

No. 2022-7697

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

Date: 12/20/2022

Subject Considered:

Hartford Casualty Insurance Company
One Hartford Plaza
Hartford, Connecticut 06155

Consent Order
DWC Enforcement File No. 29354 & 29524

General remarks and official action taken:

This is a consent order with Hartford Casualty 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 "poor" tier in the 2007 Performance Based Oversight (PBO) assessments. Respondent was classified as "average" tier in the 2009, 2014, 2016, and 2020 PBO assessments. Respondent was classified as "high" tier in the 2010, 2012, and 2018 PBO assessments.

Failure to Timely Initiate or Dispute Accrued Impairment Income Benefits

File No. 29354

3. On [REDACTED] Respondent received a DWC Form-069 from a certifying doctor (CD) who was selected by the treating doctor and acting in place of a treating doctor for an injured employee.
4. The CD determined that the injured employee reached maximum medical improvement (MMI) on [REDACTED] with a [REDACTED] impairment rating (IR).
5. Respondent was required to pay accrued impairment income benefits (IIBs) no later than five days after receiving the DWC Form-069. The deadline to pay benefits was [REDACTED]
6. Respondent paid IIBs on [REDACTED] which was 126 days late.

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

File No. 29524

7. On [REDACTED] Respondent received a report from a designated doctor (DD) in connection with a DD examination.
8. The DD determined that the injured employee reached MMI on [REDACTED] with a [REDACTED] IR.
9. Respondent was required to pay accrued IIBs no later than five days after receiving the DD report. The deadline to pay benefits was [REDACTED]
10. Respondent paid IIBs on [REDACTED] which was 70 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.

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: prompt and earnest actions to prevent future violations of this type. Regarding file number 29354, Respondent has implemented a new quality assurance process, wherein a supervisor is notified and better able to oversee the tasks assigned to adjusters, to ensure that income benefits are timely and accurately paid. Additionally, Respondent has amended its claim closure process by requiring each adjuster to perform a final financial review ensuring that all outstanding expenses were paid timely and accurately prior to a claim closure. In file number 29524, Respondent held discussions on September 14, 2022, with

the specific Team Leader and Claims Manager responsible for the claim to address the errors made and discuss the need for better prioritization for this type of issue.

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 Timely Initiate or Dispute Accrued IIBs

8. Pursuant to Tex. Lab. Code § 408.121(b) and 28 Tex. Admin. Code § 130.8, an employee's entitlement to IIBs begins the day after the employee reaches MMI and, when the date of MMI is not disputed, the carrier shall initiate payment of IIBs on or before the fifth day after the date of receipt of the employee's treating doctor's medical evaluation report.
9. Respondent violated Tex. Lab. Code §§ 408.021; 415.002(a)(16), (20) and (22) and 28 Tex. Admin. Code § 130.8 by failing to timely initiate or dispute payment of IIBs.

Failure to Pay Accrued IIBs Based on a DD Report

10. 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.
11. 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.
12. Respondent violated Tex. Lab. Code §§ 408.0041(f); 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.


Order

It is ordered that Hartford Casualty Insurance Company must pay an administrative penalty of \$20,000 within 30 days from the date of this order. Hartford Casualty 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:



Austin Southerland
Staff Attorney, Enforcement
Compliance and Investigations
TDI, Division of Workers' Compensation

Unsworn Declaration

STATE OF CALIFORNIA §
COUNTY OF SACRAMENTO §
§

Pursuant to the Tex. Civ. Prac. and Rem. Code § 132.001(a), (b), and (d), my name is Julie Riddle. I hold the position of Assistant Director, Claim Compliance and am the authorized representative of Hartford Casualty Insurance Company. My business address is:

4245 Meridian Parkway, Suite 200, Aurora, DuPage, IL, 60504.

(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.

Julie Riddle

Declarant

Executed on December 8, 2022.