

No. **2025-9425**

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

Date: 7/24/2025

Subject Considered:

Indemnity Insurance Company of North America
115 Wild Basin Road, Suite 207
West Lake Hills, Texas 78746

Consent Order
DWC Enforcement File No. 36456

General remarks and official action taken:

This is a consent order with Indemnity Insurance Company of North America (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 classified as "average" tier in the 2020, 2022, and 2024 Performance Based Oversight (PBO) assessments.

Failure to Timely Pay Attorney Fees Ordered by DWC

3. Between [REDACTED], and [REDACTED], DWC approved \$ [REDACTED] in attorney fees for an attorney's representation of an injured employee. DWC ordered Respondent to pay at a rate of 25% of each income benefit paid to the injured employee up to the amount of attorney fees approved by DWC.
4. Between [REDACTED], and [REDACTED], Respondent paid benefits to the injured employee (IE) on multiple dates. However, Respondent failed to timely pay \$ [REDACTED] in attorney fees as follows:

	Benefits Paid to IE	Attorney Fee Owed	Date Due	Date Paid	Days Late
a.	\$ [REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	11
b.	\$ [REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	21
c.	\$ [REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	25
d.	\$ [REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	39
e.	\$ [REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	32

Failure to Accurately Pay Temporary Income Benefits (TIBs)

5. Between [REDACTED], and [REDACTED], Respondent then improperly kept deducting attorney fees from the injured employee's TIBs resulting in an underpayment of \$ [REDACTED] as follows:

	Date Paid	Benefits Owed to IE	Benefits Paid to IE	Underpayment amount
a.	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
b.	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
c.	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
d.	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
e.	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
f.	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
g.	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
h.	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
i.	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
j.	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
k.	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

	Date Paid	Benefits Owed to IE	Benefits Paid to IE	Underpayment amount
l.				
m.				
n.				
o.				
p.				
q.				
r.				
s.				
t.				
u.				
v.				
w.				
x.				
y.				
z.				
aa.				
ab.				
ac.				
ad.				
ae.				
af.				
ag.				
ah.				
ai.				
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al.				
am.				
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ao.				
ap.				
aq.				
ar.				
as.				
at.				

	Date Paid	Benefits Owed to IE	Benefits Paid to IE	Underpayment amount
au.				

6. On [REDACTED], Respondent paid \$ [REDACTED] in TIBs to the injured employee, reducing the underpayment to \$ [REDACTED].
7. Respondent failed to pay interest on the late TIBs.
8. On [REDACTED], Respondent paid the remaining \$ [REDACTED] in TIBs and paid \$ [REDACTED] in interest. Respondent underpaid interest by \$ [REDACTED].
9. On [REDACTED], Respondent paid \$ [REDACTED] in interest 269 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. Failure to timely pay attorney fees ordered by DWC hinders the division's goal of providing a fair and accessible dispute resolution process and is harmful to the Texas workers' compensation system.
3. 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;
 - 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.
4. 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 violations are serious, involving a priority order violation under Tex. Lab. Code § 402.0235, \$ [REDACTED] in inaccurate and late TIBs over 47 weeks, and interest paid 269 days late;
 - b. Respondent has a history of similar administrative violations, including 68 consent orders for late attorney fees and TIBs and six warning letters involving TIBs;
 - c. a penalty is necessary to deter future violations;
 - d. the conduct had a negative impact on the delivery of \$ [REDACTED] in benefits to an injured employee;
 - e. the conduct resulted in an economic benefit to Respondent; and
 - f. Respondent is the 11th largest workers' compensation insurance carrier in Texas and has a heightened awareness of the legal duty to comply with the Texas Workers' Compensation Act and DWC rules.
5. DWC is aware of no mitigating factors pursuant to Tex. Lab. Code § 415.021(c) and 28 Tex. Admin. Code § 180.26(e).
6. 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).
7. 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 violates a DWC rule or a provision of the Texas Workers' Compensation Act.

Failure to Timely Pay Attorney Fees Ordered by DWC

6. Pursuant to Tex. Lab. Code §§ 415.021(a) and 415.0035(e), an insurance carrier commits an administrative violation if it violates, fails to comply with, or refuses to comply with a DWC order.
7. Pursuant to 28 Tex. Admin. Code § 152.1(c), insurance carriers are required to pay attorney fees ordered by DWC. The insurance carrier must begin payment out of the approved income benefits by mailing a check to the attorney within seven days after receiving the order. As the insurance carrier pays income benefits, it must pay attorney fees until the fees are completely paid or income benefits cease.
8. Respondent violated Tex. Lab. Code §§ 415.002(a)(20) and (22); 415.021(a); 415.0035(e); and 28 Tex. Admin. Code § 152.1(c) each time Respondent failed to timely comply with a DWC order to pay attorney fees.

Failure to Accurately Pay TIBs

9. 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.

10. 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.

Failure to Timely Pay Interest with Income Benefits

11. Pursuant to Tex. Lab. Code § 408.064 and 28 Tex. Admin. Code § 126.12(b), accrued but unpaid income benefits and interest shall be paid in a lump sum.
12. Respondent violated Tex. Lab. Code §§ 408.064 and 415.002(a)(20) and (22) and 28 Tex. Admin. Code § 126.12(b) each time Respondent failed to timely pay interest with accrued but unpaid income benefits.

Order

It is ordered that Indemnity Insurance Company of North America must pay an administrative penalty of \$8,500 within 30 days from the date the Commissioner signs the order.

After receiving an invoice, Indemnity Insurance Company of North America 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:



Tyrus Housh
Staff Attorney, Enforcement
Compliance and Investigations
TDI, Division of Workers' Compensation

Unsworn Declaration

STATE OF Delaware §
§
COUNTY OF New Castle §

Pursuant to the Tex. Civ. Prac. and Rem. Code § 132.001(a), (b), and (d), my name is Daniel S. Hawthorne. I hold the position of VP, Claims and am the authorized representative of Indemnity Insurance Company of North America. My business address is:

1 Beaver Valley Road, Wilmington, New Castle, Delaware, 19803.
(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.

Daniel S. Hawthorne
Declarant

Executed on June 12, 2025.