

**No. 2025-9084**

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

**Date: 1/21/2025**

**Subject Considered:**

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

Consent Order  
DWC Enforcement File No. 35763

**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 2024, and 2022 Performance Based Oversight (PBO) assessments. Respondent was not selected to be tiered in the 2020 PBO assessments.

Failure to Timely Initiate Payment of Accrued Temporary Income Benefits & Failure to Notify DWC or Provide a Sufficient Explanation for an Action Taken on a Claim

3. On [REDACTED], an employer submitted an *Employer's First Report of Injury or Illness* for an injured employee who was injured on [REDACTED] (Claim 2). At the time this injury occurred, the injured employee already had another open claim involving a separate workplace injury (Claim 1).
4. On [REDACTED], Respondent filed a DWC-022, *Request for a required medical examination (RME)*, on Claim 1. According to the DWC-022, the RME was to be scheduled on [REDACTED].
5. On [REDACTED], DWC issued a Commissioner's Order on Claim 1, approving Respondent's request for an RME.
6. On [REDACTED], Respondent issued the First Notice of Temporary Income Benefit (TIBs) Payment to the injured employee on Claim 2.
7. On [REDACTED], Respondent paid TIBs on Claim 2 for the benefit period of [REDACTED] to [REDACTED].
8. On [REDACTED], Respondent submitted a DWC PLN-11, *Notice of Disputed Issues and Refusal to Pay Benefits*, on Claim 2 disputing the injured employee's disability on the grounds that the injured employee had failed to attend the RME scheduled on [REDACTED]. However, Respondent's PLN-11 did not contain claim-specific substantive information in its reasoning for the refusal to pay benefits. The RME referenced in the PLN-11 pertained to Claim 1.
9. On [REDACTED], Respondent filed a second PLN-11 on Claim 2 disputing the injured employee's disability based on a peer review report dated Feb. 20, 2024. However, the referenced peer review report could not contain claim-specific substantive information since it was dated 73 days prior to the date of injury in Claim 2.
10. On [REDACTED], Respondent issued a PLN-10, *Notice of Reinstatement of Indemnity Benefits*, indicating that TIBs were stopped on Claim 2 in error.

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

	Payment Period	Date Due	Date Paid	Days Late
a.	[REDACTED] to [REDACTED]	[REDACTED]	[REDACTED]	59
b.	[REDACTED] to [REDACTED]	[REDACTED]	[REDACTED]	52
c.	[REDACTED] to [REDACTED]	[REDACTED]	[REDACTED]	45
d.	[REDACTED] to [REDACTED]	[REDACTED]	[REDACTED]	38
e.	[REDACTED] to [REDACTED]	[REDACTED]	[REDACTED]	31
f.	[REDACTED] to [REDACTED]	[REDACTED]	[REDACTED]	24
g.	[REDACTED] to [REDACTED]	[REDACTED]	[REDACTED]	17
h.	[REDACTED] to [REDACTED]	[REDACTED]	[REDACTED]	10
i.	[REDACTED] to [REDACTED]	[REDACTED]	[REDACTED]	3

12. Respondent paid \$ [REDACTED] in late TIBs and due interest.

**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:
    - a. the seriousness of the violation, including the amount at issue, the lateness and the overall claims handling;
    - b. Respondent's disciplinary history, including several warning letters and consent orders involving failure to timely pay TIBs (see 2024-8907 and 2024-8890);
    - c. the penalty necessary to deter future violations;
    - d. the negative impact on the delivery of benefits to an injured employee; and
    - e. other matters that justice may require, including Respondent's size, sophistication and evidence of heightened awareness of the legal duty to comply with the Texas Workers' Compensation Act and DWC rules.
  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 Timely Initiate Payment of Accrued Temporary Income Benefits

6. Pursuant to Tex. Lab. Code § 408.101, an employee is entitled to temporary income benefits if the employee has a disability and has not attained maximum medical improvement.
7. 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.
8. Pursuant to Tex. Lab. Code §§ 408.081, 408.082, and 28 Tex. Admin. Code § 124.7, an insurance carrier is required to initiate payment of TIBs no later than the seventh day after the accrual date.
9. Respondent violated Tex. Lab. Code §§ 409.023; 415.002(a)(16), (20), and (22); and 28 Tex. Admin. Code § 124.7 each time Respondent failed to timely initiate payment of TIBs.

Failure to Notify DWC or Provide a Sufficient Explanation for an Action Taken on a Claim

10. Pursuant to 28 Tex. Admin. Code § 124.2(a) and (d), an insurance carrier shall notify the division and the claimant of actions taken on or events occurring in a claim, including but not limited to the denial of a claim based on non-compensability or lack of coverage. The insurance carrier must notify the division and the claimant of a termination or suspension of income or death benefits within 10 days of making the last payment for benefits.
11. Pursuant to 28. Tex. Admin. Code § 124.2(h), notification to the claimant as required by 28. Tex. Admin. Code § 124.2(d) requires an insurance carrier to provide a plain language notice with a full and complete statement describing the insurance carrier's actions and its reasons for the action. The statement must contain sufficient claim-specific, substantive information to enable the injured employee to understand the carrier's position or action taken on the claim.
12. Respondent violated Tex. Lab. Code § 415.002(a)(20) and (22), and 28. Tex. Admin. Code § 124.2(h), when it failed to timely submit an adequate DWC PLN-11 describing claim-specific, substantive information as grounds for a dispute and suspension of TIBs benefits on Claim 2 within 10 days of making the last payment.

**Order**

It is ordered that AIU Insurance Company must pay an administrative penalty of \$3,000 within 30 days from the date 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, P.O. Box 12030, Austin, Texas 78711-2030.

  
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Jeff Nelson  
Commissioner  
TDI, Division of Workers' Compensation

Approved Form and Content:

  
\_\_\_\_\_  
Austin Southerland  
Staff Attorney, Enforcement  
Compliance and Investigations  
TDI, Division of Workers' Compensation

**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 December 16, 2024 | 8:56 AM EST, 2024.