

No. 2020-6415

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

Date: 07-31-2020

Subject Considered:

Chubb Indemnity Insurance Company
202 Halls Mill Road, Suite B
Whitehouse Station, New Jersey 08889-3435

Consent Order
DWC Enforcement File No. 24475

General remarks and official action taken:

This is a consent order with Chubb Indemnity Insurance Company (Chubb Indemnity). The commissioner of the Texas Department of Insurance, Division of Workers' Compensation (DWC) considers whether DWC should take disciplinary action against Chubb Indemnity.

Waiver

Chubb Indemnity acknowledges that the Texas Labor Code and other applicable laws provide certain rights. Chubb Indemnity 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. Chubb Indemnity 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. Chubb Indemnity was classified as "average" tier in the 2012, 2014, 2016, and 2018 Performance Based Oversight (PBO) assessments. Chubb Indemnity was not selected to be tiered in the 2007, 2009, or 2010 PBO assessments.

Failure to Pay [REDACTED]

3. On [REDACTED], Chubb Indemnity received a [REDACTED] [REDACTED]. The [REDACTED] began on [REDACTED].
4. Chubb Indemnity's payment for the [REDACTED] was due by the 10th day after Chubb Indemnity received DWC's determination of entitlement or the seventh day of the 11th quarter, whichever is later. In this case, the latest date was [REDACTED].
5. Chubb Indemnity issued a payment for [REDACTED] on [REDACTED], which was 42 days late.

Assessment of Sanction

1. Failure to provide appropriate income benefits in a timely and cost-effective manner is harmful to injured employees and the Texas 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, including the nature, circumstances, consequences, extent, and gravity of the prohibited act; the history and extent of previous administrative violations; the penalty necessary to deter future violations; and whether the administrative violation had a negative impact on the delivery of benefits to an injured employee.
 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, including actions it took to rectify the consequences of the prohibited act, as the adjuster assigned to the case left her employment with the insurance carrier before this payment was issued but the insurance carrier issued payment as soon as it was made aware that the payment had been missed. In addition, the insurance carrier has instituted an action plan where all SIBs applications are copied to supervisors as well as to adjusters, which will allow the supervisor to review and ensure the adjuster diaries receipt date and date for payment or request for Benefit Review Conference.
 5. Chubb Indemnity acknowledges it communicated with DWC about the relevant statutes and rules it violated; the facts establish that the administrative violation occurred; and 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. Chubb Indemnity 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)(7), and 28 TEX. ADMIN. CODE § 180.26(h).
3. Chubb Indemnity 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 § [REDACTED].
8. Pursuant to TEX. LAB. CODE § [REDACTED].
9. Pursuant to TEX. LAB. CODE § 409.023, an insurance carrier must continue to pay benefits promptly as and when benefits accrue without a final decision, order, or other action from the commissioner, except as otherwise provided.
10. Pursuant to 28 TEX. ADMIN. CODE § [REDACTED].

11. Chubb Indemnity violated TEX. LAB. CODE §§ 408.144, 408.145, 409.023, and 28 TEX. ADMIN. CODE § 130.107 when it issued payment for [REDACTED] which was 42 days late.

Order

It is ordered that Chubb Indemnity Insurance Company must pay an administrative penalty of \$4,000 within 30 days from the date of this order. Chubb Indemnity Insurance Company 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 9999, P.O. Box 149104, Austin, Texas 78714-9104.



Cassie Brown
Commissioner of Workers' Compensation

Approved Form and Content:



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

Affidavit

STATE OF NEW JERSEY

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COUNTY OF SOMERSET

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Before me, the undersigned authority, personally appeared Sara Kendall, who being by me duly sworn, deposed as follows:

"My name is Sara Kendall. 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 Vice President, Claims Compliance Manager and am the authorized representative of Chubb Indemnity Insurance Company. I am duly authorized by the organization to execute this statement.

Chubb Indemnity Insurance Company has knowingly and voluntarily entered into this consent order and agrees with and consents to the issuance and service of this consent order."



Affiant

SWORN TO AND SUBSCRIBED before me on July 10, 2020.

(NOTARY SEAL)

Signature of Notary Public

Printed Name of Notary Public

Commission Expiration