

No. **2022-7360**

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

Date: 6/29/2022

Subject Considered:

Safety National Casualty
Corporation 1832 Schuetz Road
Saint Louis, Missouri 63146

Consent Order
DWC Enforcement File No. 29348

General remarks and official action taken:

The commissioner of workers' compensation (commissioner) considers whether disciplinary action should be taken against Safety National Casualty Corporation (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 applicable procedural rights 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 including, workers' compensation/employers' liability insurance in the state of Texas.
2. Respondent was not selected to be tiered in the Performance Based Oversight (PBO) assessment. Respondent was classified as "average" tier in the 2009, 2011, 2014, 2016, 2018, and 2020 PBO assessments.

Failure to Timely Pay Impairment Income Benefits

3. Respondent was required to pay impairment income benefits (IIBs) to an injured employee for the period between [REDACTED] through [REDACTED]. The IIBs payment was due seven days after the first day of the pay period, or by [REDACTED]. Respondent paid IIBs on [REDACTED] or 14 days late.
4. Respondent was required to pay IIBs for the period between [REDACTED] through [REDACTED]. The IIBs payment was due seven days after the first day of the pay period, or by [REDACTED]. Respondent paid IIBs on [REDACTED] or seven 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 appropriately and fully considered the following factors set forth 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 demonstrated good faith of the violator, including actions taken to rectify the consequences of the prohibited act;
 - the penalty necessary to deter future violations;
 - whether the administrative violation has negative impact on the delivery of benefits to an injured employee;
 - the history of compliance with electronic data interchange requirements;
 - other matters that justice may require, including but not limited to:
 - PBO assessments;
 - the promptness and earnestness of 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; and
 - to the extent reasonable, the economic benefit resulting from the prohibited act.
- 3. In assessing the sanction for this case, DWC found the following factors set forth in Tex. Lab. Code § 415.021(c) and 28 Tex. Admin. Code § 180.26(e) to be aggravating: 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 penalty necessary to deter future violations; and whether the administrative violation has a negative impact on the delivery of benefits to an injured employee.
- 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 that DWC and Respondent communicated regarding the relevant statutes and rules violated; the facts establishing that the administrative violation occurred; and the appropriateness of the proposed sanction, including how DWC considered the factors 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 set forth 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 §§ 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.
5. Pursuant to Tex. Lab. Code § 408.121(b) and 28 Tex. Admin. Code § 130.8, an employee's entitlement to IIBs begins the day after the employee reaches maximum medical improvement (MMI) and, when the date of MMI is not disputed, the carrier shall initiate payment of IIBs on or before the fifth day after the date of receipt of the employee's treating doctor's medical evaluation report.
6. 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.
7. Respondent violated Tex. Lab. Code §§ 408.021; 415.002(a)(16), (20) and (22) and 28 Tex. Admin. Code § 130.8 each time it failed to timely initiate payment of IIBs.
8. Pursuant to Tex. Lab. Code § 415.021, the commissioner may assess an administrative penalty against a person who commits an administrative violation.

Order

It is ordered that the Safety National Casualty Corporation must pay an administrative penalty of \$4,000 within 30 days from the date of this order. The Safety National Casualty Corporation 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.



Dan Paschal, J.D.
Deputy Commissioner
Policy & Customer Services
TDI, Division of Workers' Compensation

Approved Form and Content:



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

Unsworn Declaration

STATE OF Missouri §
§
COUNTY OF St Louis §

Pursuant to the Tex. Civ. Prac. and Rem. Code § 132.001(a), (b), and (d), my name is Dana Bailey. I hold the position of AVP Claims Compliance and am the authorized representative of the Safety National Casualty Corporation. My business address is:

1832 Schuetz Road, St Louis, St Louis, MO, 63146.
(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.

Dana Lynn Bailey *Dana Lynn Bailey*
Declarant

Executed on June 27th, 2022.