

No. 2020-6414

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

Date: 07-31-2020

Subject Considered:

Property and Casualty Insurance Company of Hartford
One Hartford Plaza T 17 81
Hartford, Connecticut 06155

Consent Order
DWC Enforcement File No. 22301

General remarks and official action taken:

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

Waiver

Property and Casualty acknowledges that the Texas Labor Code and other applicable laws provide certain rights. Property and Casualty 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. Property and Casualty 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. Property and Casualty was classified as "average" tier in the 2014, 2016, and 2018 Performance Based Oversight (PBO) assessments. Property and Casualty was not selected to be tiered in the 2007, 2009, 2010, or 2012 PBO assessments.

DWC Audit No. IP-19-206

3. On February 27, 2019, DWC initiated DWC Audit No. IP-19-206 to determine whether Property and Casualty complied with the Texas Labor Code and related rules on the timely payment of initial temporary income benefits (TIBs) and the timely and accurate submission of initial payment information to DWC.
4. The audit examined TIBs payments that Property and Casualty reported issuing between October 1, 2018, and December 31, 2018. DWC identified 22 initial TIBs payments for audit. Two initial TIBs payments failed to meet selection criteria and were dropped from the audit sample. The remaining 20 payments were reviewed to determine Property and Casualty's compliance.
5. The audit focused on the timely payment of initial TIBs and electronic data interchange (EDI) reporting. The EDI portion of the audit focused on the timely reporting of initial TIBs payments and accuracy of five data elements reported to DWC (First Date of Disability, Date of First Written Notice, TIBs from Date, TIBs End Date, and Initial TIBs Payment Date).

Failure to Timely Pay Initial TIBs

6. Property and Casualty failed to timely initiate TIBs for 25% of examined payments (five out of 20).
7. Specifically, Property and Casualty issued payments to injured employees less than six working days late in two instances, between six and 15 working days late in one instance, and over 30 working days late in two instances.

Failure to Timely or Accurately Report EDI Data to DWC

8. Property and Casualty failed to timely report initial payments of TIBs for 10% of examined payments (two out of 20).

9. Property and Casualty failed to accurately report the First Date of Disability for 15% of examined payments (three out of 20).
10. Property and Casualty failed to accurately report the Date of First Written Notice for 5% of examined payments (one out of 20).
11. Property and Casualty failed to accurately report the initial TIBs from Date for 5% of examined payments (one out of 20).
12. Property and Casualty failed to accurately report the initial TIBs End Date for 5% of examined payments (one out of 20).
13. Property and Casualty failed to accurately report the initial TIBs Payment Date for 15% of examined payments (three out of 20).

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. Timely submitting information and documentation to DWC is imperative for it to implement and enforce the Texas Workers' Compensation Act.
3. DWC relies on claims information insurance carriers submit for many purposes, including, but not limited to, providing required information and reports to the Legislature, ensuring that insurance carriers comply with the Texas Labor Code and DWC rules, and detecting patterns and practices in actions taken on claims.
4. 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 EDI 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.
5. 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; the history of compliance with EDI requirements; and other matters that justice may require, including the size of the company or practice.
6. Property and Casualty 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).
7. Property and Casualty 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, 409.021, 414.002, 414.003, 415.002, 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. Property and Casualty 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 if that person violates a DWC rule.
6. Pursuant to TEX. LAB. CODE § 415.002(a)(22), an insurance carrier or its representative commits an administrative violation if that person fails to comply with a provision of the Texas Workers' Compensation Act.
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. Property and Casualty violated TEX. LAB. CODE §§ 415.002(a)(20) and 415.002(a)(22) each time it failed to timely initiate payment of TIBs.
9. Pursuant to 28 TEX. ADMIN. CODE § 124.2(a) and (b), insurance carriers are required to notify DWC and the injured employee of actions taken or events occurring in a

claim, as specified by rule in the form and manner DWC prescribes. Inherent in this duty is the requirement that insurance carriers report this information accurately.

10. Property and Casualty violated TEX. LAB. CODE § 415.002(a)(20) each time it failed to timely or accurately notify DWC and the injured employee of actions it took or events that occurred in a claim, as specified by rule in the form and manner DWC prescribed.

Order

It is ordered that Property and Casualty Insurance Company of Hartford must pay an administrative penalty of \$20,000 within 30 days from the date of this order. Property and Casualty Insurance Company of Hartford 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:



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

Affidavit

STATE OF CONNECTICUT §
§
COUNTY OF TOLLAND §

Before me, the undersigned authority, personally appeared Stephanie W. Raymond, who being by me duly sworn, deposed as follows:

"My name is Stephanie W. Raymond. 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 Assistant Vice President and am the authorized representative of Property and Casualty Insurance Company of Hartford. I am duly authorized by the organization to execute this statement.

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

Stephanie W. Raymond
Affiant

SWORN TO AND SUBSCRIBED before me on _____, 2020.

(NOTARY SEAL)

Signature of Notary Public

Printed Name of Notary Public

Commission Expiration