

No. **2022-7479**

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

Date: 9/2/2022

Subject Considered:

Starr Indemnity & Liability Company
399 Park Avenue, Floor 8
New York, New York 10022-4877

Consent Order
DWC Enforcement File Nos. 24740, 26813 & 29689

General remarks and official action taken:

This is a consent order with Starr Indemnity & Liability Company (Respondent). The commissioner of the Texas Department of Insurance, Division of Workers' Compensation (DWC) considers whether DWC should take disciplinary action against Respondent.

Waiver

Respondent acknowledges that the Texas Labor Code and other applicable laws provide certain rights. Respondent 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. Respondent 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 in Texas, including workers' compensation/employers' liability insurance.

2. Respondent was not selected to be tiered in the 2007, 2009, 2010, or 2012 Performance Based Oversight (PBO) assessments. Respondent was classified as "average" tier in the 2014, 2016, 2018, and 2020 PBO assessments.

Failure to Timely Approve or Deny a Request to Commute Impairment Income Benefits

File No. 24740

3. On [REDACTED] Respondent received an injured employee's request to commute the remainder of the employee's impairment income benefits (IIBs).
4. Respondent was required to act on the request within 14 days, which was [REDACTED]
5. Respondent approved the request on [REDACTED] which was 11 days late. Respondent's adjuster was out of the office when the request was submitted and did not begin working on the request immediately.

Failure to Timely Act on a Medical Bill

File No. 26813

6. On [REDACTED] Respondent received a properly completed medical bill in the amount of [REDACTED]. Respondent's adjuster incorrectly entered the bill into Respondent's medical records system rather than payment processing system.
7. Respondent was required to act on the bill within 45 days of receiving it. The deadline to act was [REDACTED]
8. Respondent issued payment in the amount of [REDACTED] on [REDACTED] which was 7 days late.

Failure to Timely Issue Payment of Temporary Income Benefits As and When They Accrue

File No. 29689

9. Respondent was required to pay temporary income benefits (TIBs) to an injured employee weekly from [REDACTED] through [REDACTED]. Each TIBs

payment was due seven days after the first day of the pay period. Respondent paid TIBs late as follows:

	Weekly Period	Due Date	Date Paid	Days Late
a.	[REDACTED]	[REDACTED]	[REDACTED]	38
b.	[REDACTED]	[REDACTED]	[REDACTED]	31
c.	[REDACTED]	[REDACTED]	[REDACTED]	24
d.	[REDACTED]	[REDACTED]	[REDACTED]	17
e.	[REDACTED]	[REDACTED]	[REDACTED]	10
f.	[REDACTED]	[REDACTED]	[REDACTED]	3

Assessment of Sanction

1. Failure to pay income benefits in a timely and cost-effective manner is harmful to injured employees and the Texas workers' compensation system. Prompt payment of medical bills is imperative to DWC's goal of ensuring that injured employees have access to prompt, high-quality medical care.
2. Timely responses in plain language to all party participants are imperative to DWC's ability to implement and enforce the Texas Workers' Compensation Act.
3. 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;

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 Texas Labor Code §§402.083 and 402.092

- 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.
4. 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.
 5. DWC found the following factors in Tex. Lab. Code § 415.021(c) and 28 Tex. Admin. Code § 180.26(e) to be mitigating: prompt and earnest actions to prevent future violations of this type. Regarding File No. 24740, Respondent has taken steps to make requests submitted via DWC forms a high priority. Moreover, Respondent has engaged in training of its adjusters to take action as quickly as possible on the type of request that served as the basis of this violation.
 6. Respondent acknowledges communicating with DWC about the relevant statute and rule violations alleged; that the facts establish that the administrative violation(s) occurred; and that 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).
 7. Respondent 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, 402.00111, 402.00114, 402.00116, 402.00128, 414.002, and 414.003.
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. Respondent 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 §§ 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.
6. 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.
7. 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.

Failure to Timely Approve or Deny a Request to Commute IIBs

8. Pursuant to 28 Tex. Admin. Code § 147.10, an employee may elect to commute impairment income benefits and the carrier shall send a notice of approval or denial of the request to the employee no later than 14 days after receipt of the request. A notice of approval shall include payment of the commuted impairment income benefits. A notice of denial shall include the carrier's reasons for denial. A copy of the notice shall be filed with the DWC field office managing the claim. The notice is filed with DWC by submission of a DWC Form-51, which the carrier is required to file with DWC.
9. Respondent violated Tex. Lab. Code § 415.002(a)(20), and 28 Tex. Admin. Code § 147.10 when it failed to comply with by failing to timely approve a request to commute IIBs.

Failure to Timely Act on a Medical Bill

10. Pursuant to Tex. Lab. Code § 408.027 and 28 Tex. Admin. Code § 133.240, an insurance carrier is required to timely process and take final action on a completed medical bill within 45 days of receiving the bill.
11. Respondent violated Tex. Lab. Code §§ 408.027; 415.002(a)(20) and (22); and 28 Tex. Admin. Code § 133.240 by failing to pay, reduce, deny, or determine to audit a completed medical bill within 45 days of receiving the bill.

Failure to Timely Issue Payment of Temporary Income Benefits As and When They Accrue

12. Pursuant to Tex. Lab. Code §§ 408.081, 408.082, and 409.021 and 28 Tex. Admin. Code §§ 124.3 and 124.7, an insurance carrier is required to initiate payment of TIBs no later than the 15th day after it receives written notice of the injury or the seventh day after the accrual date, unless the insurance carrier notifies DWC and the injured employee in writing of its refusal to pay.
13. Respondent violated Tex. Lab. Code §§ 409.021; 415.002(a)(20), and (22); and 28 Tex. Admin. Code §§ 124.3 and 124.7, each time Respondent failed to timely issue payment of TIBs.

Order

It is ordered that Starr Indemnity & Liability Company must pay an administrative penalty of \$4,300 within 30 days from the date of this order. Starr Indemnity & Liability Company 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.



Jeff Nelson
Commissioner
TDI, Division of Workers' Compensation

Approved Form and Content:



Austin Southerland
Staff Attorney, Enforcement
Compliance and Investigations
TDI, Division of Workers' Compensation

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Commissioner's Order
Starr Indemnity & Liability Company
DWC Enforcement File Nos. 24740, 26813 & 29689
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Unsworn Declaration

STATE OF : NY §
§
COUNTY OF : NY §

Pursuant to the Tex. Civ. Prac. and Rem. Code § 132.001(a), (b), and (d), my name is Dave Fitzgerald I hold the position of Global Chief Claims Officer and am the authorized representative of Starr Indemnity & Liability Company. My business address is: 399 Park Avenue, New York, NY 10022

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.

Dave Fitzgerald

Dave Fitzgerald

Executed on August 30, 2022, 2022.

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