

No. **2023-8018**

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

Date: 6/13/2023

Subject Considered:

Safety National Casualty Corporation
1832 Schuetz Road
Saint Louis, Missouri 63146

Consent Order
DWC Enforcement File Nos. 31474, 31514, 31622, 31681, and 31682

General remarks and official action taken:

This is a consent order with Safety National Casualty Corporation (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 workers' compensation/employers' liability insurance in Texas.
2. Respondent was not selected to be tiered in the 2007 Performance Based Oversight (PBO) assessment. Respondent was classified as "average" tier in the 2009, 2010, 2012, 2014, 2016, 2018, 2020, and 2022 PBO assessments.

Failure to Timely Initiate or Pay Accrued Temporary Income Benefits (TIBs)

File No. 31474

- 3. On [REDACTED] Respondent received an injured employee’s first notice of injury, which occurred on [REDACTED]
- 4. The injured employee’s first day of disability began on [REDACTED] and the eighth day of disability accrued on [REDACTED]
- 5. Respondent was required to initiate or dispute TIBs the later of 15 days after it received written notice of the injury or seven days after the accrual date. In this case, the later date was [REDACTED]
- 6. Respondent was required to pay TIBs to an injured employee from [REDACTED] through [REDACTED] Respondent failed to timely pay TIBs, as follows:

	Payment Period	Date Due	Date Paid	Days Late
a.	[REDACTED]	[REDACTED]	[REDACTED]	36
b.	[REDACTED]	[REDACTED]	[REDACTED]	36
c.	[REDACTED]	[REDACTED]	[REDACTED]	30
d.	[REDACTED]	[REDACTED]	[REDACTED]	27
e.	[REDACTED]	[REDACTED]	[REDACTED]	20
f.	[REDACTED]	[REDACTED]	[REDACTED]	13
g.	[REDACTED]	[REDACTED]	[REDACTED]	6

- 7. On [REDACTED] Respondent paid [REDACTED] in late TIBs and interest.

File No. 31681

- 8. On [REDACTED] Respondent received the first notice of injury for an employee. The injury occurred on [REDACTED]
- 9. The first day of disability for the injured employee began on [REDACTED] and the eighth day of disability accrued on [REDACTED]

- 10. Respondent was required to initiate or dispute TIBs the later of 15 days after it received written notice of the injury or seven days after the accrual date. In this case, the later date was on [REDACTED]
- 11. Respondent was required to pay TIBs to an injured employee from [REDACTED] through [REDACTED]. Respondent failed to timely initiate or pay TIBs, as follows:

	Payment Period	Date Due	Date Paid	Days Late
a.	[REDACTED]	[REDACTED]	[REDACTED]	73
b.	[REDACTED]	[REDACTED]	[REDACTED]	73
c.	[REDACTED]	[REDACTED]	[REDACTED]	66
d.	[REDACTED]	[REDACTED]	[REDACTED]	59
e.	[REDACTED]	[REDACTED]	[REDACTED]	31
f.	[REDACTED]	[REDACTED]	[REDACTED]	24
g.	[REDACTED]	[REDACTED]	[REDACTED]	17
h.	[REDACTED]	[REDACTED]	[REDACTED]	10
i.	[REDACTED]	[REDACTED]	[REDACTED]	3

- 12. On [REDACTED] Respondent paid the injured employee [REDACTED] in late TIBs, including interest.

File No. 31682

- 13. On [REDACTED] Respondent received an injured employee’s first notice of injury, which occurred the same day.
- 14. The injured employee’s first day of disability began on [REDACTED] and the eighth day of disability accrued on [REDACTED]
- 15. Respondent was required to initiate or dispute TIBs the latter of 15 days after it received written notice of the injury or seven days after the accrual date. In this case, the latter date was on [REDACTED]
- 16. On [REDACTED] Respondent paid [REDACTED] in TIBs, which was eight days late. Respondent paid [REDACTED] interest on [REDACTED]

Failure to Timely Pay Supplemental Income Benefits (SIBs)

File No. 31514

17. On [REDACTED] Respondent received a DWC-52, *Application for Supplemental Income Benefits* (SIBs) for the ninth Quarter for an injured employee. The ninth quarter of SIBs began on [REDACTED]
18. Respondent's payment for the second month of the ninth quarter was due by the 37th day of the second quarter, which was [REDACTED]
19. On [REDACTED] Respondent issued [REDACTED] in SIBs, which was three days late.

Failure to Timely Pay Accrued Impairment Income (IIBs)

File No. 31622

20. Respondent was required to pay accrued impairment income benefits (IIBs) to an injured employee for the period between [REDACTED] through [REDACTED]. The IIBs payments were due seven days after the first day of each pay period. Respondent failed to timely pay IIBs, as follows:

	Payment Period	Date Due	Date Paid	Days Late
a.	[REDACTED]	[REDACTED]	[REDACTED]	15
b.	[REDACTED]	[REDACTED]	[REDACTED]	8
c.	[REDACTED]	[REDACTED]	[REDACTED]	1

21. On [REDACTED] Respondent paid [REDACTED] in late IIBs.
22. On [REDACTED], Respondent paid interest in the amount of [REDACTED]

Assessment of Sanction

1. Failure to provide income benefits and interest 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; whether the administrative violation had a negative impact on the delivery of benefits to an injured employee; and other matters that justice may require, including, but not limited to the size of the company or practice and evidence of heightened awareness of the legal duty to comply with the Texas Workers' Compensation Act and DWC rules.
4. DWC considers the following factors mitigating, pursuant to Tex. Lab. Code § 415.021(c) and 28 Tex. Admin. Code § 180.26(e): Respondent's demonstration of good faith, including actions it took to rectify the consequences of the prohibited act; and employers' late and inaccurate reporting which impeded Respondent's ability to react timely.

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, 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 § 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.

Failure to Timely Initiate or Pay Accrued Temporary Income Benefits (TIBs)

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 §§ 408.081; 408.082; 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.
9. Respondent violated Tex. Lab. Code §§ 409.021; 415.002(a)(16), (20), and (22); and 28 Tex. Admin. Code §§ 124.3 and 124.7 each time Respondent failed to timely initiate TIBs or pay accrued TIBs.

Failure to Timely Pay Supplemental Income Benefits

10. Pursuant to Tex. Lab. Code § 408.144, SIBs are calculated quarterly and paid monthly.
11. Pursuant to Tex. Lab. Code § 408.145, an insurance carrier must pay SIBs no later than the seventh day after the employee's impairment income benefit period expires and must continue to pay the benefits in a timely manner.
12. Pursuant to Tex. Lab. Code § 409.023, an insurance carrier must continue to pay benefits promptly as and when benefits accrue without a final decision, order, or other action from the commissioner, except as otherwise provided.
13. Pursuant to 28 Tex. Admin. Code § 130.107(a), an insurance carrier must make the first payment of SIBs for the first quarter by the 10th day after receiving a DWC determination of entitlement, or by the 7th day of the quarter. The second payment must be on or before the 37th day of the first quarter, and the third payment on or before the 67th day of the first quarter.
14. Pursuant to 28 Tex. Admin. Code § 130.107(b), for subsequent SIBs quarters, an insurance carrier must make the first payment on or before the tenth day after the

day on which the insurance carrier received the application for SIBs, or the seventh day of the quarter. The second payment must be on or before the 37th day of the quarter, and the third payment on or before the 67th day of the quarter.

15. Respondent violated Tex. Lab. Code §§ 408.145; 409.023; 415.002(a)(20) and (22); and 28 Tex. Admin. Code § 130.107 by failing to timely initiate SIBs, or to continue to pay SIBs benefits promptly as and when benefits accrued.

Failure to Timely Pay Accrued IIBs

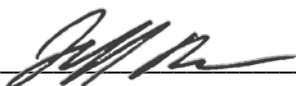
16. Pursuant to Tex. Lab. Code § 408.121(b) and 28 Tex. Admin. Code § 130.8, an employee's entitlement to IIBs begins the day after the employee reaches maximum medical improvement (MMI) and, when the date of MMI is not disputed, the carrier shall initiate payment of IIBs on or before the fifth day after the date of receipt of the employee's treating doctor's medical evaluation report.
17. 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.
18. Respondent violated Tex. Lab. Code §§ 408.121; 415.002(a)(16), (20) and (22); and 28 Tex. Admin. Code § 130.8 each time Respondent failed to timely pay accrued IIBs.

Failure to Timely Pay Interest

19. Pursuant to Tex. Lab. Code § 408.064 and 28 Tex. Admin. Code § 126.12(b), accrued but unpaid income benefits and interest shall be paid in a lump sum.
20. Respondent violated Tex. Lab. Code § 415.002(a)(20) and (22) and 28 Tex. Admin. Code § 126.12(b) each time Respondent failed to timely pay interest with accrued but unpaid income benefits.

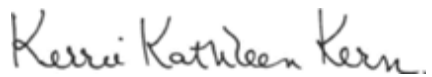
Order

It is ordered that Safety National Casualty Corp. must pay an administrative penalty of \$19,000 within 30 days from the date of this order Safety National Casualty Corp. 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:



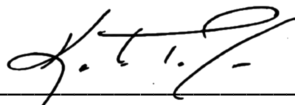
Kathleen Kern
Staff Attorney, Enforcement
Compliance and Investigations
TDI, Division of Workers' Compensation

Unsworn Declaration

STATE OF Missouri §
§
COUNTY OF St. Louis §

Pursuant to the Tex. Civ. Prac. and Rem. Code § 132.001(a), (b), and (d), my name is Karla A Taylor. I hold the position of VP-Insurance Compliance and am the authorized representative of Safety National Casualty Corp. My business address is: 1832 Schuetz Rd, St. Louis, St. Louis, MO, 63146.
(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 6/2/2023, 2023.