

No. 2025-9115

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

Date: 1/30/2025

Subject Considered:

Carepoint Partners
PO Box 418711
Boston, Massachusetts 02241-8711

Consent Order
DWC Enforcement File No. 35413

General remarks and official action taken:

This is a consent order with Carepoint Partners (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 any years PBO assessments.

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

3. On [REDACTED], Respondent received via certified mail a properly completed refund request from the insurance carrier in the amount of \$ [REDACTED] for date of service [REDACTED]. 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].
4. On [REDACTED], Respondent paid \$ [REDACTED] to the insurance carrier, which was 288 days late.
5. On [REDACTED], Respondent paid \$ [REDACTED] in due interest to the insurance carrier, which was 172 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 factors in Tex. Lab. Code § 415.021(c) and 28 Tex. Admin. Code § 180.26(e) to be aggravating:
 - a. the seriousness of the violation, including days late, and the amount at issue;
 - b. the penalty necessary to deter future violations;
 - c. the economic benefit resulting from the prohibited act; and
 - d. the size of Respondent's company.
 4. DWC considered Respondent's lack of prior similar violations 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 § 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.
6. 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.
7. 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.
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.

Failure to Timely Pay Interest on a Late Refund Payment

9. Pursuant to 28 Tex. Admin. Code § 133.260(h) all refunds requested by the insurance carrier and paid by a health care provider on or after the 60th day after the date the health care provider originally received the request for the refund shall include interest calculated in accordance with § 134.130 of this title without any action taken by the division. The interest payment shall be paid at the same time as the refund payment.
10. Respondent violated Tex. Lab. Code §§ 415.003(5) and (6), and 28 Tex. Admin. Code § 133.260(h) by failing to timely pay interest on a late refund payment.

Order

It is ordered that Carepoint Partners must pay an administrative penalty of \$1,500 within 30 days from the date the Commissioner signs the order.

After receiving an invoice, Carepoint Partners 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.



Jeff Nelson
Commissioner
TDI, Division of Workers' Compensation

Approved Form and Content:



Austin Southerland
Staff Attorney, Enforcement
Compliance and Investigations
TDI, Division of Workers' Compensation

Unsworn Declaration

STATE OF Illinois §
COUNTY OF Lake §

Pursuant to the Tex. Civ. Prac. and Rem. Code § 132.001(a), (b), and (d), my name is Luke Whitworth I hold the position of Chief Operating Officer and am the authorized representative of Carepoint Partners. My business address is:

300 Lakeside Drive, 300, Portnebourn Lake, IL, 60015

(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.

Luke Whitworth

Declarant

Executed on January 13, 2025.

Michelle L Petersen

