

No. **2025-9522**

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

**Date: 9/17/2025**

**Subject Considered:**

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

Consent Order  
DWC Enforcement File Nos. 36966 & 37056

**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 was classified as "average" tier in the 2020, 2022, and 2024 Performance Based Oversight (PBO) assessments.

Failure to Timely Correct an Underpayment of Impairment Income Benefits (IIBs)

*File No. 36966*

3. Respondent was required to pay IIBs to an injured employee for the period between [REDACTED], through [REDACTED]. The IIBs payments were due seven days after the first day of the pay period.
4. On [REDACTED], Respondent mailed a check for IIBs to the injured employee. However, Respondent voided the check on [REDACTED], creating an underpayment of \$ [REDACTED].
5. The deadline to correct the underpayment was [REDACTED], seven days after voiding the check.
6. On [REDACTED], Respondent paid \$ [REDACTED] in IIBs 40 days late. Respondent's partial payment left an underpayment of \$ [REDACTED]. Respondent failed to pay interest.
7. On [REDACTED], Respondent paid \$ [REDACTED] in IIBs 102 days late. Respondent's partial payment left an underpayment of \$ [REDACTED].
8. On [REDACTED], Respondent paid the remaining \$ [REDACTED] in IIBs 112 days late.
9. On [REDACTED], Respondent paid interest 72 days late.

Failure to Timely Act on a Preauthorization Request

*File No. 37056*

10. On [REDACTED], Respondent received a request for preauthorization from a Health Care Provider (HCP) for dental procedures involving nine teeth.
11. Respondent was required to act on the preauthorization request and send written notice of the decision to the requestor or the injured employee within three working days of the receipt of the request, which was [REDACTED].
12. On [REDACTED], Respondent preauthorized the dental procedures 58 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 promptly act on a preauthorization request has the potential to delay timely, appropriate, and high-quality medical care to injured employees. This in turn may delay improvements in the injured employees' physical condition and earning capacity and is harmful to injured employees and 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;
  - 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.
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, delaying full payment of income benefits by 112 days and delaying necessary medical care by at least 58 days;

- b. Respondent has a history of similar administrative violations, including 15 actions involving late IIBs since 2021 and three actions involving the failure to timely act on preauthorization requests;
  - c. a penalty is necessary to deter future violations; and
  - d. 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, 414.003, and 415.021.
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 the DWC rules or a provision of the Texas Workers' Compensation Act.

Failure to Timely Correct an Underpayment of IIBs

*File No. 36966*

6. 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.
7. Pursuant to 28 Tex. Admin. Code § 126.15(b), if an insurance carrier determines an underpayment of income benefits has occurred, the insurance carrier shall pay the full amount of the underpayment with interest on accrued but unpaid benefits within seven days of the determination.
8. Respondent violated Tex. Lab. Code §§ 408.081, 409.023, 415.002(a)(16), (20) and (22), and 28 Tex. Admin. Code § 126.15(b) by failing to timely pay an underpayment of income benefits it had determined had occurred.

Failure to Timely Pay Interest with Indemnity Benefits

*File No. 36966*

9. 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.
10. 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.

Failure to Timely Act on a Preauthorization Request

*File No. 37056*

11. Pursuant to 28 Tex. Admin. Code § 134.600(i), an insurance carrier is required to contact the requestor or the injured employee by telephone, facsimile, or electronic

transmission to report the insurance carrier's decision regarding preauthorization or concurrent review. The insurance carrier is required to make the contact within three working days of receipt of the request.

12. Respondent violated Tex. Lab. Code § 415.002(a)(20) and 28 Tex. Admin. Code § 134.600(i) by failing to act on a preauthorization request within three working days.

**Order**

It is ordered that Indemnity Insurance Company of North America must pay an administrative penalty of \$1,300 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.

  
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Jeff Nelson  
Commissioner  
TDI, Division of Workers' Compensation

Approved Form and Content:

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

**Unsworn Declaration**

**STATE OF** Delaware

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**COUNTY OF** New Castle

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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 Compliance 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 September 4, 2025.