

No. 2024-8616

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

**Date:** 4/19/2024

**Subject Considered:**

Redwood Fire & Casualty Insurance Company  
PO Box 881716  
San Francisco, California 94188-1716

Consent Order  
DWC Enforcement File Nos. 33520 & 33521

**General remarks and official action taken:**

This is a consent order with Redwood Fire & 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 workers' compensation/employers' liability insurance in Texas.
2. Respondent was not selected to be tiered in the 2018 or 2022 Performance Based Oversight (PBO) assessments. Respondent was classified as "average" tier in the 2020 PBO assessment.

Failure to Timely Pay Subsequent Quarters of Supplemental Income Benefits

4. On [REDACTED], Respondent received a DWC Form-052, *Application for Supplemental Income Benefits* (SIBs), for the 12th quarter. The 12th quarter of SIBs began on [REDACTED].
5. Respondent's payment for the first month of the 12th quarter was due by the 10th day after Respondent received the application for SIBs or the seventh day of the 12th quarter, whichever is later. In this case, the due date was [REDACTED].
6. On [REDACTED], Respondent paid \$ [REDACTED] in SIBs for the first month of the 12th quarter, which was 52 days late.
7. The payment for the second month of the 12th quarter was due by the 37th day of the 12th quarter. In this case, the due date was [REDACTED].
8. On [REDACTED], Respondent paid \$ [REDACTED] in SIBs for the second month of the 12th quarter, which was 27 days late.

Failure to Timely Comply with a Contested Case Hearing Decision and Order

9. On [REDACTED], DWC issued a contested case hearing decision and order (CCH D&O) requiring Respondent to pay benefits and interest in accordance with the decision. Respondent received the CCH D&O on [REDACTED].
10. The CCH D&O became final on [REDACTED]. Respondent was required to comply with the CCH D&O within 20 days. The deadline to comply was [REDACTED].
11. On [REDACTED], Respondent paid \$ [REDACTED] in benefits, partially complying with the CCH D&O 77 days late.
12. On [REDACTED], Respondent fully complied with the CCH D&O when it paid \$ [REDACTED] in interest. Respondent's compliance was 78 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. Compliance with DWC orders is imperative to minimize disputes and resolve them promptly and fairly. In addition, failure to provide 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 to the extent reasonable, the economic benefit resulting from the prohibited act. Specifically, Respondent has been issued four consent orders and two warning letters involving benefit delivery in the past.



5. DWC found Respondent's prompt and earnest actions to prevent future violations and lack of disciplinary history regarding SIBs to be mitigating under Tex. Lab. Code § 415.021(c) and 28 Tex. Admin. Code § 180.26(e).
6. 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).
7. 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 Pay Subsequent Quarters of SIBs

7. Pursuant to Tex. Lab. Code § 408.144, SIBs are calculated quarterly and paid monthly.
8. Pursuant to Tex. Lab. Code § 408.145, an insurance carrier must pay SIBs no later than the seventh day after the employee's impairment income benefit period expires and must continue to pay the benefits in a timely manner.
9. Pursuant to Tex. Lab. Code § 409.023, an insurance carrier must continue to pay benefits promptly as and when benefits accrue without a final decision, order, or other action from the commissioner, except as otherwise provided.
10. Pursuant to 28 Tex. Admin. Code § 130.107, an insurance carrier must make the first payment of SIBs for a subsequent quarter by the 10th day after receiving the Application for Supplemental Income Benefits or the seventh day of the quarter. An insurance carrier must make the second payment by the 37th day of the quarter and the third payment by the 67th day of the quarter.
11. Respondent violated Tex. Lab. Code §§ 408.145, 409.023; 415.002(a)(20) and (22); and 28 Tex. Admin. Code § 130.107 each time it failed to timely make a payment during a subsequent quarter of SIBs.


Failure to Timely Comply with a CCH D&O

12. Pursuant to Tex. Lab. Code §§ 415.0035(e) and 415.021(a), an insurance carrier commits an administrative violation if it violates, fails to comply with, or refuses to comply with a DWC order.
13. Pursuant to Tex. Lab. Code § 410.169 and 28 Tex. Admin. Code § 142.16, a party is required to comply with a CCH D&O within 20 days of the order becoming final. However, if the CCH D&O involves benefits, a party must comply no later than the fifth day after filing a written request for appeal.
14. Respondent violated Tex. Lab. Code §§ 410.169; 415.002(a)(20) and (22); 415.0035(e), 415.021; and 28 Tex. Admin. Code § 142.16 by failing to timely comply with a DWC order for benefits.


**Order**

It is ordered that Redwood Fire & Casualty Insurance Company must pay an administrative penalty of \$9,500 within 30 days from the date the Commissioner signs the order.

After receiving an invoice, Redwood Fire & Casualty 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, PO Box 12030, Austin, Texas 78711-2030.

  
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Jeff Nelson  
Commissioner  
TDI, Division of Workers' Compensation

Approved Form and Content:

  
\_\_\_\_\_  
Tyrus Housh  
Staff Attorney, Enforcement  
Compliance and Investigations  
TDI, Division of Workers' Compensation

Unsworn Declaration

STATE OF Nebraska §  
COUNTY OF Douglas §

Pursuant to the Tex. Civ. Prac. and Rem. Code § 132.001(a), (b), and (d), my name is Nathan Gonye. I hold the position of Unit Supervisor and am the authorized representative of Redwood Fire & Casualty Insurance Company. My business address is:

1314 Douglas St, Omaha, Douglas NE, 68102  
(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.

Nathan Gonye  
Declarant

Executed on March 29, 2024.