

No. **2021-7068**

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

Date: 11/9/2021

Subject Considered:

US Acute Care Solutions
4535 Dressler Road NW
Canton, Ohio 44718

Consent Order
DWC Enforcement File No. 26810

General remarks and official action taken:

This is a consent order with US Acute Care Solutions (USACS). The commissioner of the Texas Department of Insurance, Division of Workers' Compensation (DWC) considers whether DWC should take disciplinary action against USACS.

Waiver

USACS acknowledges that the Texas Labor Code and other applicable laws provide certain rights. USACS 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. USACS is a health care provider operating in the Texas workers' compensation system.
2. USACS was not selected to be tiered in the 2007, 2009, 2011, 2013, 2015, 2017, or 2019 Performance Based Oversight (PBO) assessments.

Improperly Pursuing a Private Claim against an Injured Employee

3. On [REDACTED] USACS provided medical services to an injured employee.
4. On [REDACTED] and [REDACTED] USACS sent a bill to the injured employee for the health care services it provided on [REDACTED]
5. In [REDACTED] the bill was referred to Equian, an investigative service agency. On [REDACTED] and [REDACTED] Equian contacted the injured employee about the medical debt.
6. On [REDACTED] the workers' compensation insurance carrier for the injured employee sent a letter to USACS to inform it of the injured employee's status as a workers' compensation claimant and direct it to cease billing the injured employee.
7. On [REDACTED] USACS sent a bill to the injured employee for the health care services it provided on [REDACTED]
8. There is no finding determining that the injured employee violated TEX. LAB. CODE § 408.022 in selecting a treating doctor and 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:
 - 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; the history and extent of previous administrative violations; the penalty necessary to deter future violations; and other matters that justice may require, including evidence of heightened awareness of the legal duty to comply with the Texas Workers' Compensation Act and DWC rules.
4. DWC found the following factors in TEX. LAB. CODE § 415.021(c) and 28 TEX. ADMIN. CODE § 180.26(e) to be mitigating: promptness and earnestness in responding to DWC; the third party company that contacted the injured employee was an investigative service agency, not a third-party debt collector, so the medical debt was never sent to collections; the balance on the account is \$0 and the injured employee is no longer being billed for the date of service; the workers' compensation insurance carrier mistakenly used January 3, 2019, as the date of service, instead of January 31, 2019, which caused an accounting and insurance attribution error.
5. USACS 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. USACS 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, 414.002, 414.003, 415.002, and 415.021.
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)(6)-(7), and 28 TEX. ADMIN. CODE § 180.26(h) and (i).
3. USACS 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 § 415.003(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 it provides to the injured employee unless the injury is finally adjudicated as not compensable, or the injured employee violates TEX. LAB. CODE § 408.022 relating to the selection of a doctor.
7. USACS violated TEX. LAB. CODE §§ 413.042 and 415.003(6) each time it improperly billed an injured employee for workers' compensation health care services it provided.

Order

It is ordered that US Acute Care Solutions must pay an administrative penalty of \$1,500 within 30 days from the date of this order. US Acute Care Solutions must pay the administrative penalty by company check, 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 AO-9999, P.O. Box 12030, Austin, Texas 78711-2030.



Dan Paschal, J.D.
Deputy Commissioner
Policy & Customer Services
TDI, Division of Workers' Compensation

Approved Form and Content:



Mackenzie Arthur
Staff Attorney, Enforcement
Compliance and Investigations
TDI, Division of Workers' Compensation

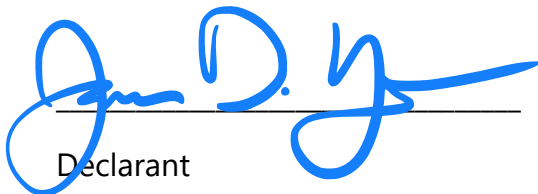
Unsworn Declaration

STATE OF Ohio §
§
COUNTY OF Stark §

Pursuant to the TEX. CIV. PRAC. REM. § 132.001(a), (b), and (d), my name is Jason Yost. I hold the position of Vice President and am the authorized representative of US Acute Care Solutions. My business address is:

4535 Dressler Rd. NW, Canton, Stark, Ohio, 44718.
(Street) (City) (County) (State) (ZIP Code)

I am executing this declaration as part of my assigned duties and responsibilities. I declare under penalty of perjury that the facts stated in this document are true and correct.


Declarant

Executed on July 19, 2021