

No. **2025-9219**

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

Date: 3/25/2025

Subject Considered:

New Hampshire Insurance Company
175 Water Street, Floor 18
New York, New York 10038

Consent Order
DWC Enforcement File Nos. 35735 & 35864

General remarks and official action taken:

This is a consent order with New Hampshire 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, 2022, and 2020 Performance Based Oversight (PBO) assessments.

Failure to Pay Accurate Temporary Income Benefits and Impairment Income Benefits

File No. 35864

3. Respondent was required to pay temporary income benefits (TIBs) to an injured employee between [REDACTED], and [REDACTED]. Respondent was required to pay impairment income benefits (IIBs) to the injured employee from [REDACTED] to [REDACTED].
4. Between [REDACTED], and [REDACTED], Respondent made timely payments to the injured employee. However, Respondent improperly deducted and paid attorney fees when no attorney fees were due.
5. Respondent's overpayment of attorney fees resulted in a weekly underpayment of nine weeks of TIBs at \$ [REDACTED] per week, a weekly underpayment of 11 weeks and one day (\$ [REDACTED]) of IIBs at \$ [REDACTED] per week. The total underpayment to the injured employee was \$ [REDACTED].
6. On [REDACTED], Respondent discovered the overpaid attorney's fees.
7. On [REDACTED], Respondent paid \$ [REDACTED] to the injured employee for the underpayment of TIBs and IIBs.
8. On [REDACTED], Respondent paid the injured employee \$ [REDACTED] in interest four days late.

Failure to Timely Comply with a Contested Case Hearing Decision and Order

File No. 35735

9. On [REDACTED], DWC issued a contested case hearing decision and order (CCH D&O) requiring Respondent to pay benefits to an injured employee in accordance with the decision. Respondent received the CCH D&O on [REDACTED].
10. The CCH D&O became final on [REDACTED]. Respondent was required to comply with the CCH D&O within 20 days. The deadline to comply was [REDACTED].

11. On [REDACTED], Respondent paid \$ [REDACTED] in benefits plus interest two 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. Compliance with DWC orders is imperative to minimize disputes and resolve them promptly and fairly. In addition, failure to provide income benefits in a timely and cost-effective manner is harmful to injured employees and the Texas workers' compensation system.
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;
 - 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:
 - a. the seriousness of the violation, including the amount at issue involving approximately \$ [REDACTED] in benefits for two injured employees and 21 weeks of underpaid benefits in ECase 35864 paid four months late;

- b. Respondent's significant disciplinary history, which includes several recent income benefit violations and two prior consent orders involving late compliance with CCH D&Os;
 - c. the penalty necessary to deter future violations;
 - d. the negative impact on the delivery of approximately \$ [REDACTED] in benefits to two injured employees; and
 - e. other matters that justice may require, including evidence of heightened awareness of the legal duty to comply with the Texas Workers' Compensation Act and DWC rules.
5. 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 with its supervisory staff on Sept. 9, 2024, designed to avoid recurrence of the type of benefit payment error which occurred in file number 35864.
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.

Commissioner's Order
New Hampshire Insurance Company
DWC Enforcement File Nos. 35735 & 35864
Page 5 of 8

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 Accurate Temporary Income Benefits and Impairment Income Benefits

File No. 35864

6. 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.
7. Respondent violated Tex. Lab. Code §§ 408.081, 409.023, 415.002(a)(16), (20) and (22) each time Respondent failed to accurately pay TIBs or IIBs.

Failure to Timely Pay Interest

File No. 35864

8. 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.
9. Respondent violated Tex. Lab. Code §§ 408.064 and 415.002(a)(20) and (22) and 28 Tex. Admin. Code § 126.12(b) when Respondent failed to timely pay interest with accrued but unpaid income benefits.

Failure to Timely Comply with a Contested Case Hearing Decision and Order

File No. 35735

Commissioner's Order
New Hampshire Insurance Company
DWC Enforcement File Nos. 35735 & 35864
Page 6 of 8

10. Pursuant to Tex. Lab. Code §§ 415.0035(e) and 415.021(a), an insurance carrier commits an administrative violation if it violates, fails to comply with, or refuses to comply with a DWC order.
11. Pursuant to Tex. Lab. Code § 410.169 and 28 Tex. Admin. Code § 142.16, a party is required to comply with a CCH D&O within 20 days of the order becoming final. However, if the CCH D&O involves benefits, a party must comply no later than the fifth day after filing a written request for appeal.
12. Respondent violated Tex. Lab. Code §§ 410.169; 415.002(a)(20) and (22); 415.0035(e), 415.021; and 28 Tex. Admin. Code § 142.16 by failing to timely comply with a DWC order for benefits.

Commissioner's Order
New Hampshire Insurance Company
DWC Enforcement File Nos. 35735 & 35864
Page 7 of 8

Order

It is ordered that New Hampshire Insurance Company must pay an administrative penalty of \$7,000 within 30 days from the date the Commissioner signs the order.

After receiving an invoice, New Hampshire 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.



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

Commissioner's Order
New Hampshire Insurance Company
DWC Enforcement File Nos. 35735 & 35864
Page 8 of 8

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 New Hampshire 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
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Declarant

Executed on February 27, 2025, 2025.