

No. **2025-9348**

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

Date: 6/9/2025

Subject Considered:

Arch Insurance Company
210 Hudson Street, Suite 300
Jersey City, New Jersey 07311-1206

Consent Order
DWC Enforcement File Nos. 36084 & 36086

General remarks and official action taken:

This is a consent order with Arch 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 2020, 2022, and 2024 Performance Based Oversight (PBO) assessments.

Failure to Timely Pay Accrued Temporary Income Benefits & Improper Suspension of Benefits

File No. 36086

3. On [REDACTED], DWC ordered an injured employee to attend a designated doctor (DD) examination on [REDACTED].
4. On [REDACTED], Respondent received notice that the injured employee had moved to a new address.
5. On [REDACTED], DWC issued an amended order changing the date and location of the DD exam. The DD exam was rescheduled for [REDACTED].
6. On [REDACTED], Respondent received notice of the rescheduled exam.
7. On [REDACTED], Respondent received further notice of the rescheduled exam via a fax sent by the DD. The fax stated that the DD exam was rescheduled because the injured employee had moved to a new address.
8. Despite these notices, Respondent improperly suspended temporary income benefits (TIBs) on [REDACTED]. Respondent sent a PLN Form-9, *Notice of Suspension of Indemnity Benefits*, (PLN-9) to the injured employee stating that it was suspending TIBs because the injured employee failed to attend the DD exam on [REDACTED].
9. On [REDACTED], Respondent reinstated TIBs and issued a deficit payment of \$ [REDACTED] in accrued TIBs for the period of [REDACTED], to [REDACTED]. Respondent paid \$ [REDACTED] in TIBs for the benefit week of [REDACTED], four days late.
10. On [REDACTED], Respondent sent a PLN Form-10A, *Notice of Reinstatement of Indemnity Benefits*, (PLN-10) to the injured employee stating that it was reinstating TIBs as of [REDACTED], because it found that the injured employee had good cause for not attending the DD exam on [REDACTED].

Failure to Accurately Pay Accrued TIBs

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11. Respondent was required to pay TIBs to an injured employee for the period of [REDACTED] through [REDACTED].
12. The TIBs payment was due seven days after the first day of the pay period, or by [REDACTED].
13. On [REDACTED], Respondent paid \$ [REDACTED] in TIBs and \$ [REDACTED] in attorney's fees. However, Respondent incorrectly deducted attorney's fees from the injured employee's benefits, and should have paid the injured employee \$ [REDACTED] in TIBs.
14. On [REDACTED], Respondent paid [REDACTED] in owed TIBs 49 days late.

Assessment of Sanction

1. Failure to provide accurate 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 (EDI) requirements;
 - 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 violations, including the unreasonable suspension of TIBs and the negative impact on the delivery of ██████ in benefits to an injured employee;
 - b. Respondent has prior disciplinary history, including 11 recent consent orders involving late TIBs;
 - c. the penalty necessary to deter future violations; and
 - d. other matters that justice may require, including Respondent's size and heightened awareness of the legal duty to comply with the Texas Workers' Compensation Act and DWC rules.
 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 § 408.101, an employee is entitled to TIBs if the employee has a disability and has not attained maximum medical improvement.
7. Pursuant to Tex. Lab. Code §§ 408.081, 409.023, and 415.002(a)(16), an insurance carrier must pay accurate benefits weekly, as and when the benefits accrue, without order from the commissioner.

Failure to Timely Pay Accrued TIBs

File No. 36086

8. Pursuant to Tex. Lab. Code §§ 408.081, 408.082, and 28 Tex. Admin. Code § 124.7, an insurance carrier is required to initiate payment of TIBs no later than the seventh day after the accrual date.
9. Respondent violated Tex. Lab. Code §§ 408.081, 409.023, 415.002(a)(16), (20), & (22); and 28 Tex. Admin. Code § 124.7 by failing to timely pay accrued TIBs.

Improper Suspension of Income Benefits

File No. 36086

10. Pursuant to Tex. Lab. Code §§ 409.022(c) and 415.002(a)(2), an insurance carrier commits an administrative violation if it does not have reasonable grounds to refuse to pay benefits.

11. Respondent violated Tex. Lab. Code §§ 409.022(c) and 415.002(a)(2) & (22) when it improperly suspended TIBs.

Failure to Accurately Pay Accrued TIBs

File No. 36084

12. Pursuant to Tex. Lab. Code § 408.103 and 28 Tex. Admin. Code § 129.3, the amount of a temporary income benefit is equal to 70 percent of the injured employee's average weekly wage.
13. Respondent violated Tex. Lab. Code §§ 408.081, 408.103, 409.023, 415.002(a)(16), (20) & (22); and 28 Tex. Admin. Code §§ 124.7 and 129.3 each time Respondent failed to accurately pay TIBs.

Order

It is ordered that Arch Insurance Company must pay an administrative penalty of \$2,200 within 30 days from the date the Commissioner signs the order.

After receiving an invoice, Arch 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:



Alberto Garcia
Staff Attorney, Enforcement
Compliance and Investigations
TDI, Division of Workers' Compensation

Unsworn Declaration

STATE OF New Jersey §
§
COUNTY OF Hudson §

Pursuant to the Tex. Civ. Prac. and Rem. Code § 132.001(a), (b), and (d), my name is Kathleen Campbell. I hold the position of Vice President and am the authorized representative of Arch Insurance Company. My business address is:
210 Hudson Street, Suite 600, Jersey City, Hudson, NJ, 07311.
(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.


Declarant

Executed on May 22nd, 2025.