

No. 2020-6389

Confidential Information Redacted
Texas Labor Code §§402.083 & 402.092

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

Date: 07-09-2020

Subject Considered:

Medical Center Health System
P.O. Box 88087
Chicago, Illinois 60680-1087

Consent Order
DWC Enforcement File No. 23876

General remarks and official action taken:

This is a consent order with Medical Center Health System (Medical Center). The commissioner of the Texas Department of Insurance, Division of Workers' Compensation (DWC) considers whether DWC should take disciplinary action against Medical Center.

Waiver

Medical Center acknowledges that the Texas Labor Code and other applicable laws provide certain rights. Medical Center waives all of these rights, and any other procedural rights that apply, in consideration of the entry of this consent order.

Findings of Fact

The commissioner makes the following findings of fact:

1. Medical Center is a health care facility operating in the Texas workers' compensation system.

Improperly Pursuing a Private Claim against an Injured Employee

2. Medical Center provided services to an injured employee on [REDACTED], in connection with a workers' compensation injury.
3. On [REDACTED], Medical Center billed the injured employee's workers' compensation insurance for services provided in connection with the workers' compensation injury. On [REDACTED], the insurance carrier made a partial payment according to the workers' compensation fee guidelines.
4. On [REDACTED], Medical Center billed the injured employee for the remaining balance after applying the insurance carrier's payment for the workers' compensation injury.
5. In [REDACTED], a debt collection service contacted the injured employee on behalf of Medical Center about the remaining balance.
6. There is no finding that determined the injured employee violated TEX. LAB. CODE § 408.022 when selecting a treating doctor. There is no final adjudication that the claim was not compensable.

Assessment of Sanction

1. Improperly billing an injured employee for health care services imposes an undue financial burden on the injured employee 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:
 - performance based oversight 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 penalty necessary to deter future violations; and other matters that justice may require, including, but not limited to, the prompt and earnest actions to prevent future violations.
 4. DWC found the following factors in TEX. LAB. CODE § 415.021(c) and 28 TEX. ADMIN. CODE § 180.26(e) to be mitigating: the violator's demonstration of good faith, including actions it took to rectify the consequences of the prohibited act, as the insurance carrier has instituted a review system for all workers' compensation claims, to ensure that no erroneous balances are billed to the injured employee.
 5. Medical Center acknowledges it communicated with DWC about the relevant statutes and rules it violated; the facts establish that the administrative violation occurred; and 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. Medical Center 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, and 402.00128.

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)(7), and 28 TEX. ADMIN. CODE § 180.26(h).
3. Medical Center 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 intention 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 § 415.003(6), a health care provider commits an administrative violation if it fails to comply with a provision of the Texas Workers' Compensation Act.
6. Pursuant to TEX. LAB. CODE § 413.042, a health care provider commits an administrative violation if it pursues a private claim against a workers' compensation claimant for all or part of the cost of a health care service provided to the injured employee by the provider, unless the injury is finally adjudicated as not compensable, or the employee violates TEX. LAB. CODE § 408.022 relating to the selection of a doctor.
7. Medical Center violated TEX. LAB. CODE §§ 413.042 and 415.003(6), when it improperly billed an injured employee for workers' compensation health care services.

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Order

It is ordered that Medical Center Health System must pay an administrative penalty of \$2,500 within 30 days from the date of this order. Medical Center Health System must pay the administrative penalty by 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 9999, P.O. Box 149104, Austin, Texas 78714-9104.



Cassie Brown
Commissioner of Workers' Compensation

Approved Form and Content:



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