

No. 2020-6331

OFFICIAL ORDER
of the
TEXAS COMMISSIONER OF WORKERS' COMPENSATION

Date: 04-29-2020

Subject Considered:

OLD REPUBLIC INSURANCE COMPANY
P.O. Box 789
Greensburg, Pennsylvania 15601-0789

CONSENT ORDER
TDI-DWC ENFORCEMENT FILE NO. 23198

General remarks and official action taken:

The commissioner of workers' compensation (commissioner) considers whether disciplinary action should be taken against Old Republic Insurance Company (Old Republic).

WAIVER

Old Republic acknowledges that the Texas Labor Code and other applicable laws provide certain rights. Old Republic 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. Old Republic 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. Old Republic was classified as "average" tier in the 2007, 2009, 2010, 2012, 2014, 2016, and 2018 Performance Based Oversight (PBO) assessments.

**FAILURE TO TIMELY COMPLY WITH A MEDICAL FEE DISPUTE RESOLUTION
DECISION AND ORDER**

3. On [REDACTED], a Medical Fee Dispute Resolution Findings and Decision No. [REDACTED] (Decision) was issued by the Texas Department of Insurance, Division of Workers' Compensation (DWC) ordering the insurance carrier to remit payment to the health care provider, including accrued interest.
4. On [REDACTED], Old Republic's insurance carrier representative received the Decision.

Confidential Information Redacted
Texas Labor Code §§402.083 & 402.092

5. Old Republic was required to issue the payment within 30 days of receipt of the order, or by [REDACTED].
6. Old Republic issued payment in the amount of \$ [REDACTED] on [REDACTED], which was 136 days late.
7. Old Republic issued payment for interest, in the amount of \$ [REDACTED], on [REDACTED].

ASSESSMENT OF SANCTION

8. Failure to provide appropriate medical benefits in a manner that is timely and cost-effective is harmful to injured employees and to the Texas workers' compensation system.
9. 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.
10. 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; the history and extent of previous administrative violations; the penalty necessary to deter future violations; and other matters that justice may require including the size of the company or practice.
11. 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.

12. Old Republic acknowledges that it has communicated with DWC 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).
13. Old Republic 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 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, and 414.003.
2. The commissioner 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 may assess an administrative penalty against a person who commits an administrative violation.
4. Pursuant to TEX. LAB. CODE §§ 415.0035(e), 415.021(a), and 415.002(a)(17), an insurance carrier or its representative commits an administrative violation each time it fails to pay an order awarding benefits.
5. 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 this subtitle.
6. Pursuant to TEX. LAB. CODE § 415.021, an insurance carrier commits an administrative violation by failing to comply with an order of DWC.
7. Old Republic violated TEX. LAB. CODE §§ 415.021 and 415.002(a)(22) when it failed to timely comply with a DWC order.

COMMISSIONER'S ORDER
Old Republic Insurance Company
TDI-DWC Enforcement File No. 23198
Page 4 of 5

ORDER

Old Republic Insurance Company is ORDERED to pay an administrative penalty of \$950 within 30 days from the date of this 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
Commissioner of Workers' Compensation

Approved as to Form and Content:



Tyrus Housh
Staff Attorney, DWC Enforcement
Texas Department of Insurance

