

No. 2020-6375

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

Date: 06-29-2020

Subject Considered:

American Medical Response Ambulance Service, Inc.
P.O. Box 847343
Dallas, Texas 75284-7343

Consent Order
DWC Enforcement File No. 21824

General remarks and official action taken:

This is a consent order with American Medical Response Ambulance Service, Inc. (AMR). The commissioner of the Texas Department of Insurance, Division of Workers' Compensation (DWC) considers whether DWC should take disciplinary action against AMR.

Waiver

AMR acknowledges that the Texas Labor Code and other applicable laws provide certain rights. AMR 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. AMR is a health care provider operating within the Texas workers' compensation system.
2. AMR was not selected to be tiered in the 2007, 2009, 2011, 2013, 2015, or 2017 Performance Based Oversight (PBO) assessments.

Improperly Pursuing a Private Claim Against an Injured Employee

3. On June 19, 2018, AMR provided health care services to an injured employee in connection with a workers' compensation injury.
4. On November 12, 2018, AMR sent the injured employee a letter stating that it had submitted a claim to the injured employee's workers' compensation insurance carrier for the services provided on [REDACTED].
5. Despite its awareness of the injured employee's status as a workers' compensation claimant, AMR sent bills to the injured employee on [REDACTED], and [REDACTED]. Additionally, on [REDACTED] AMR sent the injured employee a notice advising that the billed amount would be sent to a collections agency.
6. As of [REDACTED], no finding had been made determining that the injured employee had violated TEX. LAB. CODE § 408.022 in selecting a treating doctor, nor had there been a final adjudication that the claim was not compensable.
7. AMR retained and utilized a third-party vendor, Centrex Revenue Solutions, LLC, for billing and collection services during the relevant time period involving the injured employee.

Assessment of Sanction

1. Improperly billing an injured employee for health care services imposes an undue financial burden on the injured employee and circumvents the Texas workers' compensation system and the roles of its system participants.
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; the history and extent of previous administrative violations; and the penalty necessary to deter future violations, and other matters that justice may require, including evidence of a 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 mitigating: the promptness and earnestness of actions to prevent future violations.
5. AMR 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).
6. AMR 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, 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. AMR 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 § 415.003(6), a health care provider commits an administrative violation if it violates a DWC rule or fails to comply with a provision of the Texas Workers' Compensation Act.
6. Pursuant to TEX. LAB. CODE § 413.042, a health care provider commits an administrative violation if it pursues a private claim against a workers' compensation claimant for all or part of the cost of a health care service provided to the injured employee by the provider unless the injury is finally adjudicated as not compensable or the employee violates TEX. LAB. CODE § 408.022 relating to the selection of a doctor.
7. AMR violated TEX. LAB. CODE §§ 413.042 and 415.003(6) when it improperly billed an injured employee for workers' compensation health care services provided.

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Order

It is ordered that AMR must pay an administrative penalty of \$7,500 within 30 days from the date of this order. AMR 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:



Van B. Moreland
Staff Attorney, Enforcement
Compliance and Investigations
Division of Workers' Compensation

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Affidavit

STATE OF _____ **§**
COUNTY OF _____ **§**

Before me, the undersigned authority, personally appeared _____,
who being by me duly sworn, deposed as follows:

Edward Van Horne

"My name is _____. I am of sound mind, capable of making this
statement, and have personal knowledge of these facts which are true and correct.

Chief operating officer

I hold the office of _____ and am the authorized representative of
American Medical Response Ambulance Service, Inc. I am duly authorized by the
organization to execute this statement.

American Medical Response Ambulance Service, Inc. has knowingly and voluntarily
entered into this consent order and agrees with and consents to the issuance and service
of this consent order."

DocuSigned by:
Edward Van Horne
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Affiant

SWORN TO AND SUBSCRIBED before me on _____, 2020.

(NOTARY SEAL)

Signature of Notary Public

Printed Name of Notary Public

Commission Expiration