

No. 2025-9190

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

Date: 3/7/2025

Subject Considered:

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

Consent Order
DWC Enforcement File Nos. 35393 & 35612

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 2024, 2022, and 2020 Performance Based Oversight (PBO) assessments.

Failure to Accurately Pay Temporary Income Benefits

File No. 35612

3. Between [REDACTED], and [REDACTED], Respondent inaccurately paid temporary income benefits (TIBs) to an injured employee.
4. Respondent paid \$ [REDACTED] in weekly TIBs, but Respondent owed up to \$ [REDACTED] in weekly TIBs to the injured employee. As of [REDACTED], Respondent owed \$ [REDACTED] in underpaid TIBs to the injured employee, which was up to 83 days late.
5. On [REDACTED], Respondent paid \$ [REDACTED] in TIBs, and still owed \$ [REDACTED].
6. On [REDACTED], Respondent paid the remaining \$ [REDACTED] in TIBs.
7. On [REDACTED], Respondent paid interest four and three days late, respectively.

Failure to Timely Pay Accrued TIBs

File No. 35393

8. Respondent was required to pay TIBs to an injured employee for the period of [REDACTED] through [REDACTED]. The TIBs payment was due seven days after the first day of the pay period, which was [REDACTED].
9. On [REDACTED], Respondent paid \$ [REDACTED] in late TIBs seven days late.
10. On [REDACTED], Respondent paid interest 14 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;
 - 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 \$8,375 in economic harm to the injured employees, and a delay of up to 83 days;
 - b. Respondent's significant disciplinary history, including seven recent actions involving TIBs;
 - c. the penalty necessary to deter future violations;
 - d. the negative impact on the delivery of benefits to injured employees;
 - e. The economic benefit to Respondent; and
 - f. Respondent's size (10th in Texas workers' compensation market share).
4. DWC found the following factors in Tex. Lab. Code § 415.021(c) and 28 Tex. Admin. Code § 180.26(e) to be mitigating:
- a. the violator's demonstration of good faith, including the fact that Respondent ultimately paid the injured employee in 35612 more than the maximum weekly rate and cured the consequences of the prohibited act; and
 - b. other matters as justice requires, specifically Respondent's statement that it relied on inaccurate information provided by the employer.

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 Accurately Pay TIBs at the Correct Rate

File No. 35612

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 Timely Pay Accrued TIBs

File No. 35393

8. 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.
9. Pursuant to Tex. Lab. Code § 408.101, an employee is entitled to TIBs if the employee has a disability and has not attained maximum medical improvement.
10. 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.
11. Respondent violated Tex. Lab. Code §§ 408.081, 409.023, 415.002(a)(16)(20) and (22), each time Respondent failed to timely pay accrued TIBs.

Failure to Timely Pay Interest

File Nos. 35393 and 35612

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 \$6,000 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.



Jeff Nelson
Commissioner
TDI, Division of Workers' Compensation

Approved Form and Content:



Daniel Garcia
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
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Declarant

Executed on January 10, 2025, 2025.