

No. 2024-8751

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

Date: 7/24/2024

Subject Considered:

Texas Association of Counties Risk Management Pool
PO Box 26300
Austin, Texas 78755-0300

Consent Order
DWC Enforcement File No. 34067

General remarks and official action taken:

This is a consent order with Texas Association of Counties Risk Management Pool, (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 is a joint fund for self-insured, political subdivisions that provides workers' compensation benefits to employees in accordance with Tex. Lab. Code, Ch. 504.
2. Respondent was classified as "average" tier in the 2022 Performance Based Oversight (PBO) assessments. Respondent was classified as "high" tier in the 2020 and 2018 PBO assessments.

Failure to Comply with a DWC Order

3. On [REDACTED], Respondent received Medical Fee Dispute Resolution (MFDR) Findings and Decision Order No. M4-23-2058-01.
4. This order required Respondent to pay \$ [REDACTED] plus interest within 30 days of receipt of the order. The deadline to comply with the order was [REDACTED].
5. On [REDACTED], Respondent paid \$ [REDACTED] to satisfy the MFDR Order, which was 210 days late.

Assessment of Sanction

1. Failure to timely comply with DWC orders for payment of medical bills is not cost-effective and 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;
 - 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, 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 other matters that justice may require, including but not limited to evidence of heightened awareness of the legal duty to comply with the Texas Workers' Compensation Act and DWC rules. Respondent has a significant disciplinary history involving 13 substantially similar violations in the past two years. This constitutes a pattern of conduct.
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 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 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 § 413.055, the commissioner may enter an interlocutory order for the payment of all or part of medical benefits. The order may address accrued benefits, future benefits, or both accrued benefits and future benefits.
6. Pursuant to Tex. Lab. Code § 415.002(a)(17), an insurance carrier or its representative commits an administrative violation if it fails to pay an order awarding benefits.
7. 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.
8. Pursuant to Tex. Lab. Code §§ 415.0035(e) and 415.021(a), an insurance carrier commits an administrative violation if it violates, fails to comply with, or refuses to comply with a DWC order.
9. Respondent violated Tex. Lab. Code §§ 415.002(a)(17) and (22); 415.021(a); and 415.0035(e) by failing to comply with a MFDR order.

Order

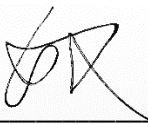
It is ordered that Texas Association of Counties Risk Management Pool must pay an administrative penalty of \$1,500 within 30 days from the date the Commissioner signs the order.

After receiving an invoice, Texas Association of Counties Risk Management Pool 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, P.O. Box 12030, Austin, Texas 78711-2030.



Jeff Nelson
Commissioner
TDI, Division of Workers' Compensation

Approved Form and Content:



Austin Southerland
Staff Attorney, Enforcement
Compliance and Investigations
Division of Workers' Compensation

Commissioner's Order
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Unsworn Declaration

STATE OF TEXAS §
§
COUNTY OF TRAVIS §

Pursuant to the Tex. Civ. Prac. and Rem. Code § 132.001(a), (b), and (d), my name is **Susan Redford**. I hold the position of **Executive Director** and am the authorized representative of **Texas Association of Counties Risk Management Pool**. My business address is: **1210 San Antonio, Austin, TX 78701**.

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.

DocuSigned by:
Susan Redford
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Declarant

Executed on 07/02/2024 | 5:40 AM PDT 2024.

**Confidential Information Redacted Texas
Labor Code §§402.083 and 402.092**