

No. 2021-6740

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

Date: 03-22-2021

Subject Considered:

Baylor Medical Center at Carrollton
4343 North Josey Lane
Carrollton, Texas 75010-4603

Consent Order
DWC Enforcement File No. 26057

General remarks and official action taken:

This is a consent order with Baylor Medical Center at Carrollton (Baylor). The commissioner of the Texas Department of Insurance, Division of Workers' Compensation (DWC) considers whether DWC should take disciplinary action against Baylor.

Waiver

Baylor acknowledges that the Texas Labor Code and other applicable laws provide certain rights. Baylor 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. Baylor is a health care provider operating in the Texas workers' compensation system.
2. Baylor was not selected to be tiered in the 2007, 2009, 2011, 2013, 2015, 2017, or 2019 Performance Based Oversight (PBO) assessments.

Improperly Pursuing a Private Claim against an Injured Employee

3. On [REDACTED], Baylor provided medical services to an injured employee.
4. On [REDACTED], Baylor sent a bill to the injured employee's workers' compensation insurance carrier for the health care services provided to the injured employee on [REDACTED]. The insurance carrier denied the bill due to untimely filing.
5. On April 30, 2020, Baylor sent a bill to the injured employee for the health care services it provided on [REDACTED].
6. There is no finding determining that the injured employee violated TEX. LAB. CODE § 408.022 in selecting a treating doctor and no final adjudication that the claim was not compensable.

Assessment of Sanction

1. Improperly billing an injured employee for health care services imposes an undue financial burden on the injured employee and circumvents the Texas workers' compensation system and the roles of its system participants.
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: the seriousness of the violation and the penalty necessary to deter future violations.
 4. DWC found the following factors in TEX. LAB. CODE § 415.021(c) and 28 TEX. ADMIN. CODE § 180.26(e) to be mitigating: matters that justice may require, including, but not limited to, prompt and earnest actions to prevent future violations. The healthcare provider requested the debt collection agency cease any and all actions on the account on April 23, 2020. The debt collection agency acknowledged receipt of and compliance with the request on April 23, 2020 yet sent another collection notice to the injured employee on April 30, 2020.
 5. Baylor acknowledges it communicated with DWC about the relevant statutes and rules it violated; the facts establish that the administrative violation occurred; and 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. Baylor 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, 415.002, 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)(7), and 28 TEX. ADMIN. CODE § 180.26(h).
3. Baylor 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 § 415.003(6), a health care provider commits an administrative violation if it fails to comply with a provision of the Texas Workers' Compensation Act.
6. Pursuant to TEX. LAB. CODE § 413.042, a health care provider commits an administrative violation if it pursues a private claim against a workers' compensation claimant for all or part of the cost of a health care service it provides to the injured employee unless the injury is finally adjudicated as not compensable, or the injured employee violates TEX. LAB. CODE § 408.022 relating to the selection of a doctor.
7. Baylor violated TEX. LAB. CODE §§ 413.042 and 415.003(6) when it improperly billed an injured employee for workers' compensation health care services it provided.

Order

It is ordered that Baylor Medical Center at Carrollton must pay an administrative penalty of \$3,000 within 30 days from the date of this order. Baylor Medical Center at Carrollton must pay the administrative penalty by 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, P.O. Box 12030, Austin, Texas 78711-2030.



Cassie Brown
Commissioner of Workers' Compensation

Approved Form and Content:



Amy Norman
Staff Attorney, Enforcement
Compliance and Investigations
Division of Workers' Compensation

Affidavit

STATE OF _____

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COUNTY OF _____

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Before me, the undersigned authority, personally appeared _____,
who being by me duly sworn, deposed as follows:

"My name is Beth Lienemann. I am of sound mind, capable of making this
statement, and have personal knowledge of these facts which are true and correct.

I hold the office of Manager and am the authorized representative of
Baylor Medical Center at Carrollton. I am duly authorized by the organization to execute
this statement.

Baylor Medical Center at Carrollton has knowingly and voluntarily entered into this
consent order and agrees with and consents to the issuance and service of this consent
order."

Beth Lienemann
Affiant

I attest that this signature is valid and confirm that the order was signed on 3/10/2021

SWORN TO AND SUBSCRIBED before me on _____, 2021.

(NOTARY SEAL)

Signature of Notary Public

Printed Name of Notary Public

Commission Expiration