

No. 2024-8609

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

**Date:** 4/17/2024

**Subject Considered:**

Texas Mutual Insurance Company  
2200 Aldrich Street  
Austin, Texas 78723-3474

Consent Order  
DWC Enforcement File No. 33691

**General remarks and official action taken:**

This is a consent order with Texas Mutual 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 "high" tier in the 2022, 2020, and 2018 Performance Based Oversight (PBO) assessments.

Failure to Pay Subsequent Quarters of Supplemental Income Benefits

3. On [REDACTED] [REDACTED], Respondent received a DWC Form-052, *Application for Supplemental Income Benefits* (SIBs), for the 9th quarter. The 9th quarter of SIBs began on [REDACTED].
4. Respondent's payment for the first month of the 9th quarter was due by the 10th day after Respondent received the application for SIBs or the 7th day of the 9th quarter, whichever is later. In this case, the latest date was [REDACTED].
5. Respondent paid \$[REDACTED] in SIBs for the first month of the 9th quarter on [REDACTED], which was 28 days late.
6. On [REDACTED], Respondent paid \$[REDACTED] in interest, which was 20 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. 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; whether the administrative violation had a negative impact on the delivery of benefits to an injured employee; the history and extent of previous administrative violations; history of compliance with electronic data interchange requirements; and other matters that justice may require, including evidence of heightened awareness of the legal duty to comply with the Texas Workers' Compensation Act and DWC rules, and the size of the company.
  4. DWC considered the following mitigating factor pursuant to Tex. Lab. Code § 415.021(c) and 28 Tex. Admin. Code § 180.26(e): high PBO assessment.
  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; 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 §§ 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.
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.

#### Failure to Pay Subsequent Quarters of SIBs

8. Pursuant to 28 Tex. Admin. Code § 130.107, an insurance carrier must make the first payment of SIBs for the 9th quarter by the 10th day after receiving the Application for SIBs or the 7th day of the quarter. An insurance carrier must make the second payment by the 37th day of the quarter and the third payment by the 67th day of the quarter.
9. Respondent violated Tex. Lab. Code §§ 408.145; 409.023; 415.002(a)(20) and (22); and 28 Tex. Admin. Code § 130.107 by paying SIBs for the first month of the 9th quarter on [REDACTED], which was 28 days late.


#### Failure to Timely Pay Interest

10. 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.
11. Respondent violated Tex. Lab. Code §§ 408.064 and 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.

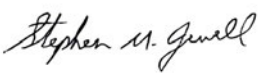
**Order**

It is ordered that Texas Mutual Insurance Company must pay an administrative penalty of \$2,000 within 30 days from the Commissioner signs the order.

After receiving an invoice, Texas Mutual 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:

  
\_\_\_\_\_  
Stephen Jewell  
Staff Attorney, Enforcement  
Compliance and Investigations  
TDI, Division of Workers' Compensation

**Unsworn Declaration**

**STATE OF** Texas §  
§  
**COUNTY OF** Travis §

Pursuant to the Tex. Civ. Prac. and Rem. Code § 132.001(a), (b), and (d), my name is Peppia Sherrouse. I hold the position of VP Claims Operation and am the authorized representative of Texas Mutual Insurance Company. My business address is: 2200 Aldrich Street, Austin, Travis, Tx, 78723.  
(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.

Peppia Sherrouse  
Declarant

Executed on March 25, 2024.