

No. **2023-8432**

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

Date: 12/21/2023

Subject Considered:

Safety National Casualty Corporation
1832 Schuetz Road
Saint Lous, Missouri 63146

Consent Order
DWC Enforcement File Nos. 32666, 32675, 32761, 32939, 32940 and 32983

General remarks and official action taken:

This is a consent order with Safety National Casualty Corporation (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 2018, 2020 and 2022 Performance Based Oversight (PBO) assessments.

Failure to Timely Act on a Medical Bill

File No. 32666

3. On [REDACTED], Respondent requested a Designated Doctor (DD) Examination, which was performed on [REDACTED].
4. On [REDACTED], Respondent received the DD's completed medical bill for \$ [REDACTED].
5. Respondent was required to act on the bill within 45 days of receiving it. The deadline to act was [REDACTED].
6. On [REDACTED], the DD filed a Medical Fee Dispute Resolution request.
7. On [REDACTED], Respondent paid \$ [REDACTED], including interest, to the DD, which was 50 days late.

File No. 32940

8. On [REDACTED], Respondent requested a DD Examination, which was performed on [REDACTED].
9. On [REDACTED], Respondent received the DD's completed medical bill for \$ [REDACTED].
10. Respondent was required to act on the bill within 45 days of receiving it. The deadline to act was [REDACTED].
11. On [REDACTED], Respondent issued an explanation of benefits denying payment, which was 13 days late.
12. On [REDACTED], Respondent paid \$ [REDACTED] to the DD.

File No. 32983

13. On [REDACTED], Respondent requested a DD Examination, which was performed on [REDACTED].
14. On [REDACTED], Respondent received the DD's completed medical bill for \$ [REDACTED].

15. Respondent was required to act on the bill within 45 days of receiving it. The deadline to act was [REDACTED].
16. On [REDACTED], Respondent paid \$ [REDACTED] to the DD, which was 11 days late.

Failure to Timely Take Final Action on a Reconsideration of a Medical Bill

File No. 32939

17. On [REDACTED], Respondent received a request for reconsideration of a medical bill from a health care provider (HCP) for hospital services rendered to an injured employee on [REDACTED].
18. Respondent was required to act on the request for reconsideration not later than the 30th day after receipt of the request, or by Jan. 30, 2023.
19. Respondent paid \$ [REDACTED] to the HCP on [REDACTED], which was 114 days late.
20. On [REDACTED], Respondent paid \$ [REDACTED] interest, which was six days late.

Failure to Timely Initiate Payment of Accrued Temporary Income Benefits

File No. 32761

21. Respondent was required to pay temporary income benefits (TIBs) to an injured employee from [REDACTED], through April 24, 2023.
22. The TIBs payment was due seven days after the first day of the pay period, which was [REDACTED].
23. Respondent paid \$ [REDACTED] in TIBs on [REDACTED], which was seven days late.
24. On [REDACTED], Respondent paid \$ [REDACTED] in interest, which was 41 days late.

File No. 32675

25. Respondent was required to pay TIBs to an injured employee from [REDACTED], through [REDACTED]. The TIBs payments were due seven days after the first day of the pay period. Respondent failed to timely pay TIBs, as follows:

	Payment Period	Date Due	Date Paid	Days Late
a.	[REDACTED] to [REDACTED]	[REDACTED]	[REDACTED]	30
b.	[REDACTED]	[REDACTED]	[REDACTED]	23
c.	[REDACTED]	[REDACTED]	[REDACTED]	16
d.	[REDACTED]	[REDACTED]	[REDACTED]	9
e.	05 [REDACTED]	[REDACTED]	[REDACTED]	2

26. On [REDACTED], the Respondent paid \$ [REDACTED], including interest.

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. 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. It is a serious violation to fail to timely act on a medical bill involving DD services, which do not require preauthorization and which serve an essential function in the Texas workers' compensation system. Untimely payment can have a chilling effect on a DD's participation in the system.
3. 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.
4. 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; and whether the administrative violation had a negative impact on the delivery of benefits to an injured employee. Additionally, two of the late medical bill payments were 50 and 114 days late, and two involved DD services, which do not require preauthorization and are essential to the Texas workers' compensation system. Further, two of the late medical bills were for the same DD, who performed both DD exams that were requested by Respondent.
5. DWC considers the following factors mitigating, pursuant to Tex. Lab. Code § 415.021(c) and 28 Tex. Admin. Code § 180.26(e): Respondent's demonstration of good faith, including actions it took to rectify the consequences of the prohibited act, and prompt, and earnest actions to prevent future violations. Respondent paid promptly upon notification of the errors and has remedied the processing error that caused delay in bill review.
6. 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).

7. 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 §§ 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 Timely Act on a Medical Bill

File Nos. 32666, 32940 and 32983

8. 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.
9. 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 Take Final Action on a Reconsideration of a Medical Bill

File No. 32939

10. Pursuant to 28 Tex. Admin. Code § 133.250(g), an insurance carrier shall take final action after receipt of a request for reconsideration of a medical bill not later than the 30th day after the date the insurance carrier received the request.
11. Respondent violated Tex. Lab. Code § 415.002(a)(20) and 28 Tex. Admin. Code § 133.250(g) by failing to act on the request for reconsideration within 30 days of receipt of the request.

Failure to Timely Pay Interest for Medical Benefits

File No. 32939

12. Pursuant to Tex. Lab. Code § 413.019(a) and 28 Tex. Admin. Code §§ 133.240(l) and 134.130(a), an insurance carrier must pay interest on medical bills paid on or after the 60th day after the insurance carrier originally received the complete medical bill. The interest payment shall be paid at the same time as the medical bill payment.
13. Respondent violated Tex. Lab. Code §§ 413.019(a), 415.002(a)(20) and (22); and 28 Tex. Admin. Code §§ 133.240(l) and 134.130(a) by failing to pay interest on medical bills paid on or after the 60th day after the insurance carrier originally received the complete medical bill.

Failure to Timely Initiate Payment of Accrued TIBs

File Nos. 32675 and 32761

14. Pursuant to Tex. Lab. Code §§ 408.081, 408.082, and 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.
15. Respondent violated Tex. Lab. Code §§ 408.081, 409.023 and 415.002(a)(16), (20), and (22); and 28 Tex. Admin. Code §§ 124.3 and 124.7 each time Respondent failed to timely pay TIBs.

Order

It is ordered that Safety National Casualty Corporation must pay an administrative penalty of \$17,000 within 30 days from the date the Commissioner signs the order.

After receiving an invoice, Safety National Casualty Corporation 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:



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

Commissioner's Order
Safety National Casualty Corporation
DWC Enforcement File Nos. 32666, 32675, 32761, 32939, 32940 and 32983
Page 10 of 10

Unsworn Declaration

STATE OF Missouri §
§
COUNTY OF Saint Louis §

Pursuant to the Tex. Civ. Prac. and Rem. Code § 132.001(a), (b), and (d), my name is Shawn M Wade. I hold the position of Assistant Vice President and am the authorized representative of Safety National Casualty Corporation. My business address is:

1832 Schuetz Rd, Saint Louis, Saint Louis MO, 63146.
(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.

Shawn M Wade

Declarant

Executed on December 1, 2023.