

No. 2019 6084

OFFICIAL ORDER
of the
TEXAS COMMISSIONER OF WORKERS' COMPENSATION

Date: SEP 12 2019

Subject Considered:

THE TRAVELERS INDEMNITY COMPANY
One Tower Square
Hartford, Connecticut 06183-6014

CONSENT ORDER
TDI-DWC ENFORCEMENT FILE NO. 20024

General remarks and official action taken:

The commissioner of workers' compensation (commissioner) considers whether disciplinary action should be taken against The Travelers Indemnity Company (Travelers Indemnity).

WAIVER

Travelers Indemnity acknowledges that the Texas Labor Code and other applicable laws provide certain rights. Travelers Indemnity waives all of these rights and any other applicable procedural rights in consideration of the entry of this consent order.

FINDINGS OF FACT

The commissioner makes the following findings of fact:

1. Travelers Indemnity 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 workers' compensation/employers' liability insurance in the state of Texas.
2. Travelers Indemnity was classified as "average" tier in the 2009, 2010, 2012, 2014, 2016, and 2018 Performance Based Oversight (PBO) assessments. Travelers Indemnity was classified as "poor" tier in the 2007 PBO assessment.

**FAILURE TO TIMELY INITIATE PAYMENT OF
TEMPORARY INCOME BENEFITS**

3. On [REDACTED], Travelers Indemnity received notice of an injury to an injured employee.
4. The first day of disability for the injured employee was on [REDACTED].
5. The insurance carrier was required to initiate or dispute temporary income benefits (TIBs) no later than the 15th day after the date on which the insurance carrier received written notice of the injury, or the seventh day after the accrual date, unless the insurance carrier had notified the Texas Department of Insurance, Division of Workers' Compensation (DWC) and the injured employee in writing of its refusal to pay, which, in this case, was [REDACTED].
6. Travelers Indemnity issued the initial TIBs payment 87 days late on [REDACTED].

ASSESSMENT OF SANCTION

7. Failure to provide appropriate TIBs in a manner that is timely and cost-effective is harmful to injured employees and to the Texas workers' compensation system.
8. In assessing the sanction for this case, DWC appropriately and fully considered the following factors set forth 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 demonstrated good faith of the violator, including actions taken to rectify the consequences of the prohibited act;
 - the penalty necessary to deter future violations;
 - whether the administrative violation has negative impact on the delivery of benefits to an injured employee;
 - the history of compliance with electronic data interchange requirements;
 - other matters that justice may require, including but not limited to:
 - PBO assessments;
 - the promptness and earnestness of 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; and

- to the extent reasonable, the economic benefit resulting from the prohibited act.
9. In assessing the sanction for this case, DWC found the following factors set forth 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 has a negative impact on the delivery of benefits to an injured employee.
 10. In assessing the sanction for this case, DWC found the following factors set forth in TEX. LAB. CODE § 415.021(c) and 28 TEX. ADMIN. CODE § 180.26(e) to be mitigating: the demonstrated good faith of the violator, including actions taken to rectify the consequences of the prohibited act, as the insurance carrier had previously identified the issues and was working on correcting employee behaviors.
 11. Travelers Indemnity acknowledges that DWC and Travelers Indemnity communicated regarding the relevant statutes and rules violated; the facts establishing that the administrative violation occurred; and the appropriateness of the proposed sanction, including how DWC considered the factors under TEX. LAB. CODE § 415.021(c) and 28 TEX. ADMIN. CODE § 180.26(e).
 12. Travelers Indemnity acknowledges that, in assessing the sanction, DWC considered the factors set forth in TEX. LAB. CODE § 415.021(c) and 28 TEX. ADMIN. CODE § 180.26(e).

CONCLUSIONS OF LAW

The commissioner makes the following 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, 414.003, 415.002, and 415.021.
2. The commissioner has authority to informally dispose of this matter as set forth under TEX. GOV'T CODE § 2001.056, TEX. LAB. CODE § 402.00128(b)(7), and 28 TEX. ADMIN. CODE § 180.26(h).
3. Pursuant to TEX. LAB. CODE § 415.021, the commissioner may assess an administrative penalty against a person who commits an administrative violation.
4. 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.

5. 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.
6. Pursuant to TEX. LAB. CODE §§ 408.081, 408.082, and 409.021 and 28 TEX. ADMIN. CODE §§ 124.3 and 124.7, insurance carriers are required to initiate payment of TIBs not later than the 15th day after the date on which the insurance carrier receives written notice of the injury, or the seventh day after the accrual date, unless the insurance carrier has notified DWC and the injured employee in writing of its refusal to pay.
7. Travelers Indemnity violated TEX. LAB. CODE §§ 415.002(a)(20) and 415.002(a)(22) when it failed to timely initiate payment of TIBs.

ORDER

The Travelers Indemnity Company is ORDERED to pay an administrative penalty of \$5,000 within 30 days from the date of this consent Order.

The administrative penalty must be paid by company check, cashier's check, or money order made payable to the "State of Texas." Mail the administrative penalty to the Texas Department of Insurance, Attn: DWC Enforcement, MC 9999, P.O. Box 149104, Austin, Texas, 78714-9104.



Cassie Brown *NCM*
Commissioner of Workers' Compensation

Approved as to Form and Content:



Amy Norman
Staff Attorney, DWC Enforcement
Compliance & Investigations
Division of Workers' Compensation
Texas Department of Insurance

