

No. **2019 5923**

OFFICIAL ORDER
of the
TEXAS COMMISSIONER OF WORKERS' COMPENSATION

Date: **APR 05 2019**

Subject Considered:

PROPERTY AND CASUALTY INSURANCE COMPANY OF HARTFORD

One Hartford Plaza T 17 81
Hartford, Connecticut 06155

CONSENT ORDER

TDI-DWC ENFORCEMENT FILE NO. 17962

General remarks and official action taken:

The commissioner of workers' compensation (commissioner) considers whether disciplinary action should be taken against Property and Casualty Insurance Company of Hartford (Property and Casualty).

WAIVER

Property and Casualty acknowledges that the Texas Labor Code and other applicable laws provide certain rights. Property and Casualty waives all of these rights and any other applicable procedural rights in consideration of the entry of this consent order.

FINDINGS OF FACT

The commissioner makes the following findings of fact:

1. Property and Casualty 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 workers' compensation/employers' liability insurance in Texas.
2. Property and Casualty was classified as "average" tier in the 2014, 2016, and 2018 Performance Based Oversight (PBO) assessments. Property and Casualty was not selected to be tiered in the 2007, 2009, 2010, or 2012 PBO assessments.

**FAILURE TO PAY INCOME BENEFITS IN ACCORDANCE
WITH A DESIGNATED DOCTOR REPORT**

3. On [REDACTED], Property and Casualty received a report from a designated doctor (DD) in connection with a designated doctor examination ordered by the Texas Department of Insurance, Division of Workers' Compensation (DWC).

4. The DD determined that the injured employee had reached statutory maximum medical improvement on [REDACTED], with a [REDACTED] % impairment rating.
5. Property and Casualty was required to pay accrued income benefits no later than five days after receipt of the DD report, which was [REDACTED].
6. Property and Casualty issued partial payments for accrued impairment income benefits (IIBs) to the injured employee on [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED], and [REDACTED], but did not pay the full amount of accrued IIBs until [REDACTED], which was 44 days late.

ASSESSMENT OF SANCTION

7. Failure to provide appropriate income benefits in a manner that is timely and cost-effective is harmful to injured employees and to the Texas workers' compensation system.
8. 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.
9. 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; the history and extent of previous administrative violations; the penalty necessary to deter future violations; and whether the administrative violation has negative impact on the delivery of benefits to an injured employee.

10. 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 mitigating: PBO assessments; and the promptness and earnestness of actions to prevent future violations.
11. Property and Casualty acknowledges that it has communicated with DWC 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).
12. Property and Casualty 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

The commissioner makes the following 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, 414.003, 415.002, and 415.021.
2. The commissioner has authority to informally dispose of this matter as set forth under TEX. GOV'T CODE § 2001.056, TEX. LAB. CODE § 402.00128(b)(7), and 28 TEX. ADMIN. CODE § 180.26(h).
3. Pursuant to TEX. LAB. CODE § 415.021, the commissioner may assess an administrative penalty against a person who commits an administrative violation.
4. 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.
5. 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.
6. Pursuant to TEX. LAB. CODE §§ 408.081, 409.023, and 415.002(a)(16), an insurance carrier shall pay benefits weekly, as and when the benefits accrue, without order from the commissioner.
7. Pursuant to TEX. LAB. CODE § 408.0041(f), an insurance carrier shall pay benefits based on the opinion of the designated doctor during the pendency of any dispute.
8. Pursuant to 28 TEX. ADMIN. CODE § 127.10(h), an insurance carrier shall pay all benefits in accordance with the DD report for the issues in dispute no later than five days after receipt of the report.

9. Property and Casualty violated TEX. LAB. CODE §§ 409.023, 415.002(a)(16), (20), and (22) when it failed to timely pay accrued income benefits in accordance with the DD report within five days of receipt of the report.

ORDER

Property and Casualty Insurance Company of Hartford is ORDERED to pay an administrative penalty of \$3,000 within 30 days from the date of this Order.

The administrative penalty must be paid by company check, cashier's check, or money order made payable to the "State of Texas." Mail the administrative penalty to the Texas Department of Insurance, Attn: DWC Enforcement, MC 9999, P.O. Box 149104, Austin, Texas, 78714-9104.



Cassie Brown *NCW*
Commissioner of Workers' Compensation

Approved as to Form and Content:



Van B. Moreland
Staff Attorney, DWC Enforcement
Texas Department of Insurance

