

No. **2025-9595**

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

Date: 11/10/2025

Subject Considered:

Insurance Company of the West
PO Box 509039
San Diego, California 92150-9039

Consent Order
DWC Enforcement File No. 37349

General remarks and official action taken:

This is a consent order with Insurance Company of the West (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 2024 and 2022 Performance Based Oversight (PBO) assessments. Respondent was classified as "high" tier in the 2020 PBO assessment.

Failure to Timely Dispute Initial Temporary Income Benefits (TIBs) and Timely Pay TIBs After a Late Denial

3. On [REDACTED], Respondent received notice of an employee's workplace injury.
4. The injured employee's first day of disability began on [REDACTED]. The eighth day of disability accrued on [REDACTED].
5. Respondent was required to initiate or dispute TIBs either 15 days after it received written notice of the injury or seven days after the accrual date, whichever is later. In this case, the latest date was [REDACTED].
6. On [REDACTED], Respondent sent a Plain Language Notice Form-1, *Notice of Denial of Compensability/Liability and Refusal to Pay Benefits*, denying the compensability of the claim 28 days late.
7. Due to the late denial, Respondent was required to pay benefits from the date of injury to the date of the denial.
8. On [REDACTED], Respondent paid [REDACTED] in TIBs 43 days late.
9. On [REDACTED], Respondent paid interest 12 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. 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.
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 violations are serious, involving late denial and failure to pay [REDACTED] in TIBs up to 43 days late;
 - b. Respondent has a recent prior warning letter for a TIBs violation in Enforcement File No. 36909;
 - c. a penalty is necessary to deter future violations;
 - d. the violations negatively impacted the delivery of [REDACTED] in income benefits to an injured employee; and
 - e. Respondent is the 19th largest workers' compensation insurance carrier in Texas and has heightened awareness of its legal duty to comply with the Texas Workers' Compensation Act and DWC rules.
4. DWC considered as a mitigating factor pursuant to Tex. Lab. Code § 415.021(c) and 28 Tex. Admin. Code § 180.26(e) the fact that Respondent increased supervisor oversight of the handling of new workers' compensation claims to better ensure that TIBs are timely initiated or disputed.
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; 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 § 408.101, an employee is entitled to TIBs if the employee has a disability and has not attained maximum medical improvement.
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 Tex. Lab. Code § 415.002(a)(20), an insurance carrier or its representative commits an administrative violation each time it violates a DWC rule.
8. Pursuant to Tex. Lab. Code § 415.002(a)(22), an insurance carrier or its representative commits an administrative violation each time it fails to comply with a provision of the Texas Workers' Compensation Act.

Failure to Timely Dispute Initial TIBs

9. Pursuant to Tex. Lab. Code §§ 408.081; 408.082; 409.021; and 28 Tex. Admin. Code §§ 124.3 and 124.7, an insurance carrier is required to initiate payment of TIBs no later than the 15th day after it receives written notice of the injury or the seventh

day after the accrual date, unless the insurance carrier notifies DWC and the injured employee in writing of its refusal to pay.

10. Respondent violated Tex. Lab. Code §§ 409.021; 409.023; 415.002(a)(16), (20), and (22); and 28 Tex. Admin. Code §§ 124.3 and 124.7 by failing to timely dispute initial TIBs.

Failure to Timely Pay TIBs After a Late Denial

11. Pursuant to 28 Tex. Admin. Code § 124.3(a)(2), if the insurance carrier files a Notice of Denial after the 15th day but on or before the 60th day after receipt of written notice of the injury, then the insurance carrier shall pay all income benefits that had accrued and were payable prior to the date the insurance carrier filed the Notice of Denial.
12. Respondent violated Tex. Lab. Code §§ 409.023; 415.002(a)(16), (20), and (22); and 28 Tex. Admin. Code § 124.3(a)(2) by failing to timely pay TIBs following a late denial.

Failure to Timely Pay Interest

13. 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.
14. Respondent violated Tex. Lab. Code §§ 408.064; 415.002(a)(20) and (22); and 28 Tex. Admin. Code § 126.12(b) by failing to timely pay interest with accrued but unpaid income benefits.

Order

It is ordered that Insurance Company of the West must pay an administrative penalty of \$2,700 within 30 days from the date the Commissioner signs the order.

After receiving an invoice, Insurance Company of the West 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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