

No. 2024-8581

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

Date: 3/26/2024

Subject Considered:

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

Consent Order

DWC Enforcement File Nos. 33077, 33152, 33391, 33485, 33560, 33580, 33581 & 33638

General remarks and official action taken:

This is a consent order with Safety National Casualty Corporation (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 multiple lines of insurance in Texas, including workers' compensation-employers' liability insurance.
2. Respondent was classified as "average" tier in the 2018, 2020, and 2022 Performance Based Oversight (PBO) assessments.

Failure to Timely Initiate and Pay Accrued Temporary Income Benefits (TIBs)

File No. 33077

3. On [REDACTED], Respondent received an injured employee's first notice of injury that occurred the previous day.
4. The injured employee's first day of disability began on [REDACTED]. The injured employee returned to work with restrictions from [REDACTED] to [REDACTED]. The eighth day of disability accrued on [REDACTED].
5. Respondent was required to initiate or dispute TIBs the latter of 15 days after receiving written notice of the injury or seven days after the accrual date. In this case, the latest date was [REDACTED].
6. On [REDACTED], Respondent made an initial TIBs payment of \$ [REDACTED] for the benefit period between [REDACTED], and [REDACTED], which was 39 days late.
7. Respondent was required to pay accrued TIBs to the injured employee from [REDACTED] through [REDACTED]. The TIBs payments were due seven days after the first day of the pay period. Respondent failed to timely pay \$ [REDACTED] in accrued TIBs, as follows:

	Payment Period	Date Due	Amount Due	Amount Paid	Date Paid	Days Late
a.	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	54
b.	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	47
c.	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	40
d.	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	33
e.	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	15
f.	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	8
g.	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	1

8. On [REDACTED], Respondent paid interest for late TIBs made on [REDACTED], which was 11 days late.

Failure to Timely and Accurately Pay Accrued TIBs

File No. 33391

9. Between [REDACTED], and [REDACTED], Respondent was required to pay [REDACTED] in weekly TIBs to the injured employee. Instead, Respondent incorrectly calculated TIBs, and paid benefits at \$ [REDACTED] per week. Respondent's miscalculation resulted in an underpayment of \$ [REDACTED]. Respondent failed to timely pay the accrued \$ [REDACTED] in TIBs, as follows:

	Payment Period	Date Due	Date Paid	Days Late
a.	[REDACTED]	[REDACTED]	[REDACTED]	36
b.	[REDACTED]	[REDACTED]	[REDACTED]	29
c.	[REDACTED]	[REDACTED]	[REDACTED]	22
d.	[REDACTED]	[REDACTED]	[REDACTED]	15
e.	[REDACTED]	[REDACTED]	[REDACTED]	8
f.	[REDACTED]	[REDACTED]	[REDACTED]	2

10. On [REDACTED], Respondent paid \$ [REDACTED] in interest, designated for benefits paid late for [REDACTED], through [REDACTED], which was 30 days late. However, Respondent owed \$ [REDACTED] in interest.

11. On [REDACTED], Respondent paid \$ [REDACTED] in interest, designated for benefits paid late for [REDACTED], to [REDACTED], which was 128 days late. This resulted in an overpayment of \$ [REDACTED] in interest.

12. Respondent was required to pay accrued TIBs to the injured employee from [REDACTED] through [REDACTED]. The TIBs payments were due seven days after the first day of the pay period. Respondent failed to timely pay accrued \$ [REDACTED] in TIBs, as follows:

	Payment Period	Date Due	Date Paid	Days Late
a.	[REDACTED]	[REDACTED]	[REDACTED]	8
b.	[REDACTED]	[REDACTED]	[REDACTED]	7
c.	[REDACTED]	[REDACTED]	[REDACTED]	7
d.	[REDACTED]	[REDACTED]	[REDACTED]	6
e.	[REDACTED]	[REDACTED]	[REDACTED]	5

Failure to Timely Pay Accrued TIBs

File No. 33560

13. Respondent was required to pay accrued TIBs to the injured employee from [REDACTED] through [REDACTED]. The TIBs payments were due seven days after the first day of the pay period. Respondent failed to timely pay accrued \$ [REDACTED] in TIBs, as follows:

	Payment Period	Date Due	Date Paid	Days Late
a.	[REDACTED]	[REDACTED]	[REDACTED]	11
b.	[REDACTED]	[REDACTED]	[REDACTED]	4

14. On [REDACTED], Respondent paid \$ [REDACTED] in interest on the late TIBs, which was 36 days late.

Failure to Timely Pay Accrued Impairment Income Benefits (IIBs)

File No. 33580

15. Respondent was required to pay IIBs to an injured employee for the period between [REDACTED], and [REDACTED]. The IIBs payment was due seven days after the first day of each pay period. Respondent paid \$ [REDACTED] in late IIBs, as follows

	Payment Period	Date Due	Date Paid	Days Late
a.	[REDACTED]	[REDACTED]	[REDACTED]	21
b.	[REDACTED]	[REDACTED]	[REDACTED]	19
c.	[REDACTED]	[REDACTED]	[REDACTED]	12
d.	[REDACTED]	[REDACTED]	[REDACTED]	5

Failure to Timely Pay Interest on Income Benefits

File No. 33581

16. In File No. 33580, Respondent paid late IIBs to an injured employee. Respondent paid IIBs for [REDACTED], through [REDACTED], on [REDACTED] and [REDACTED]. Respondent is required to pay accrued but unpaid benefits *and interest* in a lump sum to an injured employee.
17. Respondent paid \$ [REDACTED] interest on the late IIBs on [REDACTED], which was 39 days late.

Failure to Timely Act on a Medical Bill

File No. 33152

18. On [REDACTED], a health care provider (HCP) provided medical services to an injured employee. On [REDACTED], Respondent received a completed \$ [REDACTED] medical bill from the HCP.
19. Respondent was required to act on the bill within 45 days of receiving it. The deadline to act was [REDACTED].
20. On [REDACTED], Respondent paid \$ [REDACTED] to the HCP, which was 25 days late.

File No. 33638

21. On [REDACTED], a designated doctor (DD) provided medical services to an injured employee. On [REDACTED], Respondent received a completed \$ [REDACTED] medical bill from the DD.
22. Respondent was required to act on the bill within 45 days of receiving it. The deadline to act was [REDACTED].
23. On [REDACTED], Respondent paid \$ [REDACTED] including interest to the DD, which was 140 days late.

Failure to Timely Pay Attorney's Fees Ordered by DWC

File No. 33485

24. Between [REDACTED], through [REDACTED], DWC ordered Respondent to pay attorney's fees in connection with legal services provided to an injured employee. Respondent received the orders to pay attorney's fees in the amount of 25% of each income benefit payment to the injured employee.
25. Between [REDACTED], and [REDACTED], Respondent issued multiple payments to the injured employee for income benefits. Respondent failed to timely pay attorney's fees in an amount equal to 25% of the income benefits paid to the injured employee as follows:

	Pay Period	Employee Paid	Date Atty Paid	Amount Paid	Days Late
a.	[REDACTED]	[REDACTED]	N/A	N/A	Unpaid
b.	[REDACTED]	[REDACTED]	N/A	N/A	Unpaid
c.	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	19
d.	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	12
e.	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	5

26. Respondent paid \$ [REDACTED] in attorney's fees late and did not pay attorney's fees as required for the two weeks of paid income benefits in rows (a) and (b) above.

Assessment of Sanction

1. Failure to provide accurate income benefits in a timely and cost-effective manner is harmful to injured employees and the Texas workers' compensation system.
2. Prompt payment of medical bills is imperative to DWC's goal of ensuring that injured employees have access to prompt, high-quality medical care. Failure to promptly pay medical bills harms medical providers economically, increases disputes and exhausts administrative resources in the workers' compensation system. Untimely payment can have a chilling effect on a HCP's participation in the system. Further, one of the late medical bills was 140 days late and involved DD

services, which do not require preauthorization and are essential to the Texas workers' compensation system.

3. Failure to timely pay attorney fees ordered by DWC makes it more difficult for attorneys to provide adequate legal services to injured employees and is harmful to the Texas workers' compensation system.
4. 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.
5. 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, 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; whether the administrative violation had a negative impact on the delivery of benefits to an injured employee; and other matters that justice may require, including the size of the company or practice, and evidence of heightened awareness of the legal duty to comply with the Texas Workers' Compensation Act and DWC rules.

6. DWC is aware of no mitigating factors pursuant to Tex. Lab. Code § 415.021(c) and 28 Tex. Admin. Code § 180.26(e).
7. 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).
8. 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 Initiate Payment of TIBs (File No. 33077)

6. Pursuant to Tex. Lab. Code § 409.021(e) and 28 Tex. Admin. Code § 124.3, an insurance carrier or its representative commits an administrative violation by failing to pay benefits, file a Notice of Denial on the compensability of a claim, or file a Notice of Continuing Investigation within 15 days after receiving written notice of the injury.
7. Respondent violated Tex. Lab. Code §§ 409.021; 415.002(a)(20) and (22); and 28 Tex. Admin. Code § 124.3 each time Respondent failed to timely initiate TIBs.

Failure to Timely Pay Accrued TIBs (File Nos. 33077, 33391, and 33560)

8. 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.
9. Pursuant to Tex. Lab. Code §§ 408.081, 408.082, and 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 §§ 409.023; 415.002(a)(16), (20), and (22); and 28 Tex. Admin. Code §§ 124.3 and 124.7 each time Respondent failed to timely pay accrued TIBs.

Failure to Accurately Pay TIBs (File No. 33391)

12. Pursuant to Tex. Lab. Code § 408.103 and 28 Tex. Admin. Code § 129.3, the insurance carrier is required to pay the correct amount of TIBs.
13. 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 Accrued IIBs (File No. 33580)

14. 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.
15. Pursuant to Tex. Lab. Code § 408.121, an employee's entitlement to IIBs begins the day after the employee reaches maximum medical improvement (MMI) and ends on the earlier of the date of expiration of a period computed at the rate of three weeks for each percentage point of impairment or the date of the employee's death.
16. Respondent violated Tex. Lab. Code §§ 408.081, 408.121; and 415.002(a)(16) and (22) each time Respondent failed to timely pay accrued IIBs.

Failure to Timely Pay Interest on Benefits (File Nos. 33077, 33391, 33560, and 33581)

17. Pursuant to Tex. Lab. Code § 408.081 and 28 Tex. Admin. Code § 126.12(b), accrued but unpaid income benefits and interest shall be paid in a lump sum.
18. Respondent violated Tex. Lab. Code §§ 408.081 and 415.002(a)(20) and (22) and 28 Tex. Admin. Code § 126.12(b), by failing to timely pay interest on late income benefits.

Failure to Accurately Pay Interest on Income Benefits (File Nos. 33391 and 33560)

19. Pursuant to Tex. Lab. Code § 401.023, the interest shall be computed at the rate provided by this section and DWC shall compute and publish the interest rate quarterly.
20. Pursuant to 28 Tex. Admin. Code § 126.12(d), the rate of interest to be paid on accrued but unpaid income benefits by carriers will be the rate calculated in accordance with the Texas Labor Code, § 401.023 and in effect on the date the payment was made.
21. Respondent violated Tex. Lab. Code §§ 408.081 and 415.002(a)(20) and (22), and 28 Tex. Admin. Code § 126.12(d), by failing to accurately pay interest on late income benefits.

Failure to Timely Act on a Medical Bill (File Nos. 33152 and 33638)

22. Pursuant to Tex. Lab. Code § 408.027 and 28 Tex. Admin. Code § 133.240, an insurance carrier is required to timely process and take final action on a completed medical bill within 45 days of receiving the bill.
23. Respondent violated Tex. Lab. Code §§ 408.027; 415.002(a)(20) and (22); and 28 Tex. Admin. Code § 133.240 each time Respondent failed to pay, reduce, deny, or determine to audit a completed medical bill within 45 days of receiving the bill.

Failure to Timely Pay Interest for Medical Benefits (File No. 33152)

24. Pursuant to Tex. Lab. Code § 413.019(a) and 28 Tex. Admin. Code §§ 133.240(l) and 134.130(a), an insurance carrier must pay interest on medical bills paid on or after the 60th day after the insurance carrier originally received the complete medical bill. The interest payment shall be paid at the same time as the medical bill payment.
25. Respondent violated Tex. Lab. Code §§ 413.019(a) and 415.002(a)(20) and (22) and 28 Tex. Admin. Code §§ 133.240(l) and 134.130(a) by failing to pay interest on medical bills paid on or after the 60th day after the insurance carrier originally received the complete medical bill.

Failure to Timely Pay Attorney Fees Ordered by DWC (File No. 33485)


26. 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.
27. 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.

28. 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) by failing to timely comply with a DWC order to pay attorney fees.

Order


It is ordered that Safety National Casualty Corporation must pay an administrative penalty of \$17,000 within 30 days from the date the Commissioner signs the order.

After receiving an invoice, 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, PO Box 12030, Austin, Texas 78711-2030.



Jeff Nelson
Commissioner
TDI, Division of Workers' Compensation

Approved Form and Content:



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