

No. 2025-9117

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

**Date:** 1/30/2025

**Subject Considered:**

Starr Indemnity & Liability Company  
399 Park Avenue, Floor 3  
New York, New York 10022

Consent Order  
DWC Enforcement File No. 35342

**General remarks and official action taken:**

This is a consent order with Starr Indemnity & Liability 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 Timely and Accurately Pay Accrued Impairment Income Benefits (IIBs) Based on a Designated Doctor (DD) Report

*Late IIBs*

3. On [REDACTED], Respondent received a DD report of a DD examination. The DD determined that the injured employee reached maximum medical improvement (MMI) on [REDACTED], and had a [REDACTED] % impairment rating (IR).
4. Respondent was required to pay accrued IIBs no later than five days after receiving the DD report. The deadline to pay benefits was [REDACTED].
5. Respondent paid \$ [REDACTED] in IIBs on [REDACTED], which was 28 days late.

*Inaccurate IIBs*

6. Respondent was required to pay IIBs to the injured employee for the periods between [REDACTED], and [REDACTED].
7. Respondent was required to pay IIBs at a rate equal to 70% of the injured employee's average weekly wage. The correct weekly IIBs rate was \$ [REDACTED].
8. On [REDACTED], Respondent paid IIBs at an incorrect rate of \$ [REDACTED] from [REDACTED] through [REDACTED], resulting in a total underpayment of \$ [REDACTED].
9. On [REDACTED], Respondent paid the \$ [REDACTED] IIBs deficiency 112 days late.
10. On [REDACTED], Respondent paid \$ [REDACTED] in interest on the late IIBs 116 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
  - 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 pattern of errors, the amount at issue and the lateness of the payments;
  - b. the penalty necessary to deter future violations;
  - c. Respondent's disciplinary history on income benefits, including two recent consent orders involving late IIBs;
  - d. Respondent's history of compliance with EDI requirements;
  - e. Respondent's size and sophistication;
  - f. the negative impact on the delivery of benefits to an injured employee; and
  - g. the economic benefit to Respondent.
4. DWC found the following factors in Tex. Lab. Code § 415.021(c) and 28 Tex. Admin. Code § 180.26(e) to be mitigating: Respondent conducted additional training regarding wage statements and wage information for adjusters on April 11, 2024, July 18, 2024, and July 25, 2024.
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, 414.003, and 415.021.
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), an insurance carrier or its representative commits an administrative violation each time it violates a DWC rule.
6. 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 the DWC rules or a provision of the Texas Workers' Compensation Act.
7. Pursuant to Tex. Lab. Code § 408.126, an impairment income benefit is equal to 70% of the employee's average weekly wage.
8. Pursuant to Tex. Lab. Code § 408.0041(f), an insurance carrier must pay benefits based on the opinion of the DD during any pending dispute.

9. 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. An employee is entitled to timely and accurate benefits.
10. Pursuant to 28 Tex. Admin. Code § 127.10(i), an insurance carrier must pay all benefits in accordance with the DD report for the issues in dispute no later than five days after receiving the report.
11. Respondent violated Tex. Lab. Code §§ 409.023 and 415.002(a)(16), (20), and (22); and 28 Tex. Admin. Code § 127.10(i) by failing to timely and accurately pay accrued income benefits in accordance with the DD report no later than five days after receiving the report.

Failure to Timely Pay Interest

12. Pursuant to Tex. Lab. Code § 408.064 and 28 Tex. Admin. Code § 126.12(b), accrued but unpaid income benefits and interest shall be paid in a lump sum.
13. Respondent violated Tex. Lab. Code § 415.002(a)(20) and (22) and 28 Tex. Admin. Code § 126.12(b) each time Respondent failed to timely pay interest with accrued but unpaid income benefits.

**Order**

It is ordered that Starr Indemnity & Liability Company must pay an administrative penalty of \$3,500 within 30 days from the date the Commissioner signs the order.

After receiving an invoice, Starr Indemnity & Liability 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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Austin Southerland  
Staff Attorney, Enforcement  
Compliance and Investigations  
TDI, Division of Workers' Compensation

**Unsworn Declaration**

**STATE OF** NY §  
§  
**COUNTY OF** NY §

Pursuant to the Tex. Civ. Prac. and Rem. Code § 132.001(a), (b), and (d), my name is Dave Fitzgerald. I hold the position of Global Chief Claims Officer and am the authorized representative of Starr Indemnity & Liability Company. My business address is:

399 Park Avenue, New York, New York, NY, 10022.  
(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.

DocuSigned by:  
Dave Fitzgerald  
3831230E46C0434...  
Declarant

Executed on January 16, 2025, 2025.