

No. 2020 6230

Confidential Information Redacted  
Texas Labor Code §§402.083 & 402.092

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

Date: FEB 12 2020

**Subject Considered:**

**NEW HAMPSHIRE INSURANCE COMPANY**  
175 Water Street 18th Floor  
New York City, New York 10038

**CONSENT ORDER**  
TDI-DWC ENFORCEMENT FILE NO. 22883

**General remarks and official action taken:**

The commissioner of workers' compensation (commissioner) considers whether disciplinary action should be taken against New Hampshire Insurance Company (New Hampshire).

**WAIVER**

New Hampshire acknowledges that the Texas Labor Code and other applicable laws provide certain rights. New Hampshire 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. New Hampshire 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 the state of Texas.
2. New Hampshire was classified as "average" tier in the 2009, 2010, 2012, 2014, 2016, and 2018 Performance Based Oversight (PBO) assessments. New Hampshire was classified as "poor" tier in the 2007 PBO assessment.

**FAILURE TO TIMELY PAY ACCRUED INCOME BENEFITS**

3. New Hampshire was required to pay temporary income benefits (TIBs) to an injured employee for the period of [REDACTED], through [REDACTED]. The TIBs payments were due seven days after the first day of the pay period, which in this case was [REDACTED]. New Hampshire issued payment of TIBs for the period of [REDACTED], through [REDACTED], on [REDACTED], which was 32 days late.

### ASSESSMENT OF SANCTION

4. Failure to provide appropriate income benefits in a manner that is timely and cost-effective is harmful to injured employees and to the Texas workers' compensation system.
5. In assessing the sanction for this case, Texas Department of Insurance, Division of Workers' Compensation (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.
6. 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; whether the administrative violation has negative impact on the delivery of benefits to an injured employee; and other matters that justice may require, including the size of the company.
7. 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 demonstrated good faith of the violator, including actions taken to rectify the consequences of the prohibited act, as the issue was caused by a computer error, was paid promptly when the error was discovered, and the insurance carrier has instituted additional training intended to address the issue in the future.
8. New Hampshire acknowledges that it has 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).
9. New Hampshire 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**

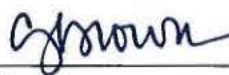
The commissioner makes the following conclusions of law:

1. The commissioner has jurisdiction over this matter pursuant to TEX. LAB. CODE §§ 402.001, 402.00111, 402.00114, 402.00116, 402.00128, 409.021, 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, the commissioner may assess an administrative penalty against a person who commits an administrative violation.
4. 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.
5. Pursuant to TEX. LAB. CODE §§ 408.081, 409.023, and 415.002(a)(16), an insurance carrier shall pay benefits weekly, as and when the benefits accrue, without order from the commissioner.
6. New Hampshire violated TEX. LAB. CODE §§ 409.023, 415.002(a)(16), and 415.002(a)(22) when it failed to timely pay income benefits weekly, as and when the benefits accrue, without order from the commissioner.

**ORDER**

The New Hampshire Insurance Company is ORDERED to pay an administrative penalty of \$6,000 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  
Commissioner of Workers' Compensation

Approved as to Form and Content:

  
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Amy Norman  
Staff Attorney, DWC Enforcement  
Texas Department of Insurance

