

No. 2024-8636

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

Date: 4/30/2024

Subject Considered:

MHHS Hermann Hospital
PO Box 301208
Dallas, Texas 75303-1208

Consent Order
DWC Enforcement File No. 33579

General remarks and official action taken:

This is a consent order with MHHS Hermann Hospital (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 is a health care provider operating in the Texas workers' compensation system.
2. Respondent was not selected to be tiered in the 2022, 2020, or 2018 Performance Based Oversight (PBO) assessments.

Failure to Timely Comply with a Refund Request from an Insurance Carrier

4. On [REDACTED], Respondent received a properly completed refund request for \$ [REDACTED] from the insurance carrier for date of service [REDACTED]. Respondent was required to pay or appeal the refund request not later than the 45th day of receipt of the request, which in this case was by [REDACTED].
5. Respondent refunded \$ [REDACTED] to the insurance carrier on [REDACTED], which was 116 days late.

Assessment of Sanction

1. Failing to comply with the statutes and rules governing proper billing and reimbursements in the Texas workers' compensation system imposes an undue financial burden on system participants, increases the likelihood of disputes, and is contrary of DWC's goal of a fair and balanced 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 factor 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.
4. DWC considered the following mitigating factors pursuant to Tex. Lab. Code § 415.021(c) and 28 Tex. Admin. Code § 180.26(e): no prior violations from this subsidiary on this violation and Respondent's corrective measures to prevent future violations such as retiring old fax numbers and additional training.
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 § 408.0271(c), a health care provider shall reimburse the insurance carrier for payments received by the provider for inappropriate charges not later than the 45th day after the date of the carrier's notice. The failure by the health care provider to timely remit payment to the carrier constitutes an administrative violation.

5. Pursuant to Tex. Lab. Code §§ 415.003(5) and (6), a health care provider commits an administrative violation if he fails to comply with a DWC rule or a provision of the Texas Workers' Compensation Act.
6. Pursuant to 28 Tex. Admin. Code § 133.260(c), a health care provider shall respond to a request for a refund from an insurance carrier by the 45th day after receipt of the request, either by paying the requested amount or submitting an appeal to the insurance carrier with a specific explanation of the reason the health care provider has failed to remit payment.
7. Pursuant to Tex. Lab. Code § 415.021, the commissioner may assess an administrative penalty against a person who commits an administrative violation.
8. Respondent violated Tex. Lab. Code §§ 408.0271(c); 415.003(5) and (6); and 28 Tex. Admin Code § 133.260(c) by failing to timely comply with a refund request.

Order

It is ordered that MHHS Hermann Hospital must pay an administrative penalty of \$600 within 30 days from the date the Commissioner signs the order.

After receiving an invoice, MHHS Hermann Hospital must pay the administrative penalty by electronic transfer using the State Invoice Payment Service, 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:



Stephen Jewell
Staff Attorney, Enforcement
Compliance and Investigations
TDI, Division of Workers' Compensation

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Unsworn Declaration

STATE OF TEXAS §
§
COUNTY OF HARRIS §

Pursuant to the Tex. Civ. Prac. and Rem. Code § 132.001(a), (b), and (d), my name is Theresa Pappas. I hold the position of Vice President, Hospital Revenue Cycle Operations and am the authorized representative of MHHS Hermann Hospital. My business address is:

902 Frostwood Dr., Houston, Texas 77024.

I am executing this declaration as part of my assigned duties and responsibilities. I declare under penalty of perjury that the facts stated in this document are true and correct.

DocuSigned by:
Theresa Ancelet Pappas
4E319C14AR12447

Declarant

Executed on 4/10/2024, 2024.

**Confidential Information Redacted Texas
Labor Code §§402.083 and 402.092**