

No. **2022-7453**

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

Date: 8/25/2022

Subject Considered:

Safety National Casualty Corporation
1832 Schuetz Road
St. Louis, Missouri 63146

Consent Order
DWC Enforcement File Nos. 28719, 28896, 28993, 29057, & 29545

General remarks and official action taken:

This is a consent order with Safety National Casualty Corporation (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.

- Respondent was classified as "average" tier in the 2009, 2010, 2012, 2014, 2016, 2018, and 2020 Performance Based Oversight (PBO) assessments. Respondent was not selected to be tiered in the 2007 PBO assessment.

Failure to Timely Initiate Payment of Accrued Temporary Income Benefits

File No. 28719

- On [REDACTED] injured employee 1 incurred the first day of disability.
- On [REDACTED] Respondent received first notice of the injury. The due date to initiate or dispute temporary income benefits (TIBs) is the later of 15 days after the insurance carrier's written notice of the injury or seven days after the accrual date which in this case was on [REDACTED]
- Respondent was required to pay TIBs to injured employee 1 from [REDACTED] through [REDACTED]. The TIBs payments were due seven days after the first day of the pay period. Respondent failed to timely issue the TIBs payments, as follows:

	Payment Period	Date Due	Date Paid	Days Late
a.	[REDACTED]	[REDACTED]	[REDACTED]	44
b.	[REDACTED]	[REDACTED]	[REDACTED]	44
c.	[REDACTED]	[REDACTED]	[REDACTED]	38
d.	[REDACTED]	[REDACTED]	[REDACTED]	31
e.	[REDACTED]	[REDACTED]	[REDACTED]	24
f.	[REDACTED]	[REDACTED]	[REDACTED]	17
g.	[REDACTED]	[REDACTED]	[REDACTED]	10
h.	[REDACTED]	[REDACTED]	[REDACTED]	3

File No. 29057

- Respondent was required to pay TIBs to injured employee 2 from [REDACTED] through [REDACTED]. The TIBs payments were due seven days after the first day of the pay period. Respondent failed to timely issue the TIBs payments, as follows:

	Payment Period	Date Due	Date Paid	Days Late
a.	[REDACTED]	[REDACTED]	[REDACTED]	10
b.	[REDACTED]	[REDACTED]	[REDACTED]	3

File No. 29545

7. Respondent was required to pay TIBs to injured employee 3 from [REDACTED] through [REDACTED] TIBs accrued on [REDACTED]. The TIBs payments were due seven days after the first day of the pay period. Respondent failed to timely issue the TIBs payments, as follows:

	Payment Period	Date Due	Date Paid	Days Late
a.	[REDACTED]	[REDACTED]	[REDACTED]	12
b.	[REDACTED]	[REDACTED]	[REDACTED]	12
c.	[REDACTED]	[REDACTED]	[REDACTED]	5

Failure to Timely Pay Attorney Fees Ordered by DWC

File No. 28896

8. On [REDACTED] and [REDACTED] DWC issued three Attorney Fee Orders ordering Respondent to pay attorney fees in connection with legal services provided to injured employee 4. DWC ordered Respondent to pay attorney fees in the amount of 25% of each income benefit payment to the injured employee.
9. Respondent issued multiple payments to the injured employee for unpaid income benefits on the following dates:
- a. On [REDACTED] Respondent issued [REDACTED]
 - b. On [REDACTED] Respondent issued [REDACTED]
 - c. On [REDACTED] Respondent issued [REDACTED]
 - d. On [REDACTED] Respondent issued [REDACTED]

On each date, Respondent was required to issue payment for attorney fees in the amount of 25% of each income benefit payment to the injured employee, which amounts to the following:

- a. On [REDACTED] Respondent should have issued [REDACTED].
- b. On [REDACTED] Respondent should have issued [REDACTED].

- c. On [REDACTED] Respondent should have issued [REDACTED]
- d. On [REDACTED] Respondent should have issued [REDACTED]

10. Respondent issued payment of [REDACTED] to the injured employee's attorney on [REDACTED] which was 24, 16, nine, and six days late respectively.

File No. 28993

11. On [REDACTED] and [REDACTED] DWC issued eight Attorney Fee Orders ordering Respondent to pay attorney fees in connection with legal services provided to injured employee 5. DWC ordered Respondent to pay attorney fees in the amount of 25% of each income benefit payment to the injured employee.

12. Between [REDACTED] and [REDACTED] Respondent issued multiple payments to the injured employee (IE) for unpaid income benefits. Respondent failed to timely pay attorney fees in an amount equal to 25% of the temporary income benefits (TIBs) paid to the IE as follows:

Date TIBs Paid to IE	TIBs Paid to IE	Attorney Fees Owed	Attorney Fees Paid	Attorney Fees Due Date	Attorney Fees Date Paid	Days Late
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	23
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	16
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	N/A
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	4
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	19
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	14
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	7
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	N/A
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	22
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	N/A
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	1
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	4

Assessment of Sanction

1. Failure to provide income benefits in a timely and cost-effective manner is harmful to injured employees and the Texas workers' compensation system.
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; the history and extent of previous administrative violations; the penalty necessary to deter future violations; and whether the administrative violation had a negative impact on the delivery of benefits to an injured employee.
4. DWC is aware of no mitigating factors pursuant to Tex. Lab. Code § 415.021(c) and 28 Tex. Admin. Code § 180.26(e).

5. 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).
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, 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) and (22), an insurance carrier or its representative commits an administrative violation each time it violates a DWC rule or a provision of the Texas Workers' Compensation Act.

Failure to Timely Initiate Payment of Accrued Temporary Income Benefits

6. Pursuant to Tex. Lab. Code §§ 408.081, 409.023, and 415.002(a)(16), an insurance carrier must pay benefits weekly, as and when the benefits accrue, without order from the commissioner.

7. Pursuant to Tex. Lab. Code §§ 408.081, 408.082, and 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, 409.023, 415.002(a)(16), (20) and (22), and 28 Tex. Admin. Code §§ 124.3 and 124.7 each time Respondent failed to timely initiate payment of TIBs.

Failure to Timely Pay Attorney Fees Ordered by DWC

9. Pursuant to Tex. Lab. Code §§ 415.021(a) and 415.0035(e), an insurance carrier commits an administrative violation if it violates, fails to comply with, or refuses to comply with a DWC order.
10. Pursuant to 28 Tex. Admin. Code § 152.1(c), insurance carriers are required to pay attorney fees ordered by DWC. The insurance carrier must begin payment out of the approved income benefits by mailing a check to the attorney within seven days after receiving the order. As the insurance carrier pays income benefits, it must pay attorney fees until the fees are completely paid or income benefits cease.
11. Respondent violated Tex. Lab. Code §§ 415.002(a)(20) and (22); 415.021(a), 415.0035(e); and 28 Tex. Admin. Code § 152.1(c) by failing to timely comply with a DWC order to pay attorney fees.

Order

It is ordered that Safety National Casualty Corporation must pay an administrative penalty of \$22,000.00 within 30 days from the date of this order. Safety National Casualty Corporation 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.



Jeff Nelson
Commissioner
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Approved Form and Content:



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