

No. 2019 6068

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**OFFICIAL ORDER**  
*of the*  
**TEXAS COMMISSIONER OF WORKERS' COMPENSATION**

Date: AUG 30 2019

**Subject Considered:**

**SENTRY CASUALTY COMPANY**  
1800 Northpoint Drive  
Stevens Point, Wisconsin 54481-1253

**CONSENT ORDER**  
TDI-DWC ENFORCEMENT FILE NO. 20310

**General remarks and official action taken:**

The commissioner of workers' compensation (commissioner) considers whether disciplinary action should be taken against Sentry Casualty Company (Sentry Casualty).

**WAIVER**

Sentry Casualty acknowledges that the Texas Labor Code and other applicable laws provide certain rights. Sentry Casualty 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. Sentry Casualty 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. Sentry Casualty was classified as "average" tier in the 2014, 2016, and 2018 Performance Based Oversight (PBO) assessments. Sentry Casualty was not selected to be tiered in the 2007, 2009, 2010, or 2012 PBO assessments.

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

3. Sentry Casualty received a Medical Fee Dispute Resolution Findings and Decision from the Texas Department of Insurance, Division of Workers' Compensation (DWC) on [REDACTED].

4. Sentry Casualty did not appeal the Medical Fee Dispute Resolution Findings and Decision, and it became final on [REDACTED].
5. Pursuant to the Medical Fee Dispute Resolution Findings and Decision, Sentry Casualty was ordered to remit \$ [REDACTED] plus interest to the health care provider (HCP) within 30 days. In this case the insurance carrier issued payment plus interest to the HCP on [REDACTED], or 110 days late.

#### ASSESSMENT OF SANCTION

6. 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.
7. 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.
8. 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.
9. 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 promptness and earnestness of actions to prevent future violations. The healthcare provider submitted two bills for the same date of service and the same injured employee and the insurance carrier believed they were duplicates and had been paid. To mitigate this, the

insurance carrier has implemented enhanced training to ensure adjusters are aware of possible duplications.

10. Sentry Casualty acknowledges that it 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).
11. Sentry Casualty 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, a person commits an administrative violation if the person violates, fails to comply with, or refuses to comply with the subtitle or a rule, order, or decision of the commissioner. The commissioner may assess an administrative penalty against a person who commits an administrative violation.
4. In accordance with 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.
5. Sentry Casualty violated TEX. LAB. CODE §§ 415.021 and 415.002(a)(22) when it failed to timely comply with a DWC order.

**ORDER**

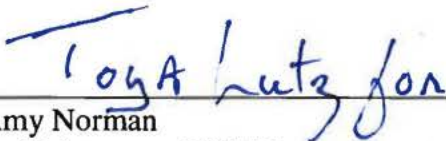
Sentry Casualty Company is ORDERED to pay an administrative penalty of \$2,500 within 30 days from the date of this Order.

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.



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Cassie Brown *NCW*  
Commissioner of Workers' Compensation

Approved as to Form and Content:



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Amy Norman  
Staff Attorney, DWC Enforcement  
Texas Department of Insurance

**AFFIDAVIT**

STATE OF Arizona §  
COUNTY OF Maricopa §

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

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

I hold the office of Claims Manager, and am the authorized representative of Sentry Casualty Company. I am duly authorized by said organization to execute this statement.

Sentry Casualty Company waives rights provided by the Texas Labor Code and other applicable laws, and acknowledges the jurisdiction of the Texas commissioner of workers' compensation.

Sentry Casualty Company is voluntarily entering into this consent order. Sentry Casualty Company consents to the issuance and service of this consent order."

*Neslie McFarlin*  
Affiant

SWORN TO AND SUBSCRIBED before me on July 16<sup>th</sup>, 2019.

(NOTARY SEAL)



*Carol Marks*  
Signature of Notary Public  
Carol Marks  
Printed Name of Notary Public

My Commission Expires: 11-21-20

Confidential Information Redacted  
Texas Labor Code §§402.083 & 402.092