

No. 2024-8615

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

**Date:** 4/17/2024

**Subject Considered:**

Ohio Security Insurance Company  
175 Berkeley Street  
Boston, Massachusetts 02116-5066

Consent Order  
DWC Enforcement File No. 33740

**General remarks and official action taken:**

This is a consent order with Ohio Security 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 2022, 2020, and 2018 Performance Based Oversight (PBO) assessments.

Failure to Timely Comply with a Benefit Dispute Agreement

3. On [REDACTED], the injured employee and insurance carrier executed a Benefit Dispute Agreement (BDA) setting an injured employee's average weekly wage at \$ [REDACTED].
4. Respondent received the DWC-approved BDA by facsimile on [REDACTED].
5. The BDA changed the injured employee's average weekly wage, creating a deficit in previous TIBs payments issued to the injured employee.
6. Respondent was required to pay the deficit in accrued temporary income benefits (TIBs) within five days of the execution of the BDA. In this case, the deadline to pay was [REDACTED].
7. Respondent paid \$ [REDACTED] in accrued TIBs on [REDACTED], which was 14 days late.
8. On [REDACTED], Respondent paid \$ [REDACTED] in accrued interest on the late TIBs, which was 21 days late.

**Assessment of Sanction**

1. Failure to timely comply with a benefit dispute agreement that is executed in good faith by the parties and approved by DWC increases the likelihood of disputes, and is harmful to injured employees and the Texas workers' compensation system because it damages system participants' faith in the dispute resolution process.
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; whether the administrative violation had a negative impact on the delivery of benefits to an injured employee; the history and extent of previous administrative violations; and other matters that justice may require, including but not limited to the size of the company. Specifically, Respondent has received five consent orders in the past five years involving late TIBS, and two consent orders involving failure to timely comply with DWC orders.
4. DWC considered Respondent's lack of recent discipline involving a breach of a BDA as a mitigating factor pursuant to Tex. Lab. Code § 415.021(c) and 28 Tex. Admin. Code § 180.26(e).
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).

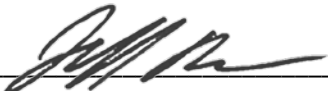
**Conclusions of Law**

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)(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.
6. Pursuant to Tex. Lab. Code § 415.010, a person commits a violation by breaching a provision of an agreement that DWC approved.
7. Respondent violated Tex. Lab. Code §§ 415.002(a)(22) and 415.010 by failing to timely comply with a BDA.


**Order**

It is ordered that Ohio Security Insurance Company must pay an administrative penalty of \$2,500 within 30 days from the date the Commissioner signs the order.

After receiving an invoice, Ohio Security Insurance Company must pay the administrative penalty by electronic transfer using the State Invoice Payment Service, 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, PO Box 12030, Austin, Texas 78711-2030.

  
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Jeff Nelson  
Commissioner  
TDI, Division of Workers' Compensation

Approved Form and Content:

  
\_\_\_\_\_  
Stephen Jewell  
Staff Attorney, Enforcement  
Compliance and Investigations  
TDI, Division of Workers' Compensation

