

No. 2024-8876

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

Date: 10/2/2024

Subject Considered:

Priority Health & Wellness
2620 Cullen Parkway, Suite 202
Pearland, Texas 77581-9008

Consent Order
DWC Enforcement File Nos. 34515 & 34516

General remarks and official action taken:

This is a consent order with Priority Health & Wellness (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 (HCP) operating within the Texas workers' compensation system.
2. Respondent was not selected to be tiered in any Performance Based Oversight (PBO) assessment.

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

File No. 34515

3. On [REDACTED], Respondent received a properly completed refund request from an insurance carrier in the amount of \$ [REDACTED] for dates of service [REDACTED], through [REDACTED]. Respondent was required to contact the insurance carrier with the decision to pay or appeal the refund request no later than the 45th day of receipt of the request, which in this case was by [REDACTED].
4. On [REDACTED], this matter was set at the State Office of Administrative Hearings under Docket No. 454-24-24564.C1.
5. On [REDACTED], Respondent responded to the refund request.

Failure to Timely Comply with a DWC Order to Produce Documents

File No. 34516

6. On [REDACTED], DWC ordered Respondent to produce the following:
 - a. date stamped copies of the refund request from the insurance carrier to the health care provider for \$ [REDACTED],
 - b. the health care provider's response to the insurance carrier's request for a refund,
 - c. a payment summary of the refund with or without interest, and
 - d. the health care provider's statement of position concerning the failure to timely respond to the above noted refund request.
7. Respondent was required to submit the documentation by [REDACTED].
8. On [REDACTED], Respondent responded to the DWC's Notice of Violation, with some of the information requested.
9. Respondent failed to timely submit documentation as ordered by DWC.

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. Timely submitting information to DWC and complying with DWC orders is imperative to DWC's ability to implement and enforce the Texas Workers' Compensation Act.
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; evidence of heightened awareness of the legal duty to comply with the Act and DWC rules; and

the penalty necessary to deter future violations based on continued non-compliance.

5. DWC considered the following mitigating factor pursuant to Tex. Lab. Code § 415.021(c) and 28 Tex. Admin. Code § 180.26(e): no history of prior administrative violations.
6. 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).
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.

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

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5. 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.
6. 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.
7. 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.
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.

Failure to Timely Comply with a DWC Order to Produce Documents

File No. 34516

10. Pursuant to Tex. Lab. Code §§ 415.0035(e) and 415.021(a), a person regulated by DWC under this title commits an administrative violation if they violate the Texas Workers' Compensation Act, a DWC rule, or a commissioner's order or decision.
11. Pursuant to 28 Tex. Admin. Code § 102.9, DWC requires those subject to the Texas Workers' Compensation Act to provide information as necessary. DWC may follow up on a request for information by issuing an order to produce information.
12. Respondent violated Tex. Lab. Code §§ 415.0035(e); 415.021(a); and 28 Tex. Admin. Code § 102.9 by failing to comply with a DWC order to produce documents.

Order

It is ordered that Priority Health & Wellness must pay an administrative penalty of \$3,500 within 30 days from the date the Commissioner signs the order.

After receiving an invoice, Priority Health & Wellness 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.



Jeff Nelson
Commissioner
TDI, Division of Workers' Compensation

Approved Form and Content:



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