

No. **2019 6004**

Confidential Information Redacted
Texas Labor Code §§402.083 & 402.092

OFFICIAL ORDER
of the
TEXAS COMMISSIONER OF WORKERS' COMPENSATION

Date: **JUL 02 2019**

Subject Considered:

TEXAS HOSPITAL INSURANCE EXCHANGE
8310 North Capital of Texas Highway, Suite 250
Austin, Texas 78731-1007

CONSENT ORDER
TDI-DWC ENFORCEMENT FILE NO. 15746

General remarks and official action taken:

The commissioner of workers' compensation (commissioner) considers whether disciplinary action should be taken against Texas Hospital Insurance Exchange (Texas Hospital).

WAIVER

Texas Hospital acknowledges that the Texas Labor Code and other applicable laws provide certain rights. Texas Hospital 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. Texas Hospital 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.
2. Texas Hospital was classified as "high" tier in the 2007 and 2014 Performance Based Oversight (PBO) assessments, and "average" tier in the 2009 and 2012 PBO assessments. It was not selected to be classified in the 2010, 2016, or 2018 PBO assessments.

FAILURE TO TAKE FINAL ACTION ON A REQUEST FOR RECONSIDERATION

3. On [REDACTED], Texas Hospital received a request for reconsideration of a medical bill from the health care provider for dates of service of [REDACTED] through [REDACTED].

4. Texas Hospital was required to take action regarding payment or denial of the request for reconsideration no later than the 30th day after receipt of the request, which in this case was on [REDACTED]
5. Texas Hospital took final action on [REDACTED], which was 413 days late.

ASSESSMENT OF SANCTION

6. Failure to take timely action on requests for reconsideration needlessly delays the medical fee dispute resolution process.
7. In assessing the sanction for this case, the Texas Department of Insurance, Division of Workers' Compensation (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.
8. 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.
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 mitigating: the administrative violation did not have a negative impact on the delivery of benefits to an injured employee; the penalty necessary to deter future violations does not need to be higher; no history of previous violations; the demonstrated good faith of the violator, including actions taken to rectify consequences of the prohibited act; and other matters as justice may require, including, the size of the company; Texas Hospital is a small insurer;

PBO assessments were high for two of the years that it was classified, including its most recent year in 2014.

10. Texas Hospital acknowledges that DWC and Texas Hospital have communicated regarding the relevant statutes and rules violated; the facts surrounding the administrative violation; 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).
11. Texas Hospital acknowledges that, in assessing the penalty, DWC appropriately and fully considered the relevant applicable 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 28 TEX. ADMIN. CODE § 133.250, an insurance carrier is required to take final action on a complete request for reconsideration of the insurance carrier's action on a medical bill within 30 days of receipt of the request for reconsideration. The insurance carrier shall provide an explanation of benefits for all items included in a reconsideration request in the form and format prescribed by DWC.
6. Texas Hospital violated TEX. LAB. CODE § 415.002(a)(20) by failing to take final action on a request for reconsideration of a medical bill action within 30 days of receipt.

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ORDER

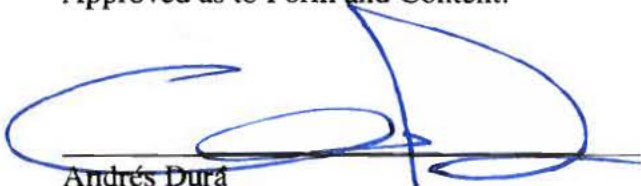
Texas Hospital Insurance Exchange is ORDERED to pay an administrative penalty of \$1,850 within 30 days from the date of this consent Order.

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 *NCW*
Commissioner of Workers' Compensation

Approved as to Form and Content:



Andrés Dura
Staff Attorney, DWC Enforcement
Texas Department of Insurance

