

No. 2024-9024

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

**Date:** 12/16/2024

**Subject Considered:**

Property and Casualty Insurance Company of Hartford  
One Hartford Plaza  
Hartford, Connecticut 06155-001

Consent Order  
DWC Enforcement File No. 34187

**General remarks and official action taken:**

This is a consent order with Property and Casualty Insurance Company of Hartford (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 and 2018 Performance Based Oversight (PBO) assessments. Respondent was classified as "high" tier in the 2020 PBO assessment.

Failure to Pay Accrued Income Benefits Based on a Designated Doctor Report

3. On [REDACTED], an employee was injured at work.
4. On [REDACTED], the injured employee's treating doctor examined the employee and submitted a form DWC-073, *Work Status Report (DWC-073)*, restricting the employee's working conditions to sit-down work only through [REDACTED].
5. On [REDACTED], the injured employee submitted a workers compensation claim and another DWC-073 placing additional restrictions on the employee's working conditions limited to a maximum of six hours per day and with 10-minute breaks every two hours.
6. On [REDACTED], Respondent offered the injured employee an unsigned bona fide offer of employment (BFOE). The BFOE referenced the DWC-073 dated [REDACTED]. The BFOE proposed setting the employee's work schedule from 7:00 a.m. to 3:00 p.m. (8 hours).
7. The employee did not accept the offer and did not return to work.
8. On [REDACTED], Respondent offered a second, signed BFOE to the injured employee that referenced an updated DWC-073 dated [REDACTED]. The second BFOE also proposed setting the employee's work schedule from 7:00 a.m. to 3:00 p.m. Respondent provided no evidence that it attached the [REDACTED], DWC-073 to the second BFOE.
9. On [REDACTED], Respondent received a designated doctor (DD) report of a DD examination performed on [REDACTED].
10. The DD determined that the injured employee sustained permanent impairment as a result of the compensable injury. The DD also determined that the injured employee reached clinical maximum medical improvement on [REDACTED], with a [REDACTED] % impairment rating.
11. Respondent was required to pay accrued income benefits no later than five days after receiving the DD report. The deadline to pay benefits was [REDACTED].

12. On [REDACTED], Respondent issued \$ [REDACTED] in TIBs to the injured employee, which included due interest, which was 245 days late.

### **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; the history of compliance with electronic data interchange requirements; and prompt and earnest actions to prevent future violations.

4. DWC is aware of no mitigating factors 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)(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.

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 § 408.0041(f), an insurance carrier must pay benefits based on the opinion of the DD during any pending dispute.
9. Pursuant to 28 Tex. Admin. Code § 127.10(h), an insurance carrier must pay all benefits in accordance with the DD report for the issues in dispute no later than five days after receiving the report.
10. Pursuant to 28 Tex. Admin. Code § 129.6(b), an employer may offer an employee a modified duty position which has restricted duties which are within the employee's work abilities as determined by the employee's treating doctor.
11. Pursuant to 28 Tex. Admin. Code § 129.6(c), an employer's offer of modified duty shall be made to the employee in writing and in the form and manner prescribed by the Commission. A copy of the Work Status Report on which the offer is being based shall be included with the offer as well as the following information:
  - (1) the location at which the employee will be working;
  - (2) the schedule the employee will be working;
  - (3) the wages that the employee will be paid;
  - (4) a description of the physical and time requirements that the position will entail; and
  - (5) a statement that the employer will only assign tasks consistent with the employee's physical abilities, knowledge, and skills and will provide training if necessary.
12. Pursuant to 28 Tex. Admin. Code § 129.6 (f), the following is the order of preference that shall be used by carriers evaluating an offer of employment:
  - a. the opinion of a doctor selected by the Commission to evaluate the employee's work status;
  - b. the opinion of the treating doctor[.]
13. Respondent violated Tex. Lab. Code §§ 409.023 and 415.002(a)(16), (20), and (22); and 28 Tex. Admin. Code § 127.10(i) by failing to timely pay accrued income benefits no later than five days after receiving the DD report.

**Order**

It is ordered that Property and Casualty Insurance Company of Hartford must pay an administrative penalty of \$5,000 within 30 days from the date the Commissioner signs the order.

After receiving an invoice, Property and Casualty Insurance Company of Hartford 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:

  
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Stephen Jewell  
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 Property and Casualty Insurance Company of Hartford . My business address is:

1415 W. Diehl Road, Naperville, DuPage, IL, 60563.  
(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 July 19, 2024.