

No. **2024-8648**

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

Date: 5/7/2024

Subject Considered:

AIU Insurance Company
PO Box 201329
Austin, Texas 78720-1329

Consent Order
DWC Enforcement File Nos. 33824, 33826, 33884, 33885, & 34178

General remarks and official action taken:

This is a consent order with AIU Insurance Company (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 2022 Performance Based Oversight (PBO) assessment. Respondent was not selected to be tiered in the 2020 or 2018 PBO assessments.

Failure to Timely Pay or Dispute Initial Temporary Income Benefits (TIBs)

File No. 33885

3. On [REDACTED], Respondent received notice of an employee's workplace injury.
4. The injured employee's first day of disability began on [REDACTED] 2023. The eighth day of disability accrued on [REDACTED].
5. Respondent was required to initiate or dispute TIBs either 15 days after it received written notice of the injury or seven days after the accrual date, whichever is later. In this case, the latest date was [REDACTED].
6. On [REDACTED], Respondent initiated TIBs in the amount of \$ [REDACTED], which was 76 days late.

Failure to Timely Act on a Medical Bill

File No. 34178

7. On [REDACTED], a HCP provided medical services to an injured employee.
8. On [REDACTED], Respondent received a completed medical bill for \$ [REDACTED] from the HCP.
9. Respondent was required to act on the bill within 45 days of receiving it. The deadline to act was [REDACTED].
10. On [REDACTED], Respondent paid \$ [REDACTED] to the HCP, which was 95 days late. Respondent paid interest eight days later on [REDACTED].

File No. 33824

11. On [REDACTED], a Designated Doctor (DD) provided medical services to an injured employee.
12. On [REDACTED], Respondent received a completed medical bill for \$ [REDACTED] from the DD.

13. Respondent was required to act on the bill within 45 days of receiving it. The deadline to act was [REDACTED].
14. On [REDACTED], Respondent paid \$ [REDACTED] to the DD, which was 119 days late.
15. On [REDACTED], Respondent paid interest on the medical bill 19 days late.

File No. 33826

16. On [REDACTED], a healthcare provider (HCP) provided medical services to an injured employee.
17. On [REDACTED], Respondent received a completed medical bill for \$ [REDACTED] from the HCP.
18. Respondent was required to act on the bill within 45 days of receiving it. The deadline to act was [REDACTED].
19. On [REDACTED], Respondent paid \$ [REDACTED] to the HCP, which was 122 days late. Respondent paid interest one day later.

Failure to Respond to an Injured Employee's Request for Reimbursement

File No. 33884

20. On [REDACTED], an injured employee received medical treatment in connection with a workers' compensation claim.
21. On [REDACTED], Respondent received a request for reimbursement of \$ [REDACTED] for travel expenses related to the injured employee's medical treatment. This travel reimbursement request was submitted by the injured employee to Respondent on a form obtained from Respondent's third-party administrator's (TPA) website.
22. The form on the TPA's website refers to the Texas Workers' Compensation Act and describes an injured employee's entitlement to travel reimbursement. However, the form does not contain any language explaining the proper method for submitting travel reimbursement requests under DWC rules.

23. Respondent failed to respond to the injured employee's request and failed to direct the injured employee to use form DWC048, *Request to Get Reimbursed for Travel Costs*.
24. Respondent was required to respond to the injured employee's request within five working days of receiving the request, or by [REDACTED]. Respondent failed to respond until it paid the reimbursement request on [REDACTED], which was 80 days late.
25. Respondent cited the injured employee's use of its own form as justification for the late payment.

Assessment of Sanction

1. 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. It is a serious violation to fail to timely act on a medical bill involving DD services, which do not require preauthorization and which serve an essential function in the Texas workers' compensation system. Untimely payment can have a chilling effect on a DD's participation in the system.
2. Failing to timely respond to requests by injured employees on their claims and hosting documents on an online platform that mislead or confuse system participants increases the likelihood of disputes and impedes efforts to resolve them promptly and fairly.
3. Failure to provide income benefits in a timely and cost-effective manner is harmful to injured employees and 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 evidence of heightened awareness of the legal duty to comply with the Texas Workers' Compensation Act and DWC rules. In case 33884, Respondent's refusal to accept its own form as a valid request for reimbursement lacked good faith.
6. DWC found the following factors in Tex. Lab. Code § 415.021(c) and 28 Tex. Admin. Code § 180.26(e) to be mitigating: the violator's demonstration of good faith, including actions it took to rectify the consequences of the prohibited act.
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, 402.00111, 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), an insurance carrier or its representative commits an administrative violation each time it violates a DWC rule.
6. 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.

Failure to Timely Pay or Dispute Initial Temporary Income Benefits (TIBs)

File No.33885

7. Pursuant to Tex. Lab. Code §§ 408.081; 408.082; 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.

8. Respondent violated Tex. Lab. Code §§ 409.021; 415.002(a)(16), (20), and (22); and 28 Tex. Admin. Code §§ 124.3 and 124.7 by failing to timely pay or dispute initial TIBs.

Failure to Timely Act on a Medical Bill

File Nos. 33824 & 33826

9. 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.
10. Respondent violated Tex. Lab. Code §§ 408.027; 415.002(a)(20) and (22); and 28 Tex. Admin. Code § 133.240 by failing to pay, reduce, deny, or determine to audit a completed medical bill within 45 days of receiving the bill.

Failure to Respond an Injured Employee's Request for Reimbursement

File No. 33884

11. Pursuant to 28 Tex. Admin Code § 102.4(f), when a claimant contacts an insurance carrier and requests a response on their claim, the response must be verbally provided or sent in writing by the insurance carrier within five working days of receiving the request, unless the request is redundant, or the response duplicates information previously provided.
12. Respondent violated Tex. Lab. Code §§ 415.002(a) (20); and 28 Tex. Admin Code § 102.4(f) by failing to timely respond to a request for reimbursement by an injured employee.

Order

It is ordered that AIU Insurance Company must pay an administrative penalty of \$9,000 within 30 days from the date the Commissioner signs the order.

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



Jeff Nelson
Commissioner
TDI, Division of Workers' Compensation

Approved Form and Content:



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