

No. 2023-8055

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

Date: 6/29/2023

Subject Considered:

American Casualty Company of Reading PA
PO Box 8317
Chicago, Illinois 60680-8317

Consent Order
DWC Enforcement File No. 31741

General remarks and official action taken:

This is a consent order with American Casualty Company of Reading PA (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 "average" tier in the 2007, 2009, 2010, 2014, 2016, 2018, 2020, and 2022 Performance Based Oversight (PBO) assessments. Respondent was classified as "high" tier in the 2012 PBO assessment.

Failure to Timely Act on a Medical Bill

1. On [REDACTED] a designated doctor (DD) performed a designated doctor examination on an injured employee.
2. On [REDACTED] Respondent received the DD's completed medical bill for [REDACTED]
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 acted when it issued an explanation of benefits denying payment to the DD, which was 84 days late.
5. On [REDACTED] Respondent paid [REDACTED] to the DD. On [REDACTED] Respondent paid interest on the late medical bill payment.

Assessment of Sanction

1. Prompt payment of medical bills is imperative to DWC's goal of ensuring that injured employees have access to prompt, high-quality medical care. Failure to promptly pay medical bills harms medical providers economically, increases disputes and exhausts administrative resources in the 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. Further, the late medical bill action was more than 80 days late and involved DD services, which do not require preauthorization and are essential to the Texas workers' compensation system.
 4. DWC considered the following mitigating factor pursuant to Tex. Lab. Code § 415.021(c) and 28 Tex. Admin. Code § 180.26(e): corrective action to prevent future violations.
 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.

Failure to Timely Act on a Medical Bill

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) and (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.


Failure to Timely Pay Interest

9. Pursuant to 28 Tex. Admin. Code § 133.240(l), all payments of medical bills that an insurance carrier makes on or after the 60th day after the date the insurance carrier originally received the complete medical bill shall include interest paid at the same time as the late medical bill payment without any action taken by the division.

10. Respondent violated Tex. Lab. Code § 415.002(a)(20) and 28 Tex. Admin. Code § 133.240(l), when Respondent failed to timely pay interest with the late medical bill payment.


Order

It is ordered that American Casualty Company of Reading PA must pay an administrative penalty of \$2,000 within 30 days from the date of this order. American Casualty Company of Reading PA 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

Unsworn Declaration

STATE OF Massachusetts §
§
COUNTY OF Suffolk §

Pursuant to the Tex. Civ. Prac. and Rem. Code § 132.001(a), (b), and (d), my name is Peter McCarron. I hold the position of SVP Claims Property & Casualty Claimant am the authorized representative of American Casualty Company of Reading PA. My business address is:

53 State Street, Suite 510, Boston, Suffolk, MA, 02109.
(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.

Peter McCarron
Declarant

Executed on 06/20, 2023.