

No. 2022-7631

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

**Date:** 11/22/2022

**Subject Considered:**

Safety National Casualty Corporation  
1832 Schuetz Road  
Saint Louis, Missouri 63146

Consent Order  
DWC Enforcement File Nos. 28117, 28184, and 28264

**General remarks and official action taken:**

This is a consent order with Safety National Casualty Corporation (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 not selected to be tiered in the 2007 Performance Based Oversight (PBO) assessment. Respondent was classified as "average" tier in the 2009, 2010, 2012, 2014, 2016, 2018, and 2020 PBO assessments.

Failure to Timely Initiate Payment of Accrued Temporary Income Benefits

File No. 28117

3. Respondent was required to pay temporary income benefits (TIBs) to an injured employee from [REDACTED] through [REDACTED]. The TIBs payments were due seven days after the first day of the pay period. Respondent failed to timely pay TIBs, as follows:

|    | Payment Period | Date Due   | Date Paid  | Days Late |
|----|----------------|------------|------------|-----------|
| 1. | [REDACTED]     | [REDACTED] | [REDACTED] | 27        |
| 2. | [REDACTED]     | [REDACTED] | [REDACTED] | 20        |
| 3. | [REDACTED]     | [REDACTED] | [REDACTED] | 13        |
| 4. | [REDACTED]     | [REDACTED] | [REDACTED] | 6         |

File No. 28184

4. Respondent was required to pay TIBs to an injured employee from [REDACTED] through [REDACTED]. The TIBs payments were due seven days after the first day of the pay period. Respondent failed to timely pay TIBs, as follows:

|    | Payment Period | Date Due   | Date Paid  | Days Late |
|----|----------------|------------|------------|-----------|
| 1. | [REDACTED]     | [REDACTED] | [REDACTED] | 36        |
| 2. | [REDACTED]     | [REDACTED] | [REDACTED] | 28        |
| 3. | [REDACTED]     | [REDACTED] | [REDACTED] | 30        |
| 4. | [REDACTED]     | [REDACTED] | [REDACTED] | 23        |
| 5. | [REDACTED]     | [REDACTED] | [REDACTED] | 16        |

Failure to Timely Initiate Payment of Accrued Impairment Income Benefits

File No. 28264

5. Respondent was required to pay impairment income benefits (IIBs) to an injured employee for the period between [REDACTED], through [REDACTED]. The IIBs payment was due seven days after the first day of the pay period. Respondent failed to timely pay IIBs, as follows:

|    | <b>Payment Period</b> | <b>Date Due</b> | <b>Date Paid</b> | <b>Days Late</b> |
|----|-----------------------|-----------------|------------------|------------------|
| 1. |                       |                 |                  | 30               |
| 2. |                       |                 |                  | 23               |
| 3. |                       |                 |                  | 16               |
| 4. |                       |                 |                  | 9                |
| 5. |                       |                 |                  | 2                |

**Assessment of Sanction**

1. Failure to provide 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

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 mitigating, pursuant to Tex. Lab. Code § 415.021(c) and 28 Tex. Admin. Code § 180.26(e): the Respondent's demonstration of good faith, including actions it took to rectify the consequences of the prohibited act.
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 § 415.021, the commissioner may assess an administrative penalty against a person who commits an administrative violation.
5. Pursuant to Tex. Lab. Code §§ 408.081, 409.023, and 415.002(a)(16), an insurance carrier must pay benefits weekly, as and when the benefits accrue, without order from the commissioner.

6. 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.
7. 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.

Failure to Timely Initiate Payment of Accrued TIBs

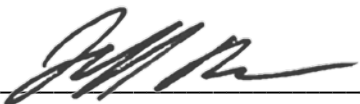
8. Pursuant to Tex. Lab. Code §§ 408.081, 408.082, and 409.021 and 28 Tex. Admin. Code §§ 124.3 and 124.7, an insurance carrier is required to initiate payment of TIBs no later than the 15th day after it receives written notice of the injury or the seventh day after the accrual date, unless the insurance carrier notifies DWC and the injured employee in writing of its refusal to pay.
9. Respondent violated Tex. Lab. Code §§ 408.081, 409.021 and 415.002(a)(16), (20), and (22); and 28 Tex. Admin. Code §§ 124.3 and 124.7 each time Respondent failed to timely pay TIBs.

Failure to Timely Initiate Payment of Accrued IIBs

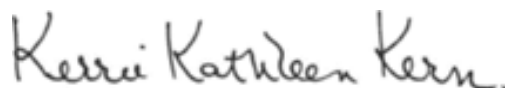
10. Pursuant to Tex. Lab. Code § 408.121(b) and 28 Tex. Admin. Code § 130.8, an employee's entitlement to IIBs begins the day after the employee reaches maximum medical improvement (MMI) and, when the date of MMI is not disputed, the carrier shall initiate payment of IIBs on or before the fifth day after the date of receipt of the employee's treating doctor's medical evaluation report.
11. Respondent violated Tex. Lab. Code §§ 408.121 and 415.002(a)(16), (20), and (22); and 28 Tex. Admin. Code § 130.8 each time Respondent failed to timely pay IIBs.

**Order**

It is ordered that Safety National Casualty Corporation must pay an administrative penalty of \$34,500 within 30 days from the date of this order. Safety National Casualty Corporation must pay the administrative penalty by 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, P.O. Box 12030, Austin, Texas 78711-2030.

  
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Jeff Nelson  
Commissioner  
TDI, Division of Workers' Compensation

Approved Form and Content:

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

**Unsworn Declaration**

**STATE OF** Missouri §  
§  
**COUNTY OF** St Louis §

Pursuant to the Tex. Civ. Prac. and Rem. Code § 132.001(a), (b), and (d), my name is Dana Bailey. I hold the position of AVP Claims Compliance and am the authorized representative of Safety National Casualty Corporation. My business address is:

1832 Schuetz Road, St Louis, St Louis, MO, 63146.  
(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.

*Dana Lynn Bailey*  
Declarant

Executed on 11/14, 2022.