

No. **2023-8272**

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

**Date: 10/10/2023**

**Subject Considered:**

Dallas County  
PO Box 541387  
Dallas, Texas 75354-1387

Consent Order  
DWC Enforcement File No. 32007

**General remarks and official action taken:**

This is a consent order with Dallas County (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 is a self-insured government entity that provides workers' compensation benefits to its employees in accordance with Tex. Lab. Code Ch. 504.
2. Respondent was not selected to be tiered in the Performance Based Oversight (PBO) assessments in years 2018 through 2022.

3. On [REDACTED] an employee sustained a work-related injury. From [REDACTED] through [REDACTED] the injured employee incurred significant out-of-pocket health care expenses related to the injury.

#### Failure to Timely Pay or Deny a Request for Reimbursement of Medical and Pharmaceutical Expenses

4. On [REDACTED] the injured employee submitted to Respondent a request for reimbursement of out-of-pocket expenses supported by documentation or evidence including a credit card statement and Explanation of Benefits. Originally, the injured employee requested [REDACTED] based on the supporting documents.
5. Respondent received the injured employee's request for reimbursement and originally responded by email, stating, "Your request can't be process [sic] until you provide evidence that this bill have [sic] been paid by you."
6. Respondent was required to pay or deny the request not later than the 45th day from receipt, or by [REDACTED] Respondent neither paid nor denied the request.
7. On [REDACTED] Respondent paid the injured employee [REDACTED] in reimbursed medical and pharmaceutical expenses, which was 399 days late.
8. On [REDACTED] Respondent paid the injured employee an additional [REDACTED] in interest.
9. On [REDACTED] Respondent's representative issued a statement to DWC stating that the claims examiner failed to issue the reimbursement timely, but, "[i]f the [injured employee] has proof of payment for the remaining amount he requested[,] [t]he claims team will review and process the applicable payment."

#### **Assessment of Sanction**

1. Failing to timely respond to a reimbursement request increases the likelihood of disputes and impedes efforts to resolve them promptly and fairly. Further, failure to timely act on a reimbursement request is economically harmful 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, 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 prompt and earnest actions to prevent future violations. Specifically, Respondent has a prior history of paying income benefits late to the *same injured employee*.
4. DWC considers the following factors mitigating, pursuant to Tex. Lab. Code § 415.021(c) and 28 Tex. Admin. Code § 180.26(e): Respondent is a municipality.
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.

### Failure to Timely Pay or Deny a Request for Reimbursement of Medical Expenses

6. Pursuant to 28 Tex. Admin. Code § 133.270(c), an insurance carrier shall pay or deny an injured employee's request for reimbursement of out-of-pocket medical expenses within 45 days of receipt.
7. Respondent violated Tex. Lab. Code § 415.002(a)(20) and 28 Tex. Admin. Code § 133.270(c) by failing to timely act on a request for reimbursement of medical expenses within 45 days of receipt.


Failure to Timely Pay or Deny a Request for Reimbursement of Pharmaceutical

8. Pursuant to 28 Tex. Admin. Code § 134.504, an insurance carrier shall make appropriate payment to the injured employee or notify the injured employee of a reduction or denial of the payment within 45 days of receipt of the request for reimbursement for prescription drugs or over-the-counter alternatives to prescription drugs prescribed from the injured employee.
9. Respondent violated Tex. Lab. Code § 415.002(a)(20) and 28 Tex. Admin. Code § 134.504 by failing to timely act on a request for reimbursement of pharmaceutical expenses.

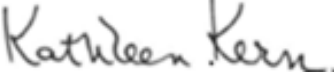
**Order**

It is ordered that Dallas County must pay an administrative penalty of \$2,800 within 30 days from the date the Commissioner signs the order.

After receiving an invoice, Dallas County 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:

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



