

No. 2025-9251

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

Date: 4/10/2025

Subject Considered:

Ace American Insurance Company
436 Walnut Street
Philadelphia, Pennsylvania 19106-3703

Consent Order
DWC Enforcement File Nos. 36137, 36237, 36238, 36250 & 36294

General remarks and official action taken:

This is a consent order with Ace American 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 Timely Pay Impairment Income Benefits Based on a Designated Doctor Report

File No. 36294

3. On [REDACTED], Respondent received a designated doctor (DD) report of a DD examination performed on [REDACTED].
4. The DD determined that the injured employee reached maximum medical improvement (MMI) on [REDACTED], with a [REDACTED] % impairment rating.
5. Respondent was required to pay accrued impairment income benefits (IIBs) no later than five days after receiving the DD report. The deadline to pay benefits was [REDACTED].
6. On [REDACTED], Respondent paid \$ [REDACTED] in IIBs 134 days late.

Failure to Timely Pay Supplemental Income Benefits

File No. 36137

First Quarter

7. On [REDACTED], Respondent received a *Notice of Entitlement to Supplemental Income Benefits* (SIBs) for the first quarter, which began on [REDACTED].
8. Respondent's payment for the first month of the first quarter was due by the 10th day after Respondent received DWC's determination of entitlement or the seventh day of the first quarter, whichever is later. In this case, the latest date was [REDACTED].
9. By [REDACTED], Respondent paid \$ [REDACTED] in SIBs, leaving an unpaid balance of \$ [REDACTED] for the first month of the first quarter.
10. On [REDACTED], Respondent paid the remaining \$ [REDACTED] in SIBs for the first month of the first quarter 27 days late.
11. Respondent's payment for the second month of the first quarter was due no later than the 37th day of the first quarter, or by [REDACTED].

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12. By [REDACTED], Respondent paid \$ [REDACTED] in SIBs for the second month of the first quarter leaving an unpaid balance of \$ [REDACTED].
13. On [REDACTED], Respondent paid \$ [REDACTED] in SIBs for the second month of the first quarter leaving an unpaid balance of \$ [REDACTED]. The payment was six days late.
14. Respondent's payment for the third month of the first quarter was due no later than the 67th day of the first quarter, or by [REDACTED].
15. On [REDACTED], Respondent paid the remaining balance for second and third months of the first quarter of SIBs in a lump sum. The payment was 30 and four days late, respectively.
16. On [REDACTED], Respondent issued an additional SIBs payment for the first quarter, resulting in an overpayment of \$ [REDACTED].

Third Quarter

17. On [REDACTED], Respondent received a DWC Form-52, *Application for Supplemental Income Benefits* (DWC 52) from the injured employee for the third quarter of SIBs. The quarter began on [REDACTED].
18. The first payment of the third quarter was due on the tenth day after the day on which the insurance carrier received the Application for Supplemental Income Benefits, or the seventh day of the quarter, whichever is later. In this case, the first month of the third quarter was due on [REDACTED].
19. On [REDACTED], Respondent paid the first month of the third quarter of SIBs three days late.
20. Respondent's payment for the second month of the third quarter was due no later than the 37th day of the first quarter, or by [REDACTED].
21. On [REDACTED], Respondent paid the second month of the third quarter of SIBs two days late.
22. Respondent's payment for the third month of the third quarter was due no later than the 67th day of the first quarter, or by [REDACTED].

23. On [REDACTED], Respondent paid the third month of the third quarter of SIBs four days late.

Fourth Quarter

24. On [REDACTED] Respondent received a DWC 52 from the injured employee for the fourth quarter of SIBs. The quarter began on [REDACTED].
25. Respondent's payment for the first month of the fourth quarter was due on the tenth day after the day on which the insurance carrier received the Application for Supplemental Income Benefits, or the seventh day of the quarter, whichever is later. In this case, the payment for the first month of the third quarter was due on [REDACTED].
26. On [REDACTED], Respondent paid the first month of the fourth quarter of SIBs three days late.
27. Respondent's payment for the second month of the fourth quarter was due no later than the 37th day of the first quarter, or by [REDACTED].
28. On [REDACTED], Respondent paid the second month of the fourth quarter of SIBs five days late.
29. Respondent's payment for the third month of the fourth quarter was due no later than the 67th day of the first quarter, or by [REDACTED].
30. On [REDACTED], Respondent paid the third month of the fourth quarter of SIBs 12 days late.

Failure to Timely Pay Accrued Temporary Income Benefits

File No. 36237

31. Respondent was required to pay temporary income benefits (TIBs) to an 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 \$[REDACTED] in TIBs, as follows:

	Payment Period	Date Due	Date Paid	Days Late
a.	██████ to ██████	██████	██████	10
b.	██████ to ██████	██████	██████	3

Failure to Timely Pay Accrued IIBs

File No. 36238

32. Respondent was required to pay IIBs to the injured employee for the period between ██████, through ██████. The IIBs payments were due seven days after the first day of the pay period. Respondent failed to timely pay \$ ██████ in IIBs, as follows:

	Payment Period	Date Due	Date Paid	Days Late
a.	██████ to ██████	██████	██████	12
b.	██████ to ██████	██████	██████	5

Failure to Timely Notify DWC of the Receipt of a Request for an Independent Review

File No. 36250

- 33.i On ██████, Respondent received a form DWC LHL-009 requesting a review by an independent review organization (IRO) from an injured employee.
- 34.i Respondent was required to notify DWC of a request for an IRO review within one day, or by ██████.
- 35.i Respondent notified DWC of the request for IRO review 198 days late on ██████.

Assessment of Sanction

1.i Failure to provide income benefits in a timely and cost-effective manner is harmful to injured employees and the Texas workers' compensation system.i

2. Failure to make timely notifications of requests for independent review results in harm to the Texas Workers' Compensation system and can unnecessarily delay an injured employee's access to treatment and/or care
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. Respondent's failure to timely and accurately pay various forms of indemnity benefits is serious, presents a pattern of conduct indicating system issues and future risk, and several injured employees suffered economic harm as a consequence of Respondent's violations;
 - b. Respondent has a history of 61 similar administrative violations in the last five years;
 - c. the penalty necessary to deter future violations;
 - d. Three of the four administrative violations had a negative impact on the delivery of benefits to 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.
4. DWC considered as mitigating the fact that Respondent's erratic claim handling actually resulted in an eventual overpayment of SIBs to the injured employee in case 36137 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, 402.00111, 402.00114, 402.00116, 402.00128, 414.002, and 414.003.

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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 violates a DWC rule or a provision of the Texas Workers' Compensation Act.

Failure to Timely Pay Accrued IIBs Based on a DD Report

File No. 36294

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. 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.
8. 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.
9. 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 pay accrued income benefits in accordance with the DD report.

Failure to Timely Pay SIBs

File No. 36137

10. Pursuant to Tex. Lab. Code § 408.144, SIBs are calculated quarterly and paid monthly.
11. Pursuant to Tex. Lab. Code § 408.145, an insurance carrier must pay SIBs no later than the seventh day after the employee's IIBs period expires and must continue to pay the benefits in a timely manner.
12. Pursuant to Tex. Lab. Code § 409.023, an insurance carrier must continue to pay benefits promptly as and when benefits accrue without a final decision, order, or other action from the commissioner, except as otherwise provided.
13. Pursuant to 28 Tex. Admin. Code § 130.107, an insurance carrier must make the first payment of SIBs by the 10th day after receiving a DWC determination of entitlement for the first quarter or application for SIBs for subsequent quarters or the seventh day of the quarter. An insurance carrier must make the second payment by the 37th day of the quarter and the third payment by the 67th day of the quarter.
14. Respondent violated Tex. Lab. Code §§ 408.145, 409.023; 415.002(a)(20) and (22); and 28 Tex. Admin. Code § 130.107 each time Respondent paid SIBs late.

Failure to Timely Pay Accrued TIBs

File No. 36237

15. Pursuant to Tex. Lab. Code § 408.101, an employee is entitled to TIBs if the employee has a disability and has not attained MMI.
16. 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.

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17. 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.
18. 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 TIBs.

Failure to Timely Pay Accrued IIBs

File No. 36238

19. 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.
20. Pursuant to Tex. Lab. Code § 408.121(b) and 28 Tex. Admin. Code § 130.8, an employee's entitlement to IIBs begins the day after the employee reaches MMI and, when the date of MMI is not disputed, the carrier shall initiate payment of IIBs on or before the fifth day after the date of receipt of the employee's treating doctor's medical evaluation report.
21. Respondent violated Tex. Lab. Code §§ 415.002(a)(16) and (22) each time Respondent failed to timely initiate payment of accrued IIBs.

Failure to Timely Notify DWC of the Receipt of a Request for an Independent Review.

File No. 36250

22. Pursuant to 28 Tex. Admin. Code §133.308(h), the insurance carrier shall notify the department of a request for an independent review within one working day from the date the request is received by the insurance carrier or its URA.
23. Respondent violated Tex. Lab. Code § 415.002(a)(20) and 28 Tex. Admin. Code § 133.308 by failing to timely notify DWC of the request.

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Order

It is ordered that Ace American Insurance Company must pay an administrative penalty of \$26,500 within 30 days from the date the Commissioner signs the order.

After receiving an invoice, Ace American 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:



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

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Unsworn Declaration

STATE OF Delaware §
§
COUNTY OF New Castle §

Pursuant to the Tex. Civ. Prac. and Rem. Code § 132.001(a), (b), and (d), my name is Daniel S. Hawthorne. I hold the position of Vice President, Claims and am the authorized representative of Ace American Insurance Company. My business address is: 1 Beaver Valley Road, Wilmington, New Castle, Delaware, 19803.
(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.

Daniel S. Hawthorne
Declarant

Executed on March 5, 2025.