

No. **2023-8048**

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

**Date: 6/27/2023**

**Subject Considered:**

New Hampshire Insurance Company  
175 Water Street, Floor 18  
New York, New York 10038-4976

Consent Order  
DWC Enforcement File Nos. 31752, 31754 and 31755

**General remarks and official action taken:**

This is a consent order with New Hampshire 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 classified as "poor" tier in the 2007 Performance Based Oversight (PBO) assessment. Respondent was classified as "average" tier in the 2009, 2010, 2012, 2014, 2016, 2018, 2020, and 2022 PBO assessments.

Failure to Timely Act on a Medical Bill

*File No. 31752*

1. On [REDACTED] a designated doctor (DD) provided medical services to an injured employee. On [REDACTED] Respondent received a completed medical bill for [REDACTED] from the DD.
2. Respondent was required to act on the bill within 45 days of receiving it. The deadline to act was [REDACTED]
3. On [REDACTED] Respondent paid [REDACTED] which was 513 days late. On [REDACTED] Respondent paid [REDACTED] in interest on the late medical bill.

*File No. 31754*

4. On [REDACTED], a DD provided medical services to an injured employee. On [REDACTED] Respondent received a completed medical bill for [REDACTED] from the DD.
5. Respondent was required to act on the bill within 45 days of receiving it. The deadline to act was [REDACTED]
6. On [REDACTED] Respondent paid [REDACTED], which was 462 days late. On [REDACTED] Respondent paid [REDACTED] in interest on the late medical bill.

*File No. 31755*

7. On [REDACTED] a DD provided medical services to an injured employee. On [REDACTED] Respondent received a completed medical bill for [REDACTED] from the DD.
8. Respondent was required to act on the bill within 45 days of receiving it. The deadline to act was [REDACTED]
9. On [REDACTED] Respondent acted when it issued an explanation of benefits to the DD denying payment, which was 204 days late.



10. On [REDACTED] Respondent subsequently paid the medical bill in the amount of [REDACTED]. On [REDACTED] Respondent paid [REDACTED] in interest on the late medical bill.

### **Assessment of Sanction**

1. 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 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; and other matters that justice may require. Specifically, each of the late payments described above establish a pattern of practice and involve DD medical services, which do not require preauthorization and are an integral part of the workers' compensation system.

4. DWC is aware of no mitigating factors pursuant to Tex. Lab. Code § 415.021(c) and 28 Tex. Admin. Code § 180.26(e).
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, 402.00111, 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 Timely Act on a Medical Bill

*File Nos. 31752, 31754, and 31755*

7. 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.
8. 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 Interest

*File Nos. 31752, 31754, and 31755*

9. Pursuant to 28 Tex. Admin. Code § 133.240(l), all payments of medical bills that an insurance carrier makes on or after the 60th day after the date the insurance carrier originally received the complete medical bill shall include interest paid at the same time as the late medical bill payment without any action taken by the division.
10. Respondent violated Tex. Lab. Code § 415.002(a)(20) and 28 Tex. Admin. Code § 133.240(l), each time Respondent failed to timely pay interest on the late medical bill payments.

**Order**

It is ordered that New Hampshire Insurance Company must pay an administrative penalty of \$9,500.00 within 30 days from the date of this order. New Hampshire 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, PO Box 12030, Austin, Texas 78711-2030.

  
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Jeff Nelson  
Commissioner  
TDI, Division of Workers' Compensation

Approved Form and Content:

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

**Unsworn Declaration**

**STATE OF \_NEW JERSEY** §  
§  
**COUNTY OF HUDSON** §

Pursuant to the Tex. Civ. Prac. and Rem. Code § 132.001(a), (b), and (d), my name is Peter Macdonald. I hold the position of Vice President and am the authorized representative of New Hampshire Insurance Company. My business address is:  
30 Hudson Street, Jersey City, Hudson, NJ, 07302.  
(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:  
  
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Declarant

Executed on June 21, 2023.