

No. **2023-8240**

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

Date: 9/27/2023

Subject Considered:

Everest National Insurance Company
100 Everest Way
Warren, New Jersey 07059-5195

Consent Order
DWC Enforcement File Nos. 31746 and 32203

General remarks and official action taken:

This is a consent order with Everest National Insurance Company (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 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 in Texas, including workers' compensation/employers' liability insurance.
2. Respondent was classified as "high" tier in the 2018 Performance Based Oversight (PBO) assessment. Respondent was classified as "poor" tier in the 2020 PBO assessment. Respondent was classified as "average" tier in the 2022 PBO assessment. Respondent was not selected to be tiered in any other year.

Failure to Timely Act on a Medical Bill

File No. 31746

1. On [REDACTED] a health care provider (HCP) provided medical services to an injured employee.
2. On [REDACTED] Respondent received a completed [REDACTED] medical bill from the HCP.
3. Respondent was required to act on the bill within 45 days of receiving it. The deadline to act was [REDACTED]
4. On [REDACTED] Respondent initially denied the claim, which was 15 days late.
5. On [REDACTED] Respondent paid the full bill amount with interest.

DWC Audit No. MBP-22-203

File No 32203

6. On [REDACTED] DWC initiated DWC Audit No. MBP-22-203 to determine whether Respondent complied with the Texas Labor Code and related rules on the timely processing of initial medical bills and the timely and accurate reporting of electronic data interchange (EDI) medical bill payment data to DWC.
7. The audit examined initial medical bills submitted to DWC between [REDACTED] and [REDACTED] DWC identified 100 bills for audit.
8. The audit focused on the timely and accurate processing of initial medical bills and EDI reporting. The EDI portion of the audit focused on the timely and accurate reporting of medical bill payment data and seven data elements reported to DWC (Rendering Line Provider National Provider Identifier Number (NPI), Rendering Line Provider State License Number, Referring Provider Last/Group Name, Referring Provider State License Number, Billing Provider Federal Employer Identification Number, Date Bill Received, and Date Bill Paid or Denied).

Failure to Timely Pay Medical Bills (Audit No. MBP-22-203)

9. Respondent failed to timely process 2% of the initial medical bills within 45 days of receiving the bill (2 out of 100).
10. Specifically, Respondent issued payments to health care providers three days late in one instance, and 217 days late in the other.

Failure to Timely or Accurately Report EDI Medical Bill Payment Data to DWC

11. Respondent failed to timely report the Rendering Line Provider NPI for 5% of the examined bills (5 out of 100).
12. Respondent failed to accurately report the Rendering Line Provider State License Number for 7% of the examined bills (7 out of 100).
13. Respondent failed to accurately report the Referring Provider Last/Group Name for 8% of the examined bills (8 out of 100).
14. Respondent failed to accurately report the Referring Provider State License Number for 7% of the examined bills (7 out of 100).
15. Respondent failed to accurately report the Date Bill Received for 15% of the examined bills (15 out of 100).
16. Respondent failed to accurately report the Date Bill Paid or Denied for 2% of the examined payments (2 out of 100).

Assessment of Sanction

1. Failure to pay medical benefits in a timely and cost-effective manner is harmful to injured employees and the Texas workers' compensation system. Prompt payment of medical bills is imperative to DWC's goal of ensuring that injured employees have access to prompt, high-quality medical care.
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, including the nature, circumstances, consequences, extent, and gravity of the prohibited acts; the history and extent of previous administrative violations including three prior warning letters on this issue; and the penalty necessary to deter future violations.
4. DWC found the following factors in Tex. Lab. Code § 415.021(c) and 28 Tex. Admin. Code § 180.26(e) to be mitigating: the violator's demonstration of good faith, specifically targeted training provided to the Third-Party Administrators (TPAs) regarding the timely payment of medical bills.
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, 402.00111, 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 § 415.021, the commissioner may assess an administrative penalty against a person who commits an administrative violation.
5. 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.
6. 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 a provision of the Texas Workers' Compensation Act.
7. Pursuant to Tex. Lab. Code § 408.027 and 28 Tex. Admin. Code § 133.240, an insurance carrier is required to timely process and take final action on a completed medical bill within 45 days of receiving the bill.
8. Respondent violated Tex. Lab. Code §§ 408.027; 415.002(a)(20); 415.002(a)(22); and 28 Tex. Admin. Code § 133.240 each time Respondent failed to pay, reduce, deny, or determine to audit a completed medical bill within 45 days of receiving the bill.
9. Pursuant to 28 Tex. Admin. Code § 134.804(d), insurance carriers are responsible for timely and accurately submitting medical EDI records to DWC.

10. Respondent violated Tex. Lab. Code § 415.002(a)(20) each time it failed to submit timely and accurate medical EDI records to DWC.

Order


It is ordered that Everest National Insurance Company must pay an administrative penalty of \$3,500 within 30 days from the date the Commissioner signs the order.

After receiving an invoice, Respondent must pay the administrative penalty by electronic transfer using the State Invoice Payment Service, company check, 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, PO Box 12030, Austin, Texas 78711-2030



Jeff Nelson
Commissioner
TDI, Division of Workers' Compensation

Approved Form and Content:



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

