

No. 2023-7799

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

Date: 2/15/2023

Subject Considered:

Hartford Underwriters Insurance Company
One Hartford Plaza
Hartford, Connecticut 06155

Consent Order
DWC Enforcement File No. 27743

General remarks and official action taken:

This is a consent order with Hartford Underwriters Insurance 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 classified as "average" tier in the 2007, 2009, 2010, 2014, 2016, and 2020 Performance Based Oversight (PBO) assessments, and as "high" tier in the 2012, and 2018 PBO assessments.

3. Respondent issued a *Notice of Disputed Issues and Refusal to Pay Benefits* (PLN-11) after receiving a *Claim for Workers' Compensation Death Benefits* (DWC-42) filed on behalf of a deceased employee's natural born minor son.
4. On [REDACTED] the deceased employee died in the course and scope of his employment, and Respondent first received notice of the death that same day.
5. On [REDACTED] Respondent received a DWC-42, accompanied by a birth certificate, claiming death benefits on behalf of the minor son.
6. On [REDACTED] the Respondent issued a PLN-11 refusing to pay benefits stating that the information provided was insufficient to show there are no other beneficiaries who may be eligible to receive benefits.
7. Respondent did not contest that the natural born minor son was an eligible beneficiary for death benefits in the claim.
8. On [REDACTED] the deceased employee's mother and sister provided signed written statements attesting that they had no knowledge of any other children of the deceased employee besides the minor son.
9. Respondent failed to pay death benefits to the minor son until a contested case hearing was held on [REDACTED] when DWC ordered Respondent to pay death benefits.
10. On [REDACTED] Respondent paid death benefits to the beneficiary in the amount of [REDACTED]

Assessment of Sanction

1. Failure to provide income benefits in a timely and cost-effective manner is harmful to injured employees and the Texas workers' compensation system.
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, including the nature, circumstances, consequences, extent, and gravity of the prohibited act; the history and extent of previous administrative violations; 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 mitigating factors pursuant to Tex. Lab. Code § 415.021(c) and 28 Tex. Admin. Code § 180.26(e): PBO assessments, and Respondent's prompt and earnest actions to prevent future violations by implementing procedures relating to the investigation of death benefit claims to ensure that any similar future beneficiary issues are fully investigated, and benefits are paid when owed.
5. 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).
6. 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, 402.00114, 402.00116, 402.00128, 414.002, 414.003, 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. 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 § 408.181, an insurance carrier shall pay death benefits to the legal beneficiary if a compensable injury to the employee results in death.
6. Pursuant to 28 Tex. Admin. Code. §132.4, a child eligible for death benefits is the son or daughter of a deceased employee, and a person claiming benefits as the biological or adoptive son or daughter of a deceased employee shall submit proof of relationship to the deceased employee to the carrier or along with the claim for death benefits. The claimant shall submit a certified copy of the claimant's birth certificate or decree of adoption. If these documents do not exist, the claimant shall submit other proof of relationship, such as baptismal records, court orders establishing paternity, voluntary admissions of paternity, or affidavits of persons who have personal knowledge of the relationship to the deceased employee.
7. Pursuant to Tex. Lab. Code § 409.022(c), an insurance carrier commits an administrative violation if the insurance carrier does not have reasonable grounds for a refusal to pay benefits, as determined by the commissioner.
8. Pursuant to Tex. Lab. Code § 415.002(a)(1), an insurance carrier or its representative commits an administrative violation if that person misrepresents a provision of this subtitle to an employee, an employer, a health care provider, or a legal beneficiary.

9. Pursuant to Tex. Lab. Code § 415.002(a)(11), an insurance carrier or its representative commits an administrative violation if that person fails to process claims promptly in a reasonable and prudent manner.
10. Pursuant to Tex. Lab. Code § 415.002(a)(22), an insurance carrier or its representative commits an administrative violation if that person fails to comply with a provision of the Texas Workers' Compensation Act.
11. Respondent violated Tex. Lab. Code § 415.002(a)(1) by misrepresenting to the deceased employee's minor son that death benefits were not owed due to insufficient evidence to show there are no other beneficiaries who may be eligible to receive benefits. This was not valid grounds to deny benefits and misrepresented Respondent's legal duties.
12. Respondent violated Tex. Lab. Code §§ 409.022(c), 415.002(a)(11), and 415.002(a)(22) by denying death benefits to an eligible beneficiary without reasonable grounds.


Order

It is ordered that Hartford Underwriters Insurance Company must pay an administrative penalty of \$22,000 within 30 days from the date of this order. Hartford Underwriters Insurance 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.



Jen Nelson
Commissioner
TDI, Division of Workers' Compensation

Approved Form and Content:



Connor Ambrosini
Staff Attorney, Enforcement
Compliance and Investigations
TDI, Division of Workers' Compensation

Unsworn Declaration

STATE OF CALIFORNIA §
COUNTY OF SACRAMENTO §
§

Pursuant to the Tex. Civ. Prac. and Rem. Code § 132.001(a), (b), and (d), my name is Julie Riddle. I hold the position of Assistant Director, Claim Compliance and am the authorized representative of Hartford Underwriters Insurance Company. My business address is:

4245 Meridian Parkway, Suite 200, Aurora, Du Page, IL, 60504.

(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.

Julie Riddle

Declarant

Executed on February 9, 2023.