

No. **2022-7293**

Confidential Information Redacted
Texas Labor Code §§402.083 and 402.092

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

Date: 4/11/2022

Subject Considered:

Professional EHC Eastchase LLC
Registered Agent – Shavona Ahmed
3514 Cedar Springs Road
Dallas, Texas 75219

Consent Order
DWC Enforcement File No. 27751

General remarks and official action taken:

This is a consent order with Professional EHC Eastchase LLC (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 health care provider operating in the Texas workers' compensation system.
2. Respondent was not selected to be tiered in the 2007, 2009, 2011, 2013, 2015, 2017, or 2019 Performance Based Oversight (PBO) assessments.

Failure to Comply with a Refund Request

4. On [REDACTED] Respondent received a properly completed refund request from the insurance carrier in the amount of [REDACTED] for a service date on [REDACTED]. Respondent was required to contact the requester with the decision to pay or deny the refund request no later than 45 days after receiving the request, which was [REDACTED].
5. Respondent did not respond to the refund request by [REDACTED].
6. Respondent refunded the payment to the insurance carrier on [REDACTED] which was 287 days late.

Assessment of Sanction

1. Failure to provide refunds to requesters imposes an undue financial burden 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, including the nature, circumstances, consequences, extent, and gravity of the prohibited act; whether the administrative violation had a negative impact on the delivery of benefits to an injured employee; 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: the history and extent of previous administrative violations. This is the healthcare provider's first administrative violation and there was confusion as to how to address the violation. In addition, problems arose due to circumstances caused by the pandemic.
 5. Respondent 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. 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, 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 § 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(5) and (6), a health care provider commits an administrative violation if they violate a DWC rule or fail to comply with a provision of the Texas Workers' Compensation Act.
6. Pursuant to 28 TEX. ADMIN. CODE § 133.260(c)(1) and (2), a health care provider must respond to a request for a refund from an insurance carrier within 45 days after receiving the request. The health care provider must either pay the requested amount or submit an appeal to the insurance carrier and explain the specific reason the health care provider did not remit payment.
7. Respondent violated TEX. LAB. CODE §§ 415.003(5) and (6) when it failed to comply with the refund request.

Order

It is ordered that Professional EHC Eastchase LLC must pay an administrative penalty of \$3,000 within 30 days from the date of this order. Professional EHC Eastchase LLC 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:



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

