

No. 2020-6489

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

Date: 9-30-2020

Subject Considered:

Ohio Security Insurance Company
P.O. Box 259015
Plano, Texas 75025-9015

Consent Order
DWC Enforcement File No. 24782

General remarks and official action taken:

This is a consent order with Ohio Security Insurance Company (Ohio Security). The commissioner of the Texas Department of Insurance, Division of Workers' Compensation (DWC) considers whether DWC should take disciplinary action against Ohio Security.

Waiver

Ohio Security acknowledges that the Texas Labor Code and other applicable laws provide certain rights. Ohio Security 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. Ohio Security 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 Texas.

2. Ohio Security was classified as "average" tier in the 2018 Performance Based Oversight (PBO) assessments. Ohio Security was not selected to be classified in the 2007, 2009, 2010, 2012, 2014, or 2016 PBO assessments.

Failure to Timely Initiate Payment of Temporary Income Benefits

3. On [REDACTED], Ohio Security received notice of an injury to an employee.
4. The first day of disability for the injured employee was [REDACTED], and the eighth day accrued on [REDACTED].
5. Ohio Security was required to initiate or dispute temporary income benefits (TIBs) either 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. Ohio Security issued the initial TIBs payment on [REDACTED], which was 18 days late.

Assessment of Sanction

1. Failure to provide appropriate 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; and whether the administrative violation had a negative impact on the delivery of benefits to an injured employee.
 4. DWC found the following factors in TEX. LAB. CODE § 415.021(c) and 28 TEX. ADMIN. CODE § 180.26(e) to be mitigating: the violator's demonstration of good faith, including actions it took to rectify the consequences of the prohibited act, as the insurance carrier has instituted new procedures in order to ensure the mistake does not occur in the future.
 5. Ohio Security acknowledges it communicated with DWC about the relevant statutes and rules it violated; the facts establish that the administrative violation occurred; and 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. Ohio Security 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, 414.003, and 415.021.
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)(7), and 28 TEX. ADMIN. CODE § 180.26(h).

3. Ohio Security 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 § 409.021(e) and 28 TEX. ADMIN. CODE § 124.3, an insurance carrier or its representative commits an administrative violation if it fails 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 it receives written notice of the injury.
7. Pursuant to TEX. LAB. CODE § 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.
8. Ohio Security violated TEX. LAB. CODE §§ 415.002(a)(20) and (22) when it failed to timely initiate payment of TIBs.

Order

It is ordered that Ohio Security Insurance Company must pay an administrative penalty of \$3,500 within 30 days from the date of this order. Ohio Security Insurance Company must pay the administrative penalty by 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 9999, P.O. Box 149104, Austin, Texas 78714-9104.



Cassie Brown
Commissioner of Workers' Compensation

Approved Form and Content:



Amy Norman
Staff Attorney, Enforcement
Compliance and Investigations
Division of Workers' Compensation

STATE OF Tx §

§
COUNTY OF Collin §

Before me, the undersigned authority, personally appeared Leah Hernandez, who being by me duly sworn, deposed as follows:

"My name is Leah Hernandez. I am of sound mind, capable of making this statement, and have personal knowledge of these facts which are true and correct

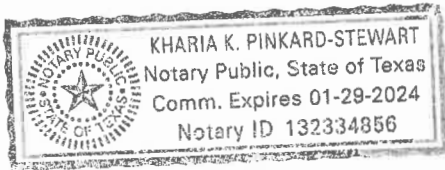
I hold the office of claims manger and am the authorized representative of Ohio Security Insurance Company. I am authorized by the organization to execute this statement.

Ohio Security Insurance Company has knowingly and voluntarily entered into this consent order and agrees with and consents to the issuance and service of this consent order."

Leah M. Hernandez
Affiant

SWORN TO AND SUBSCRIBED before me on 09/21, 2020.

(NOTARY SEAL)



Kharia K. Pinkard-Stewart

Signature of Notary Public

Kharia K. Pinkard-Stewart

Printed Name of Notary Public

01/29/24

Commission Expiration