

No. **2024-8963**

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

**Date: 11/21/2024**

**Subject Considered:**

AIU Insurance Company  
PO Box 201329  
Austin, Texas 78720-1329

Consent Order  
DWC Enforcement File No. 35498

**General remarks and official action taken:**

This is a consent order with AIU 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 Performance Based Oversight (PBO) assessments. Respondent was not selected to be tiered in the 2020 or 2018 PBO assessments.

Failure to Accurately Pay Temporary Income Benefits (TIBs)

3. On [REDACTED], an employee suffered a workplace injury.
4. Respondent was required to pay the correct amount of temporary income benefits (TIBs) to the injured employee for the period of [REDACTED], through [REDACTED].
5. Between [REDACTED], and [REDACTED], Respondent paid the incorrect TIBs rate.<sup>1</sup> This resulted in an underpayment of \$ [REDACTED] per week for a period of 15 weeks, for a total underpayment of \$ [REDACTED].<sup>2</sup>
6. On [REDACTED], Respondent paid \$ [REDACTED] to the injured employee. The injured employee received the underpaid amount 103 days late, but was receiving benefits timely throughout the benefit period.
7. On [REDACTED], Respondent paid interest on the TIBs payment 33 days late.

**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

<sup>1</sup> Respondent paid \$ [REDACTED] which was the maximum TIBs rate for the 2023 fiscal year.

<sup>2</sup> The maximum TIBs rate had been updated to \$ [REDACTED] for the 2024 fiscal year.

- 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 penalty necessary to deter future violations; the history and extent of previous administrative 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 fails to comply with a DWC rule or a provision of the Texas Workers' Compensation Act.

Failure to Pay TIBs at the Correct Rate

6. Pursuant to Tex. Lab. Code § 408.103 and Tex. Admin. Code § 129.3, the insurance carrier is required to pay the correct amount of TIBs.
7. Respondent violated Tex. Lab. Code §§ 408.103; 415.002(a)(20) and (22); and 28 Tex. Admin. Code § 129.3 each time Respondent failed to accurately pay TIBs.

Failure to Pay Interest Timely

8. Pursuant to Tex. Lab. Code § 408.081, interest on accrued but unpaid income benefits shall be paid, without order of the commissioner, at the time the accrued benefits are paid.
9. Respondent violated Tex. Lab. Code §§ 408.081 and 415.002(a)(22) by failing to pay interest at the time the accrued income benefits were paid.

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**Order**

It is ordered that AIU Insurance Company must pay an administrative penalty of \$700 within 30 days from the Commissioner signs the order.

After receiving an invoice, AIU 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:

  
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Dan Garcia  
Staff Attorney, Enforcement  
Compliance and Investigations  
TDI, Division of Workers' Compensation

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**Unsworn Declaration**

**STATE OF** NEW YORK §  
§  
**COUNTY OF** NEW YORK §

Pursuant to the Tex. Civ. Prac. and Rem. Code § 132.001(a), (b), and (d), my name is Conor Murray. I hold the position of Senior Vice President and am the authorized representative of AIU Insurance Company. My business address is:  
1271 Avenue of the Americas, New York, New York, NY, 10020.  
(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.

Signed by:  
Conor Murray  
EE7D677E82F8437...

Declarant

Executed on November 12, 2024, 2024.

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