

No. **2024-8592**

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

**Date: 3/28/2024**

**Subject Considered:**

Ace American Insurance Company  
115 Wild Basin Road, Suite 207  
West Lake Hills, Texas 78746-3347

Consent Order  
DWC Enforcement File Nos. 33728, 33785, & 33786

**General remarks and official action taken:**

This is a consent order with Ace American 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 2022, 2020, and 2018 Performance Based Oversight (PBO) assessments.

Failure to Timely Act on a Medical Bill

*File No. 33728*

3. On [REDACTED], a health care provider provided medical services to an injured employee.
4. On [REDACTED], Respondent received a completed medical bill for \$ [REDACTED] from the health care provider for the medical services provided on [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], Respondent paid \$ [REDACTED] plus interest, which was 254 days late.

*File No. 33786*

7. On [REDACTED], a health care provider provided medical services to an injured employee.
8. On [REDACTED], Respondent received a completed medical bill for \$ [REDACTED] from the health care provider for the medical services provided on [REDACTED].
9. Respondent was required to act on the bill within 45 days of receiving it. The deadline to act was [REDACTED].
10. On [REDACTED], Respondent issued an explanation of benefits denying payment, which was 28 days late.
11. On [REDACTED], after additional review, Respondent paid \$ [REDACTED] plus interest.

Failure to Accurately Pay Accrued Temporary Income Benefits

*File No. 33785*

12. Between [REDACTED], and [REDACTED], Respondent unnecessarily deducted 25% in attorney fees from the TIBs payments due to an injured employee.

13. Respondent paid \$ [REDACTED] in weekly TIBs to the injured employee instead of the correct amount, which was \$ [REDACTED].
14. Respondent's unnecessary deduction resulted in an underpayment of TIBs totaling \$ [REDACTED].
15. On [REDACTED], Respondent paid the injured employee the owed TIBs plus interest, which was 31 days late.

### **Assessment of Sanction**

1. 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.
2. Failure to provide accurate income benefits in a timely and cost-effective manner is harmful to injured employees and the Texas workers' compensation 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 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; and other matters that justice may require, including but not limited to the size of the company or practice and evidence of heightened awareness of the legal duty to comply with the Texas Workers' Compensation Act and DWC rules.
  5. DWC is aware of no mitigating factors pursuant to Tex. Lab. Code § 415.021(c) and 28 Tex. Admin. Code § 180.26(e).
  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, 402.00111, 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.

Failure to Timely Act on a Medical Bill

7. 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.
8. Respondent violated Tex. Lab. Code §§ 408.027; 415.002(a)(20) and (22); and 28 Tex. Admin. Code § 133.240 by failing to pay, reduce, deny, or determine to audit a completed medical bill within 45 days of receiving the bill.

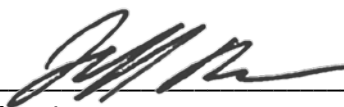
Failure to Accurately Pay Accrued Temporary Income Benefits

9. Pursuant to Tex. Lab. Code §§ 408.081, an insurance carrier must pay accurate benefits weekly, as and when the benefits accrue, without order from the commissioner.
10. Pursuant to Tex. Lab. Code § 408.103 and 28 Tex. Admin. Code § 129.3, the amount of a temporary income benefit is equal to 70% of the injured employee's average weekly wage.
11. Respondent violated Tex. Lab. Code § 408.081, 408.103, 415.002(a)(20) and (22); and 28 Tex. Admin. Code § 129.3 by failing to accurately pay accrued TIBs.

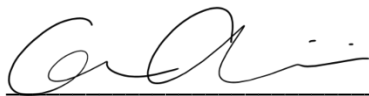
**Order**

It is ordered that Ace American Insurance Company must pay an administrative penalty of \$7,000 within 30 days from the date the Commissioner signs the order.

After receiving an invoice, Ace American 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, P.O. Box 12030, Austin, Texas 78711-2030.

  
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Jeff Nelson  
Commissioner  
TDI, Division of Workers' Compensation

Approved Form and Content:

  
\_\_\_\_\_  
Connor Ambrosini  
Staff Attorney, Enforcement  
Compliance and Investigations  
TDI, Division of Workers' Compensation

**Unsworn Declaration**

**STATE OF** Delaware §  
§  
**COUNTY OF** New Castle §

Pursuant to the Tex. Civ. Prac. and Rem. Code § 132.001(a), (b), and (d), my name is Daniel S. Hawthorne. I hold the position of VP, Quality Assurance and am the authorized representative of Ace American Insurance Company. My business address is:  
1 Beaver Valley Road, Wilmington, New Castle DE, 19803.  
(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.

*Daniel S. Hawthorne*  
Declarant

Executed on March 15, 2024.