.

**Order**

It is ordered that Rio Grande Regional Hospital must pay an administrative penalty of \$5,000 within 30 days from the date of this order. Rio Grande Regional Hospital must pay the administrative penalty by cashier's check or money order and make it payable to the "State of Texas." Mail the administrative penalty to the Texas Department of Insurance, Attn: DWC Enforcement Section, MC AO-9999, P.O. Box 12030, Austin, Texas 78711-2030.



---

Jeff Nelson  
Commissioner  
TDI, Division of Workers' Compensation

Approved Form and Content:



---

Austin Southerland  
Staff Attorney, Enforcement  
Compliance and Investigations  
TDI, Division of Workers' Compensation

Commissioner's Order  
Rio Grande Regional Hospital  
DWC Enforcement File No. 29248  
Page 6 of 6

Unsworn Declaration

STATE OF Texas

§

§

COUNTY OF Hidalgo

§

Pursuant to the Tex. Civ. Prac. and Rem. Code § 132.001(a), (b), and (d), my name is

Gladis Amaya. I hold the position of Patient Safety Director and am the

authorized representative of Rio Grande Regional Hospital. My business address is:

101 East Ridge Road, McAllen, Hidalgo, Texas, 78503.

(Street)

(City)

(County)

(State)

(ZIP Code)

I am executing this declaration as part of my assigned duties and responsibilities. I declare under penalty of perjury that the facts stated in this document are true and correct.

Gladis Amaya

Declarant

Executed on November 15, 2022.