

No. **2024-8462**

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

Date: 1/3/2024

Subject Considered:

LM Insurance Corporation
PO Box 259015
Plano, Texas 75025-9015

Consent Order
DWC Enforcement File Nos. 32891, 32893, 32999, 33170, 33171, and 33307

General remarks and official action taken:

This is a consent order with LM Insurance 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 classified as "average" tier in the 2022, 2020, and 2018 Performance Based Oversight (PBO) assessments.

Failure to Pay Accrued Impairment Income Benefits (IIBs) Based on a Certifying Doctor (CD) Report

File No. 32891

3. On [REDACTED], Respondent received a DWC Form-69, *Report of Medical Evaluation*, from the injured employee's CD in connection with a CD examination.
4. The CD determined that the injured employee reached maximum medical improvement on [REDACTED], with a [REDACTED] % impairment rating.
5. Respondent was required to pay accrued IIBs no later than five days after receiving the CD report. The deadline to pay benefits was [REDACTED].
6. On [REDACTED], Respondent paid \$ [REDACTED] in IIBs, plus interest, which was 58 days late.

Failure to Timely Pay Accrued Temporary Income Benefits (TIBs)

File No. 32893

7. Respondent was required to pay TIBs to an injured employee for the period of [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] to [REDACTED]	[REDACTED]	[REDACTED]	42
b.	[REDACTED] to [REDACTED]	[REDACTED]	[REDACTED]	46
c.	[REDACTED] to [REDACTED]	[REDACTED]	[REDACTED]	38
d.	[REDACTED] to [REDACTED]	[REDACTED]	[REDACTED]	32
e.	[REDACTED] to [REDACTED]	[REDACTED]	[REDACTED]	25
f.	[REDACTED] to [REDACTED]	[REDACTED]	[REDACTED]	18
g.	[REDACTED] to [REDACTED]	[REDACTED]	[REDACTED]	11
h.	[REDACTED] to [REDACTED]	[REDACTED]	[REDACTED]	4

8. Respondent paid a total of \$ [REDACTED] in late TIBs.

9. On [REDACTED], Respondent paid \$ [REDACTED] in interest on the late TIBs, which was 108 and 97 days late.

Failure to Timely Act on a Medical Bill

File No. 32999

10. On [REDACTED], [REDACTED], [REDACTED], and [REDACTED], a health care provider (HCP) provided medical services to an injured employee. On [REDACTED] Respondent received a completed medical bill for \$ [REDACTED] from the HCP.
11. Respondent was required to act on the bill within 45 days of receiving it. The deadline to act was [REDACTED].
12. On [REDACTED], Respondent denied the bill, which was 198 days late.
13. On [REDACTED], Respondent paid \$ [REDACTED] for the medical bill and interest.

Failure to Timely Pay Attorney Fees Ordered by DWC

File No. 33170

14. On [REDACTED], DWC ordered Respondent to pay \$ [REDACTED] in attorney fees in connection with legal services provided to an injured employee. DWC ordered Respondent to pay attorney fees in the amount of 25% of each income benefit payment to the injured employee.
15. Between [REDACTED], and [REDACTED], Respondent issued multiple payments to the injured employee (IE) for unpaid income benefits. Respondent failed to timely pay attorney fees in an amount equal to 25 percent of the income benefits paid to the injured employee as follows:

	Benefits Paid to IE	Attorney Fee Owed	Date Due	Date Paid	Days Late
e.	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	255
f.	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	244
g.	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	237
h.	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	230

16. In total, Respondent paid \$ [REDACTED] in late attorney fees.

Failure to Pay Accrued Income Based on a Designated Doctor (DD) Report

File No. 33171

17. On [REDACTED], Respondent received a DD report of a DD examination.
18. The DD found that disability existed from [REDACTED], through [REDACTED].
19. Respondent was required to pay accrued TIBs no later than five days after receiving the DD report. The deadline to pay was [REDACTED].
20. On [REDACTED], Respondent paid TIBs totaling \$ [REDACTED], which was 175 days late.
21. On [REDACTED], Respondent paid \$ [REDACTED] interest, which was 32 days late.

Failure to Timely Act on a Medical Bill

File No. 33307

22. On [REDACTED], an HCP provided medical services to an injured employee. On [REDACTED] Respondent received a completed \$ [REDACTED] bill from the HCP.
23. Respondent was required to act on the bill within 45 days of receiving it. The deadline to act was [REDACTED].
24. On [REDACTED], Respondent paid \$ [REDACTED] to the HCP, including interest, which was 123 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. Failure to timely pay attorney fees ordered by DWC hinders the division's goal of providing a fair and accessible dispute resolution process and is harmful to the Texas workers' compensation system.
3. 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.
4. 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.
5. 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; 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; and other matters that justice may require.

6. DWC is aware of no mitigating factors pursuant to Tex. Lab. Code § 415.021(c) and 28 Tex. Admin. Code § 180.26(e).
7. 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).
8. 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 Pay Accrued IIBs Based on a CD Report

File No. 32891

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 § 408.121(b), an insurance carrier must pay IIBs no later than five days after the insurance carrier receives the doctor's report certifying maximum medical improvement.
9. Pursuant to 28 Tex. Admin. Code § 130.8, an insurance carrier must pay benefits in accordance with the treating doctor's medical evaluation report no later than five days after receiving the treating doctor's medical evaluation report when maximum medical improvement is not disputed.

Failure to Timely Pay Accrued TIBs

File No. 32893

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. Respondent violated Tex. Lab. Code §§ 409.021; 415.002(a)(16), (20), and (22); and 28 Tex. Admin. Code §§ 124.3 and 124.7 each time Respondent failed to timely initiate payment of TIBs.
12. Respondent violated Tex. Lab. Code §§ 408.121(b), 409.023 and 415.002(a)(16), (20), and (22) and 28 Tex. Admin. Code § 130.8 by failing to timely pay accrued income benefits within five days of receiving the CD report.

Failure to Timely Act on a Medical Bill

File Nos. 32999 and 33307

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 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 Attorney Fees Ordered by DWC

File No. 33170

15. Pursuant to Tex. Lab. Code §§ 415.021(a) and 415.0035(e), an insurance carrier commits an administrative violation if it violates, fails to comply with, or refuses to comply with a DWC order.
16. Pursuant to 28 Tex. Admin. Code § 152.1(c), insurance carriers are required to pay attorney fees ordered by DWC. The insurance carrier must begin payment out of the approved income benefits by mailing a check to the attorney within seven days after receiving the order. As the insurance carrier pays income benefits, it must pay attorney fees until the fees are completely paid or income benefits cease.
17. Respondent violated Tex. Lab. Code §§ 415.002(a)(20) and (22); 415.021(a); 415.0035(e); and 28 Tex. Admin. Code § 152.1(c) by failing to timely comply with a DWC order to pay attorney fees.

Failure to Pay Accrued Income Based on a DD Report

File No. 33171

18. Pursuant to Tex. Lab. Code § 408.0041(f), the insurance carrier must pay benefits based on the opinion of the DD during any pending dispute.

19. 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.
20. Pursuant to 28 Tex. Admin. Code § 127.10(h), the insurance carrier must pay all benefits in accordance with the DD report for the issues in dispute no later than five days after receiving the report.
21. Respondent violated Tex. Lab. Code §§ 408.0041(f); 409.023; 415.002(a)(16), (20), and (22); and 28 Tex. Admin. Code § 127.10(h) by failing to timely pay accrued income benefits in accordance with the DD report no later than five days after receiving the report.

Failure to Timely Pay Interest

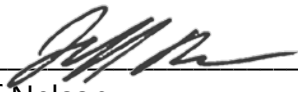
File Nos. 32893 and 33171

22. 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.
23. Respondent violated Tex. Lab. Code § 415.002(a)(20) and (22) and 28 Tex. Admin. Code § 126.12(b) each time Respondent failed to timely pay interest with accrued but unpaid income benefits.

Order

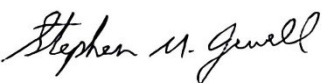
It is ordered that LM Insurance Corporation must pay an administrative penalty of \$24,000 within 30 days from the date the Commissioner signs the order.

After receiving an invoice, LM Insurance Corporation 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:



Stephen M. Jewell
Staff Attorney, Enforcement
Compliance and Investigations
TDI, Division of Workers' Compensation

Unsworn Declaration

STATE OF Texas §
§
COUNTY OF Collin §

Pursuant to the Tex. Civ. Prac. and Rem. Code § 132.001(a), (b), and (d), my name is Jung Wong. I hold the position of VP & Region Manager and am the authorized representative of LM Insurance Corporation. My business address is:
7900 Windrose Ave, Plano, Collin, TX, 75024.
(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.

Jung Wong
Declarant

Executed on December 21, 2023.