

No. 2024-8653

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

**Date:** 5/13/2024

**Subject Considered:**

American Zurich Insurance Company  
1299 Zurich Way  
Schaumburg, Illinois 60196-5860

Consent Order  
DWC Enforcement File No. 34060

**General remarks and official action taken:**

This is a consent order with American Zurich Insurance Company (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.
2. Respondent was classified as "average" tier in the 2022, 2020, and 2018 Performance Based Oversight (PBO) assessments.

Failure to Process a Claim in a Reasonable and Prudent Manner

3. On [REDACTED], an injured employee sustained a workplace injury when a box fell and injured the employee's [REDACTED]. The injured employee's emergency room records show a [REDACTED].
4. On [REDACTED], Respondent issued a PLN-1, *Notice of Denial of Compensability/Liability and Refusal to Pay Benefits*, which cited that Respondent received a [REDACTED] performed on the injured employee immediately after the injury.
5. However, there was no evidence that the injured employee was [REDACTED]. In fact, the medical records document that the injured employee demonstrated appropriate, cooperative and alert behavior.
6. On [REDACTED] Respondent signed a benefit dispute agreement with the injured employee agreeing that the injured employee did sustain a compensable injury, [REDACTED], and had disability from [REDACTED], through [REDACTED].
7. On [REDACTED], Respondent paid \$ [REDACTED] in benefits to the injured employee 103 days late.

**Assessment of Sanction**

1. Failure to provide appropriate income benefits in a timely and cost-effective manner is harmful to injured employees and the Texas workers' compensation system.
2. Failure to provide reasonable and transparent claims processing, including an adequate investigation of the claim, increases the likelihood of disputes in the Texas workers' compensation system, fails to promote payment of appropriate income and medical benefits, and fails to ensure that injured employees are treated with dignity and respect.

3. 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.
4. 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; whether the administrative violation had a negative impact on the delivery of benefits to an injured employee; the history and extent of previous administrative violations; the history of compliance with electronic data interchange requirements; and other matters that justice may require, including the size of the company or practice, and the circumstances of the denial.
5. DWC is aware of no mitigating factors pursuant to Tex. Lab. Code § 415.021(c) and 28 Tex. Admin. Code § 180.26(e).
6. Respondent acknowledges it communicated with DWC about the relevant statutes and rules it violated; the facts establish that the administrative violation occurred;

and 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).

7. 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).

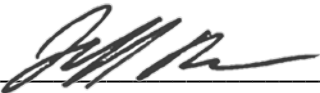
### **Conclusions of Law**

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)(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 §§ 409.022 and 415.002(a)(11), an insurance carrier commits an administrative violation if fails to process claims promptly in a reasonable and prudent manner.
7. Respondent violated Tex. Lab. Code §§ 409.022 and 415.002(a)(11) and (22) by failing to adequately investigate the injured employee 's claim and by failing to state reasonable grounds for a refusal to pay benefits, terminate benefits, or reduce benefits.

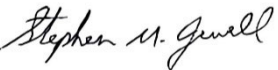
**Order**

It is ordered that American Zurich Insurance Company must pay an administrative penalty of \$4,500 within 30 days from the date the Commissioner signs the order.

After receiving an invoice, American Zurich Insurance Company must pay the administrative penalty by electronic transfer using the State Invoice Payment Service, 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, PO Box 12030, Austin, Texas 78711-2030.

  
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Jeff Nelson  
Commissioner  
TDI, Division of Workers' Compensation

Approved Form and Content:

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

**Unsworn Declaration**

**STATE OF** IL §  
§  
**COUNTY OF** Cook §

Pursuant to the Tex. Civ. Prac. & Rem. Code § 132.001(a), (b), and (d), my name is Joseph Ragonese. I hold the position of Vice President and am the authorized representative of American Zurich Insurance Company. My business address is:

1299 Zurich Way, Schaumburg, Cook, IL, 60196.  
(Street) (City) (County) (State) (ZIP Code)

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.

Joseph Ragonese  
Declarant

Executed on April 19, 2024.