

No. **2022-7351**

Confidential Information Redacted
Texas Labor Code §§402.083 and 402.092

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

Date: 6/22/2022

Subject Considered:

The Standard Fire Insurance Company
P.O. Box 163201
Austin, Texas 78716-3201

Consent Order
DWC Enforcement File Nos. 22297 and 26865

General remarks and official action taken:

This is a consent order with The Standard Fire 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 or 2009 Performance Based Oversight (PBO) assessments. Respondent was classified as "average" tier in the 2010, 2012, 2014, 2016, 2018, and 2020 PBO assessments.

Failure to Timely Comply with a Final Contested Case Hearing Decision and Order

File No. 22297

3. On [REDACTED] DWC issued a contested case hearing decision and order (CCH D&O) to Respondent. On [REDACTED] Respondent received the CCH D&O, which became final on [REDACTED]
4. The CCH D&O required Respondent to pay [REDACTED] in accrued benefits plus interest to the injured employee and [REDACTED] in accrued attorney fees within 20 days, or by [REDACTED]
5. On [REDACTED] Respondent miscalculated and paid [REDACTED] to the injured employee and [REDACTED] to the injured employee's attorney.
6. Respondent fully complied with the CCH D&O by paying [REDACTED] to the injured employee on [REDACTED] which was 104 days late.

Failure to Timely Act on a Medical Bill

File No. 26865

7. On September 22, 2020, Respondent received a completed medical bill in the amount of \$650 for services performed on September 11, 2020. Respondent's staff failed to properly upload the bill into Respondent's computer system to be processed and paid.
8. Respondent was required to act on the bill within 45 days of receiving it. The deadline to act was November 6, 2020.
9. Respondent paid the \$650 bill on December 23, 2020, which was 47 days late.

Assessment of Sanction

1. Compliance with an order issued by DWC is imperative to minimize disputes and resolve them promptly and fairly. In addition, 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.

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 history and extent of previous administrative violations; the penalty necessary to deter future violations; and other matters that justice may require.
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 taken to rectify the consequences of the prohibited act. For example, in file no. 22297, Respondent timely paid partial benefits to both the injured employee and his attorney. When the error in allocating the benefits creating a windfall to the injured employee's attorney was discovered, Respondent promptly rectified the consequences by issuing payment, which resulted in an

overpayment on the claim. Harm to the injured employee was limited because the injured employee continued to receive weekly benefits after the lump sum payment was issued. In file no. 26865, the delay was due to staffing issues associated with the pandemic. Respondent has initiated additional training in both data input and claims handling.

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 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 § 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.
5. Pursuant to Tex. Lab. Code § 410.169 and 28 Tex. Admin. Code § 142.16, a party is required to comply with a CCH D&O within 20 days of the order becoming final.

6. 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.
7. 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.
8. Pursuant to Tex. Lab. Code §§ 415.0035(e) and 415.021(a), an insurance carrier commits an administrative violation if it violates, fails to comply with, or refuses to comply with a DWC order.
9. Pursuant to Tex. Lab. Code § 415.021, the commissioner may assess an administrative penalty against a person who commits an administrative violation.
10. Respondent violated Tex. Lab. Code §§ 415.002(a)(20) and (22), 415.0035(e), and 415.021 when it failed to timely comply with a DWC order for benefits.
11. Respondent violated Tex. Lab. Code §§ 415.002(a)(20) and (22) each time it failed to pay, reduce, deny, or determine to audit a completed medical bill within 45 days of receiving the bill.

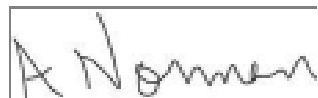
Order

It is ordered that The Standard Fire Insurance Company must pay an administrative penalty of \$5,000 within 30 days from the date of this order. The Standard Fire Insurance Company must pay the administrative penalty by 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.



Dan Paschal, J.D.
Deputy Commissioner
Policy & Customer Services
TDI, Division of Workers' Compensation

Approved Form and Content:



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

Unsworn Declaration

STATE OF TEXAS

§

COUNTY OF DALLAS

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Pursuant to the Tex. Civ. Prac. and Rem. Code § 132.001(a), (b), and (d), my name is ALAN WITKMAN. I hold the position of FIELD VICE PRESIDENT and am the authorized representative of The Standard Fire Insurance Company. My business address is:

1301 E. COLLINS BLVD. , RICHARDSON, DALLAS, TX, 75081

(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.



Declarant

Executed on 20 JUNE, 2022.

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