

No. **2023-8096**

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

Date: 07/25/2023

Subject Considered:

Starr Specialty Insurance Company
399 Park Avenue, Floor 3
New York, New York 10022-4686

Consent Order
DWC Enforcement File Nos. 31368, 31566, and 31683

General remarks and official action taken:

This is a consent order with Starr Specialty 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 not selected to be tiered in the 2007, 2009, 2010, 2012, 2014, 2016, or 2018 Performance Based Oversight (PBO) assessments. Respondent was classified as "average" tier in the 2020 PBO assessment. Respondent was classified as "high" tier in the 2022 PBO assessment.

Failure to Timely Pay or Dispute Initial Temporary Income Benefits

File No. 31368

3. On [REDACTED] Respondent received an injured employee's first notice of a workplace injury.
4. The injured employee's first day of disability began on [REDACTED] The eighth day of disability accrued on [REDACTED]
5. Respondent was required to initiate or dispute Temporary Income Benefits (TIBs) the latter of 15 days after it received written notice of the injury or seven days after the accrual date, whichever is later. In this case, the latest date was [REDACTED]
6. Respondent issued the initial TIBs payment, including interest, on [REDACTED] which was 134 days late.

Failure to Timely Initiate Payment of Accrued TIBs

7. Respondent was required to pay TIBs to the 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
a.	[REDACTED]	[REDACTED]	[REDACTED]	127
b.	[REDACTED]	[REDACTED]	[REDACTED]	120
c.	[REDACTED]	[REDACTED]	[REDACTED]	113
d.	[REDACTED]	[REDACTED]	[REDACTED]	106
e.	[REDACTED]	[REDACTED]	[REDACTED]	99
f.	[REDACTED]	[REDACTED]	[REDACTED]	92
g.	[REDACTED]	[REDACTED]	[REDACTED]	85
h.	[REDACTED]	[REDACTED]	[REDACTED]	78
i.	[REDACTED]	[REDACTED]	[REDACTED]	71
j.	[REDACTED]	[REDACTED]	[REDACTED]	64
k.	[REDACTED]	[REDACTED]	[REDACTED]	57
l.	[REDACTED]	[REDACTED]	[REDACTED]	50

m.					43
n.					36
o.					29
p.					22
q.					15
r.					8
s.					1
t.					12
u.					5

8. On [REDACTED] Respondent paid [REDACTED] in outstanding TIBs in a lump sum, including interest, for all benefit periods between [REDACTED] and [REDACTED]
9. On [REDACTED] Respondent paid [REDACTED] in outstanding TIBs, including interest, for all benefit periods between [REDACTED] and [REDACTED]

File No. 31566

10. 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
a.	[REDACTED]	[REDACTED]	[REDACTED]	14
b.	[REDACTED]	[REDACTED]	[REDACTED]	7

11. On [REDACTED] Respondent paid [REDACTED] in TIBs, for all benefit periods between [REDACTED] and [REDACTED]

Failure to Timely Pay Interest

12. On [REDACTED] Respondent paid [REDACTED] in interest on outstanding TIBs payments for the benefit periods between [REDACTED] and [REDACTED] which was 19 days late.

Failure to Timely Act on a Medical Bill

File No. 31683

13. On [REDACTED] a designated doctor (DD) performed a DD examination on an injured employee.
14. On [REDACTED] Respondent received a completed medical bill for [REDACTED] from the DD.
15. Respondent was required to act on the bill within 45 days of receiving it. The deadline to act was [REDACTED]
16. On [REDACTED] Respondent paid the [REDACTED] medical bill to the DD, which was 139 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. 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 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 found the following factors in Tex. Lab. Code § 415.021(c) and 28 Tex. Admin. Code § 180.26(e) to be mitigating: Respondent's demonstration of good faith, including actions it took to rectify the consequences of the prohibited act. Specifically, Respondent identified issues in its process of reassigning claims between adjusters which arise due to communication shortfalls during employee turnover and has worked to correct those issues going forward. In File No. 31368, this correction is evidenced by the timeliness of checks issued after the benefits periods in which the subject violations occurred.
 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 Temporary Income Benefits

7. 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.
8. Pursuant to Tex. Lab. Code §§ 408.081; 408.082; 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 §§ 409.021; 415.002(a)(16), (20), and (22); and 28 Tex. Admin. Code §§ 124.3 and 124.7 by failing to timely pay or dispute the initial payment of TIBs.

Failure to Timely Initiate Payment of Accrued Temporary Income Benefits

10. Respondent violated Tex. Lab. Code §§ 408.081; 409.023; 415.002(a)(16), (20), and (22); and 28 Tex. Admin. Code §§ 124.3 and 124.7 each time Respondent failed to timely issue payment of accrued TIBs.

Failure to Timely Pay Interest


11. 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.
12. 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.

Failure to Timely Act on a Medical Bill

13. 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.
14. Respondent violated Tex. Lab. Code §§ 408.027; 415.002(a)(20) and (22); and 28 Tex. Admin. Code § 133.240 by failing to pay, reduce, deny, or determine to audit a completed medical bill within 45 days of receiving the bill.

Order

It is ordered that Starr Specialty Insurance Company must pay an administrative penalty of \$8,000 within 30 days from the date of this order. Starr Specialty 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, P.O. Box 12030, Austin, Texas 78711-2030.



Jeff Nelson
Commissioner
TDI, Division of Workers' Compensation

Approved Form and Content:



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

Commissioner's Order
Starr Specialty Insurance Company
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Unsworn Declaration

STATE OF NY §
§
COUNTY OF NY §

Pursuant to the Tex. Civ. Prac. and Rem. Code § 132.001(a), (b), and (d), my name is Dave Fitzgerald. I hold the position of Global Chief Claims Officer and am the authorized representative of Starr Specialty Insurance Company. My business address is: 399 Park Avenue, New York, New York, NY, 10022.
(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.

DocuSigned by:
Dave Fitzgerald
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Declarant

Executed on July 12, 2023, 2023.