

No. **2024-9026**

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

Date: 12/16/2024

Subject Considered:

Williamsburg National Insurance Company
26255 American Drive
Southfield, Michigan 48038-6112

Consent Order
DWC Enforcement File No. 34920

General remarks and official action taken:

This is a consent order with Williamsburg National 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 workers' compensation/employers' liability insurance in Texas.
2. Respondent was not selected to be tiered in the 2018, 2020, or 2022 Performance Based Oversight (PBO) assessments.

Failure to Accurately Pay Temporary Income Benefits (TIBs)

3. On [REDACTED], Respondent was required to deduct and pay \$ [REDACTED] in attorney fees for an injured employee's benefit period. Instead, Respondent deducted and paid \$ [REDACTED] in attorney fees, creating of underpayment of \$ [REDACTED] in TIBs.
4. On [REDACTED], Respondent was required to deduct and pay \$ [REDACTED] in attorney fees for the benefit period. Instead, Respondent deducted and paid \$ [REDACTED] in attorney fees, adding \$ [REDACTED] to the underpayment. As of [REDACTED], the total underpayment was \$ [REDACTED] in TIBs.
5. From [REDACTED], through [REDACTED], Respondent improperly deducted and paid \$ [REDACTED] in attorney's fees regardless of the amount owed. Respondent's improper deductions created an underpayment of \$ [REDACTED] for the period. As of [REDACTED], the total underpayment was \$ [REDACTED] in TIBs.
6. On [REDACTED], Respondent paid \$ [REDACTED] of underpaid income benefits, leaving an underpayment of \$ [REDACTED] in TIBs.
7. From [REDACTED], through [REDACTED], Respondent improperly deducted and paid \$ [REDACTED] in attorney's fees regardless of the amount owed. Respondent's improper deductions created an underpayment of \$ [REDACTED] for the period. As of [REDACTED], the total underpayment was \$ [REDACTED] in TIBs.
8. On [REDACTED], Respondent paid the underpaid TIBs.

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 (Respondent inappropriately deducted attorney fees for 26 straight weeks at one point and over 35 weeks in total); the history and extent of previous administrative violations; the penalty necessary to deter future violations; the history and extent of previous administrative violations; and whether the administrative violation had a negative impact on the delivery of benefits to an injured employee.
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) and (22), an insurance carrier or its representative commits an administrative violation each time it fails to comply with a DWC rule or a provision of the Texas Workers' Compensation Act.
6. Pursuant to Tex. Lab. Code § 408.103 and Tex. Admin. Code § 129.3, the insurance carrier is required to pay the correct amount of TIBs.
7. Respondent violated Tex. Lab. Code §§ 408.103; 415.002(a)(20) and (22); and 28 Tex. Admin. Code § 129.3 each time Respondent failed to accurately pay TIBs.

Order

It is ordered that Williamsburg National Insurance Company must pay an administrative penalty of \$4,500 within 30 days from the date the Commissioner signs the order.

After receiving an invoice, Williamsburg National 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.



Jeff Nelson
Commissioner
TDI, Division of Workers' Compensation

Approved Form and Content:



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