

No. **2023-7984**

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

Date: 5/23/2023

Subject Considered:

Standard Fire Insurance Company
PO Box 163201
Austin, Texas 78716-3201

Consent Order
DWC Enforcement File Nos. 30483, 31365, 31366 & 31596

General remarks and official action taken:

This is a consent order with 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 classified as "average" tier in the 2010, 2012, 2014, 2016, 2018, 2020, and 2022 Performance Based Oversight (PBO) assessments. Respondent was not selected to be tiered in the 2007 or 2008 PBO assessments.

Failure to Pay Accrued Impairment Income Benefits Based on a Designated Doctor Report

File No. 30483

3. On [REDACTED] Respondent received a report from a designated doctor (DD) in connection with a DD examination.
4. The DD determined that the injured employee reached maximum medical improvement on [REDACTED] with a [REDACTED] impairment rating.
5. Respondent was required to pay accrued impairment income benefits (IIBs) no later than five days after receiving the DD report. The deadline to pay benefits was [REDACTED]
6. Respondent paid [REDACTED] in IIBs on [REDACTED] which was 15 days late.

Failure to Timely Produce an Injured Employee's Medical Records to a DD

File No. 31365

7. On [REDACTED] DWC ordered that the injured employee attend a DD exam on [REDACTED]
8. On [REDACTED] Respondent received notice of the DD exam and a request to produce the injured employee's medical records to the DD.
9. Respondent was required to provide the injured employee's medical records to the DD no later than three working days prior to the exam, or by [REDACTED]
10. On [REDACTED] Respondent sent the injured employee's medical records to an email address that was not the correct email address for the DD.
11. On [REDACTED] Respondent spoke with the DD's office staff, who indicated that the injured employee's DD appointment had been cancelled due to the nonreceipt of the injured employee's medical records.
12. There is no evidence to indicate that the injured employee's DD appointment was rescheduled.

Failure to Continue to Timely Pay Death Benefits Promptly As and When They Accrue

File No. 31366

13. On [REDACTED] Respondent entered into an agreement with a legal beneficiary for the monthly payment of death benefits.
14. Respondent was required to issue payment of death benefits for the benefit period of [REDACTED] through [REDACTED] by the seventh day of the month, or by [REDACTED]
15. Respondent issued the death benefits payment of [REDACTED] for the benefit period of [REDACTED] through [REDACTED] on [REDACTED] which was 11 days late.

Failure by an Insurance Carrier to Pay or Dispute a Medical Bill within 45 Days of Receipt

File No. 31596

16. On [REDACTED] a health care provider (HCP) provided medical services to an injured employee. On [REDACTED] Respondent received a completed medical bill in the amount of [REDACTED] from the HCP.
17. Respondent was required to act on the bill within 45 days of receiving it. The deadline to act was [REDACTED]
18. On [REDACTED] Respondent issued payment plus interest in the amount of [REDACTED], which was 589 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. The failure to timely produce medical records has a negative impact on the delivery of benefits to an injured employee. 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 whether the administrative violation had a negative impact on the delivery of benefits to an injured employee.
4. DWC found the following factors in Tex. Lab. Code § 415.021(c) and 28 Tex. Admin. Code § 180.26(e) to be mitigating: Respondent's prompt and earnest actions to prevent future violations of this type. Specifically, Respondent has implemented Corrective Action Plans (CAP) with its third-party administrators, which include additional adjuster training to address tracking of both deadlines and incoming communications, as well as increased management review of changes in recurring payments.
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 § 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.
7. 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.

Failure to Pay Accrued Impairment Income Benefits Based on a DD Report

8. Pursuant to Tex. Lab. Code § 408.0041(f), an insurance carrier must pay benefits based on the opinion of the DD during any pending dispute.
9. Pursuant to 28 Tex. Admin. Code § 127.10(h), an insurance carrier must pay all benefits in accordance with the DD report for the issues in dispute no later than five days after receiving the report.
10. Respondent violated Tex. Lab. Code §§ 409.023; 415.002(a)(16), (20), and (22); and 28 Tex. Admin. Code § 127.10(h) by failing to timely pay accrued income benefits in accordance with the DD report no later than five days after receiving the report.

Failure to Timely Produce an Injured Employee's Medical Records to a DD

11. Pursuant to 28 Tex. Admin. Code § 127.10(a)(3), the insurance carrier shall ensure that the required records and analyses (if any) are received by the DD no later than three working days prior to the date of the DD examination.
12. Respondent violated Tex. Lab. Code § 415.002(a)(20) and 28 Tex. Admin. Code § 127.10(a)(3) by failing to provide the injured employee's medical records to the DD no later than three working days prior to the date of the exam.

Failure to Continue to Timely Pay Death Benefits Promptly As and When They Accrue

13. Pursuant to Tex. Lab. Code §§ 408.181 and 409.023; and 28 Tex. Admin. Code § 132.16, an insurance carrier is required to pay death benefits weekly, as and when they accrue, unless the legal beneficiary and the insurance carrier have entered into an agreement for the benefits to be paid monthly. Weekly benefits are to be paid seven days after the first day of a pay period and monthly benefits are to be paid on or before the seventh day of the month for which benefits are due.
14. Respondent violated Tex. Lab. Code §§ 408.181; 409.023; 415.002(a)(20) and (22); and 28 Tex. Admin. Code § 132.16 by failing to timely pay death benefits promptly as and when they accrued.

Failure by an Insurance Carrier to Pay or Dispute a Medical Bill within 45 Days of Receipt

15. 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.

16. 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.

Order

It is ordered that Standard Fire Insurance Company must pay an administrative penalty of \$7,000 within 30 days from the date of this order. 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.



Jeff Nelson
Commissioner
TDI, Division of Workers' Compensation

Approved Form and Content:



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