

No. 2019 6156

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

Date: NOV 22 2019

**Subject Considered:**

**AMERICAN CASUALTY COMPANY  
OF READING PENNSYLVANIA**  
PO Box 26300  
Austin, Texas 78755-0300

**CONSENT ORDER**  
TDI-DWC ENFORCEMENT FILE NO. 21780

**General remarks and official action taken:**

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

**WAIVER**

American Casualty acknowledges that the Texas Labor Code and other applicable laws provide certain rights. American 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. American 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. American Casualty was classified as average tier in the 2007, 2009, 2010, 2014, 2016, and 2018 Performance Based Oversight (PBO) assessments. American Casualty was classified as high tier in the 2012 PBO assessments.

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

3. American Casualty received a Medical Fee Dispute Resolution Findings and Decision, number [REDACTED], from the Texas Department of Insurance, Division of Workers' Compensation (DWC) on [REDACTED].
4. American 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, American Casualty was ordered to remit [REDACTED] plus interest to the health care provider (HCP) within 30 days, or by [REDACTED]. In this case, American Casualty issued payment plus interest to the HCP on [REDACTED], or 75 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 demonstrated good faith of the violator, including actions taken to rectify the consequences of the prohibited act, as the insurance carrier has instituted additional training to address this situation more efficiently and effectively should it arise again.
10. American 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. American 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. American Casualty violated TEX. LAB. CODE §§ 415.021 and 415.002(a)(22) when it failed to timely comply with a DWC order.

**ORDER**

American Casualty Company of Reading Pennsylvania is ORDERED to pay an administrative penalty of \$3,000 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 *NCWP*  
Commissioner of Workers' Compensation

Approved as to Form and Content:



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Amy Norman  
Staff Attorney, DWC Enforcement  
Texas Department of Insurance

