

No. 2020-6412

Confidential Information Redacted  
Texas Labor Code §§402.083 & 402.092

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

**Date:** 07-31-2020

**Subject Considered:**

Travelers Property Casualty Company of America  
P.O. Box 163201  
Austin, Texas 78716-3201

Consent Order  
DWC Enforcement File No. 24476

**General remarks and official action taken:**

This is a consent order with Travelers Property Casualty Company of America (Travelers). The commissioner of the Texas Department of Insurance, Division of Workers' Compensation (DWC) considers whether DWC should take disciplinary action against Travelers.

**Waiver**

Travelers acknowledges that the Texas Labor Code and other applicable laws provide certain rights. Travelers 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. Travelers 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.

- Travelers was classified as "average" tier in the 2007, 2009, 2012, 2014, 2016, and 2018 Performance Based Oversight (PBO) assessments. Travelers was not selected to be tiered in the 2010 PBO assessment.

Failure to Pay [REDACTED] in Accordance with a Designated Doctor Report

- On [REDACTED], Travelers received a report from a designated doctor (DD) in connection with a DD examination.
- The DD determined the injured employee was [REDACTED], because of a compensable injury.
- Travelers was required to pay accrued [REDACTED] no later than five days after receiving the report. The deadline to pay [REDACTED].
- Travelers issued payment of [REDACTED] and interest on [REDACTED], which was 246 days late.

### **Assessment of Sanction**

- Failure to provide income benefits in a timely and cost-effective manner is harmful to injured employees and the Texas workers' compensation system.
- 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.
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 whether the administrative violation had a negative impact on the delivery of benefits to an injured employee.
  4. DWC found the following factors in TEX. LAB. CODE § 415.021(c) and 28 TEX. ADMIN. CODE § 180.26(e) to be mitigating: none provided.
  5. Travelers 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. Travelers 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, 402.00128, and 414.002.
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. Travelers 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.
7. Pursuant to TEX. LAB. CODE §§ 408.081, 409.023, and 415.002(a)(16), an insurance carrier must pay benefits weekly, as and when the benefits accrue, without order from the commissioner.
8. Pursuant to TEX. LAB. CODE § 408.0041(f), the insurance carrier must pay benefits based on the opinion of the DD during any pending dispute.
9. Pursuant to 28 TEX. ADMIN. CODE § 127.10(h), the insurance carrier must pay all benefits in accordance with the DD's report for the issues in dispute no later than five days after receiving the report.
10. Travelers violated TEX. LAB. CODE §§ 409.023 and 415.002(a)(16), (20), and (22) when it failed to timely pay accrued income benefits in accordance with the DD's report no later than five days after receiving the report.

**Order**

It is ordered that Travelers Property Casualty Company of America must pay an administrative penalty of \$10,000 within 30 days from the date of this order. Travelers Property Casualty Company of America 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.



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Cassie Brown  
Commissioner of Workers' Compensation

Approved Form and Content:



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

**Affidavit**

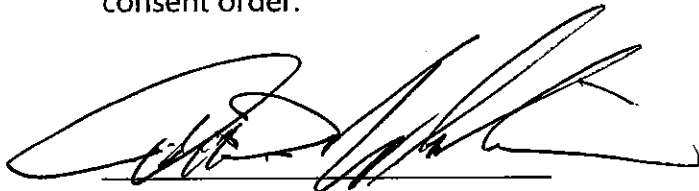
STATE OF Texas §  
COUNTY OF Dallas §

Before me, the undersigned authority, personally appeared Alan WIRKMAN who being by me duly sworn, deposed as follows:

"My name is Alan WIRKMAN. 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 field vice president and am the authorized representative of Travelers Property Casualty Company of America. I am duly authorized by the organization to execute this statement.

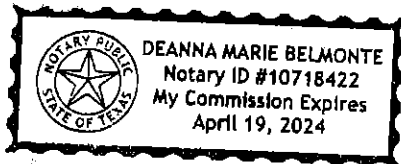
Travelers Property Casualty Company of America has knowingly and voluntarily entered into this consent order and agrees with and consents to the issuance and service of this consent order."



Affiant

SWORN TO AND SUBSCRIBED before me on June 18, 2020.

(NOTARY SEAL)



Deanna Belmonte

Signature of Notary Public

Deanna Belmonte

Printed Name of Notary Public

4-19-2024

Commission Expiration