

No. **2023-8085**

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

Date: 7/18/2023

Subject Considered:

Hartford Casualty Insurance Company
One Hartford Plaza T-4-47
Hartford, Connecticut 06155

Consent Order
DWC Enforcement File No. 31502 and 31748

General remarks and official action taken:

This is a consent order with Hartford Casualty 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 "poor" tier in the 2007 Performance Based Oversight (PBO) assessment, "average" tier in the 2009, 2014, 2016, 2020, and 2022 PBO assessments, and "high" tier for the 2010, 2012, and 2018 PBO assessments.

Failure to Timely Pay or Dispute Initial and Accrued Temporary Income Benefits (TIBs)

File No. 31502

3. On [REDACTED] Respondent received and injured employee's notice of injury, which occurred on [REDACTED] and accrued on [REDACTED]
4. Respondent was required to initiate or dispute TIBs the latter of 15 days after it received written notice of the injury or seven days after the accrual date. In this case, payment was due by [REDACTED]
5. Thirty-nine days late on [REDACTED] Respondent sent a plain language notice to the injured employee disputing the claim and refusing to pay benefits. Due to the untimely dispute, Respondent owed TIBs from [REDACTED] to [REDACTED]
6. On [REDACTED] Respondent paid initial TIBs of [REDACTED] for [REDACTED] which was 148 days late.

Failure to Timely Pay Accrued TIBs

7. Respondent was required to pay TIBs to the injured employee from [REDACTED] through [REDACTED]. The first week of TIBs was due on the 14th day of accrual, or by [REDACTED]. The following TIBs payments were due seven days after the first day of the pay period. Respondent failed to timely pay [REDACTED] in accrued TIBs, as follows:

	Payment Period	Date Due	Date Paid	Days Late
a.	[REDACTED]	[REDACTED]	[REDACTED]	30
b.	[REDACTED]	[REDACTED]	[REDACTED]	23
c.	[REDACTED]	[REDACTED]	[REDACTED]	16
d.	[REDACTED]	[REDACTED]	[REDACTED]	9
e.	[REDACTED]	[REDACTED]	[REDACTED]	2

8. On [REDACTED], Respondent paid [REDACTED] in interest, which was 67 days late.

File No. 31748

9. On [REDACTED] Respondent received an injured employee's notice of injury which occurred on [REDACTED] and accrued [REDACTED]
10. Respondent was required to initiate or dispute TIBs the latter of 15 days after it received written notice of the injury or seven days after the accrual date. In this case, payment was due by [REDACTED]
11. Respondent disputed the claim 11 days late on [REDACTED]. Due to the untimely dispute, Respondent owed TIBs from [REDACTED] through [REDACTED]
12. On [REDACTED] Respondent paid [REDACTED] in TIBs 414 days late.

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; whether the administrative violation had a negative impact on the delivery of benefits to an injured employee; 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.
 4. DWC considers the following factors mitigating, pursuant to Tex. Lab. Code § 415.021(c) and 28 Tex. Admin. Code § 180.26(e): Prompt and earnest actions 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; 402.00114; 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; 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 Pay or Dispute Initial TIBs

7. Pursuant to Tex. Lab. Code § 409.021(e) and 28 Tex. Admin. Code § 124.3, an insurance carrier or its representative commits an administrative violation by failing to pay benefits, file a Notice of Denial on the compensability of a claim, or file a Notice of Continuing Investigation within 15 days after receiving written notice of the injury.
8. Respondent violated Tex. Lab. Code §§ 409.021 and 415.002(a)(20) and (22) and 28 Tex. Admin. Code § 124.3 each time Respondent failed to timely initiate TIBs.

Failure to Timely Pay Accrued TIBs

9. 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.
10. 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.
11. Pursuant to 28 Tex. Admin. Code §§ 124.3(a)(2)(A)(2), if a Notice of Denial is filed after the 15th day but on or before the 60th day after receipt of written notice of

the injury, the insurance carrier shall pay all income benefits that had accrued prior to the date of the Notice of Denial, before suspending payment of benefits.

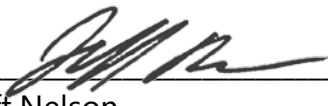
12. Respondent violated Tex. Lab. Code §§ 409.021 and 415.002(a)(16), (20), and (22) and 28 Tex. Admin. Code §§ 124.3 and 124.7 each time Respondent failed to timely pay accrued TIBs.

Failure to Timely Pay Interest

13. Pursuant to Tex. Lab. Code § 408.064 and 28 Tex. Admin. Code § 126.12(b), accrued but unpaid income benefits and interest shall be paid in a lump sum.
14. Respondent violated Tex. Lab. Code §§ 408.064, 415.002(a)(20) and (22), and 28 Tex. Admin. Code § 126.12(b), by failing to timely pay interest with accrued but unpaid income benefits.

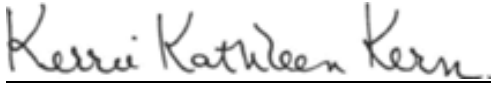
Order

It is ordered that Hartford Casualty Insurance Company must pay an administrative penalty of \$12,000 within 30 days from the date of this order. Hartford Casualty Insurance Company 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:



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

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Unsworn Declaration

STATE OF CALIFORNIA §
COUNTY OF SACRAMENTO §
§

Pursuant to the Tex. Civ. Prac. and Rem. Code § 132.001(a), (b), and (d), my name is Julie Riddle. I hold the position of Assistant Director, Claim Compliance and am the authorized representative of Hartford Casualty Insurance Company. My business address is:

4245 Meridian Parkway, Suite 200, Aurora, DuPage, IL, 60504.
(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.

Julie Riddle
Declarant

Executed on July 10, 2023.