

No. 2019 6100

OFFICIAL ORDER
of the
TEXAS COMMISSIONER OF WORKERS' COMPENSATION

Date: ~~SEP 30 2019~~

Subject Considered:

THE INSURANCE COMPANY OF THE STATE OF PENNSYLVANIA
175 Water Street, Floor 18
New York, New York 10038-4976

CONSENT ORDER
TDI ENFORCEMENT FILE NO. 16289

General remarks and official action taken:

The commissioner of workers' compensation (commissioner) considers whether disciplinary action should be taken against The Insurance Company of the State of Pennsylvania (Pennsylvania Insurance).

WAIVER

Pennsylvania Insurance acknowledges that the Texas Labor Code and other applicable laws provide certain rights. Pennsylvania Insurance 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. Pennsylvania Insurance 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, including workers' compensation/employers' liability insurance in Texas.
2. Pennsylvania Insurance was classified as "average" tier in the 2007, 2009, 2010, 2014, 2016, and 2018 Performance Based Oversight (PBO) assessments. It was classified as "high" tier in the 2012 PBO assessment.

FAILURE TO TAKE FINAL ACTION ON A REQUEST FOR RECONSIDERATION

3. On [REDACTED] [REDACTED] Pennsylvania Insurance received a complete request for reconsideration of a medical bill from a health care provider for the dates of service [REDACTED] through [REDACTED].
4. Pennsylvania Insurance was required to take action regarding payment or denial of the reconsideration request no later than the 30th day after receipt of the request, which in this case was on [REDACTED].
5. Pennsylvania Insurance took action and issued payment to the health care provider on [REDACTED] [REDACTED] which was 42 days late.

FAILURE TO TIMELY PAY OR DISPUTE ON A MEDICAL BILL

Case 1

6. Pennsylvania Insurance received a complete medical bill for \$ [REDACTED] on [REDACTED] for medical services provided by the health care provider (HCP) on [REDACTED].
7. Pennsylvania Insurance was required to take action on the medical bill within 45 days of receipt, or by [REDACTED].
8. Pennsylvania Insurance issued payment to the HCP on [REDACTED] which was 119 days late.

Case 2

9. Pennsylvania Insurance received a complete medical bill for \$ [REDACTED] on [REDACTED] [REDACTED] for medical services provided by the HCP on [REDACTED].
10. Pennsylvania Insurance was required to take action on the medical bill within 45 days of receipt, or by [REDACTED].
11. Pennsylvania Insurance issued payment to the HCP on [REDACTED] which was 28 days late.

ASSESSMENT OF SANCTION

12. Prompt payment of medical bills is imperative to the Texas Department of Insurance, Division of Workers' Compensation's (DWC) goal of ensuring that injured employees have access to prompt, high-quality medical care.
13. 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.
14. 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; and the history and extent of previous administrative violations.
15. 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; the penalty necessary to deter future violations; and other matters that justice may require, including an overpayment to the HCP that was not recouped.
16. Pennsylvania Insurance acknowledges that DWC and Pennsylvania Insurance have 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).
17. Pennsylvania Insurance 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 of workers' compensation 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 of workers' compensation 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 of workers' compensation may assess an administrative penalty against a person who commits an administrative violation.
4. Pursuant to TEX. LAB. CODE § 415.002(a)(20) and (22), an insurance carrier or its representative commits an administrative violation each time it violates a commissioner's rule or fails to comply with a provision of the Texas Workers' Compensation Act.
5. Pursuant to 28 TEX. ADMIN. CODE § 133.250, an insurance carrier is required to take final action on a complete request for reconsideration of the insurance carrier's action on a medical bill within 30 days of receipt of the request for reconsideration. The insurance carrier shall provide an explanation of benefits for all items included in a reconsideration request in the form and format prescribed by DWC.
6. Pennsylvania Insurance violated TEX. LAB. CODE § 415.002(a)(20) each time it failed to timely take final action on a request for reconsideration of a medical bill action within 30 days of receipt.
7. Pursuant to TEX. LAB. CODE § 408.027 and 28 TEX. ADMIN. CODE § 133.240, insurance carriers are required to take final action on a complete medical bill not later than the 45th day after the date of receipt by the insurance carrier of the medical bill.
8. Pennsylvania Insurance violated TEX. LAB. CODE § 415.002(20) and (22) each time it failed to take final action on a complete medical bill.

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ORDER

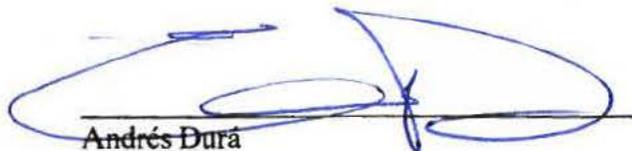
The Insurance Company of the State of Pennsylvania is ORDERED to pay an administrative penalty of \$9,000 within 30 days from the date of this consent order.

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 *WCTH*
Commissioner of Workers' Compensation

Approved as to Form and Content:



Andrés Durá
Staff Attorney, DWC Enforcement
Texas Department of Insurance

