

OFFICIAL ORDER
of the
TEXAS COMMISSIONER OF WORKERS' COMPENSATION

Date: MAY 31 2019

Subject Considered:

TECHNOLOGY INSURANCE COMPANY, INC.
59 Maiden Lane Floor 43
New York, New York 10038-4639

CONSENT ORDER
TDI-DWC ENFORCEMENT FILE NO. 18351

General remarks and official action taken:

The commissioner of workers' compensation (commissioner) considers whether disciplinary action should be taken against Technology Insurance Company, Inc. (Technology).

WAIVER

Technology acknowledges that the Texas Labor Code and other applicable laws provide certain rights. Technology 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. Technology 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, including workers' compensation/employers' liability insurance, in the state of Texas.
2. Technology was not selected to be tiered in the 2007, 2009, 2010, or 2012 Performance Based Oversight (PBO) assessments. Technology was classified as "average" tier in the 2014 and 2018 PBO assessments. Technology was classified as "poor" tier in the 2016 PBO assessment.

**FAILURE TO TIMELY DISPUTE OR INITIATE PAYMENT OF
TEMPORARY INCOME BENEFITS**

3. On [REDACTED], Technology received notice of an injury to an injured employee.
4. The first day of disability for the injured employee was on [REDACTED] and the eighth day accrued on [REDACTED].

5. The insurance carrier was required to initiate or dispute temporary income benefits (TIBs) the later of the 15th day after the date on which the insurance carrier receives written notice of the injury, or the seventh day after the accrual date, which in this case was [REDACTED]
6. Technology filed a notice of dispute with the Texas Department of Insurance, Division of Workers' Compensation (DWC) on [REDACTED] which was 89 days late.

ASSESSMENT OF SANCTION

7. Failure to provide appropriate TIBs in a manner that is timely and cost-effective is harmful to injured employees and to the workers' compensation system of the state of Texas.
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, 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 has negative impact on the delivery of benefits to an injured employee; the history of compliance with electronic data interchange requirements; and other matters that justice may require, including the promptness and earnestness of actions to prevent future violations.

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: the promptness and earnestness of actions to prevent future violations. (Technology participated in a seminar entitled "Denials, Documentation, and Deadlines" on November 18, 2018, and has another scheduled on May 2, 2019, pertaining to indemnity benefits.)
11. Technology acknowledges that DWC and Technology have communicated 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. Technology 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, and 414.003.
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 § 415.002(a)(20), an insurance carrier or its representative commits an administrative violation each time it violates a DWC rule.
4. 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.
5. Pursuant to TEX. LAB. CODE §§ 408.081, 408.082, 409.021, and 28 TEX. ADMIN. CODE §§ 124.3 and 124.7, insurance carriers are required to initiate payment of TIBs not later than the 15th day after the date on which the insurance carrier receives written notice of the injury, or the seventh day after the accrual date, unless the insurance carrier has notified DWC and the injured employee in writing of its refusal to pay.
6. Technology violated TEX. LAB. CODE §§ 408.081, 408.082, 409.021, 415.002(a)(20) and (22) and 28 TEX. ADMIN. CODE §§ 124.3 and 124.7 when it failed to timely initiate payment of TIBs.

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ORDER

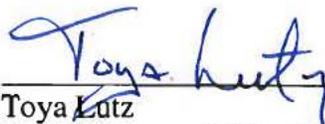
Technology Insurance Company, Inc. is ORDERED to pay an administrative penalty of \$8,000 within 30 days from the date of this consent order.

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 *NOT*
Commissioner of Workers' Compensation

Approved as to Form and Content:



Toya Kutz
Staff Attorney, DWC Enforcement
Compliance & Investigations
Division of Workers' Compensation
Texas Department of Insurance

Confidential Information Redacted
Texas Labor Code §§402.083 & 402.092

