

No. 2024-8987

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

**Date:** 12/3/2024

**Subject Considered:**

Memorial Hermann Health System- Southeast Hospital  
PO Box 301208  
Dallas, Texas 75303-1208

Consent Order  
DWC Enforcement File No. 35013

**General remarks and official action taken:**

This is a consent order with Memorial Hermann Health System- Southeast Hospital (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 is a health care provider operating in the Texas workers' compensation system.
2. Respondent was not selected to be tiered in the 2022, 2020, or 2018 Performance Based Oversight (PBO) assessments.

### Failure to Timely Comply with a Refund Request from an Insurance Carrier

1. On [REDACTED], Respondent received a properly completed request from an insurance carrier asking Respondent to refund \$ [REDACTED] improperly paid for medical services provided to an injured employee on [REDACTED].
2. Respondent was required to contact the requestor with the decision to pay or deny the refund request not later than the 45th day of receipt of the request, which in this case was by [REDACTED].
3. On [REDACTED], Respondent issued the refund, which was 281 days late.

### **Assessment of Sanction**

1. Failing to comply with the statutes and rules governing proper billing and reimbursements in the Texas workers' compensation system imposes an undue financial burden on system participants, increases the likelihood of disputes, and is contrary of DWC's goal of a fair and balanced 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 factor 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.
  4. DWC found the following factor in Tex. Lab. Code § 415.021(c) and 28 Tex. Admin. Code § 180.26(e) to be mitigating: Respondent's prompt and earnest actions to prevent future violations including Respondent's corrective measures to prevent future violations such as retiring old fax numbers and additional training.
  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 § 408.0271(c), a health care provider shall reimburse the insurance carrier for payments received by the provider for inappropriate charges

not later than the 45th day after the date of the carrier's notice. The failure by the health care provider to timely remit payment to the carrier constitutes an administrative violation.

5. Pursuant to Tex. Lab. Code §§ 415.003(5) and (6), a health care provider commits an administrative violation if he fails to comply with a DWC rule or a provision of the Texas Workers' Compensation Act.
6. Pursuant to 28 Tex. Admin. Code § 133.260(c), a health care provider shall respond to a request for a refund from an insurance carrier by the 45th day after receipt of the request, either by paying the requested amount or submitting an appeal to the insurance carrier with a specific explanation of the reason the health care provider has failed to remit payment.
7. Pursuant to Tex. Lab. Code § 415.021, the commissioner may assess an administrative penalty against a person who commits an administrative violation.
8. Respondent violated Tex. Lab. Code §§ 408.0271(c); 415.003(5) and (6); and 28 Tex. Admin Code § 133.260(c) by failing to timely comply with a refund request.

**Order**

It is ordered that Memorial Hermann Health System- Southeast Hospital must pay an administrative penalty of \$700 within 30 days from the date the Commissioner signs the order.

After receiving an invoice, Memorial Hermann Health System- Southeast Hospital must pay the administrative penalty by electronic transfer using the State Invoice Payment Service, 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:

  
\_\_\_\_\_  
Daniel Garcia  
Staff Attorney, Enforcement  
Compliance and Investigations  
TDI, Division of Workers' Compensation

**Unsworn Declaration**

**STATE OF**  Texas  §  
§  
**COUNTY OF**  Harris  §

Pursuant to the Tex. Civ. Prac. and Rem. Code § 132.001(a), (b), and (d), my name is  Theresa Pappas . I hold the position of  VP, Rev. Cycle Hosp. Operations  and am the authorized representative of Memorial Hermann Health System- Southeast Hospital. My business address is:

909 Frostwood, Suite 3703.3 ,  Houston ,  Harris , TX,  77024 .  
(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.

DocuSigned by:  
 Theresa Ancelet Pappas   
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Declarant

Executed on  10/14/2024 | 10:18 AM CDT , 2024.