

No. **2025-9395**

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

Date: 7/8/2025

Subject Considered:

Everest National Insurance Company
100 Everest Way
Warren, New Jersey 07059-5195

Consent Order
DWC Enforcement File No. 36455

General remarks and official action taken:

This is a consent order with Everest National 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 classified as "poor" tier in the 2020 PBO assessments.

Failure to Timely Initiate Payment of Accrued Temporary Income Benefits (TIBs)

3. On [REDACTED], Respondent issued a PLN-11, *Notice of Disputed Issues and Refusal to Pay Benefits* (PLN-11), disputing disability on the basis of insufficient medical evidence to substantiate lost time or reduced wages.
4. On [REDACTED], Respondent received a DWC-73, *Work Status Report*, which indicated that the injured employee was prevented from returning to work in any capacity as of March 12, 2024.
5. Respondent subsequently reinstated TIBs and made timely TIBs payments for benefit periods between [REDACTED], and [REDACTED].
6. On [REDACTED], Respondent again suspended TIBs payments to the injured employee. However, Respondent did not file a PLN-11 at this time.
7. On [REDACTED], a designated doctor (DD) examined the injured employee to determine maximum medical improvement (MMI) and assign a permanent impairment rating (IR).
8. The DD determined the injured employee had not reached MMI, but was expected to do so on or about [REDACTED].
9. Respondent was required to continue to pay TIBs to the injured employee from [REDACTED] through [REDACTED]. The TIBs payments were due seven days after the first day of each pay period.
10. On [REDACTED], Respondent issued a partial payment of \$ [REDACTED] in accrued TIBs for the benefit periods between April 12, 2024, and Nov. 4, 2024, which was up to 220 days late.
11. On [REDACTED], Respondent paid the remaining \$ [REDACTED] in accrued TIBs for the benefit periods between [REDACTED], and [REDACTED], which was between four and 18 days late.
12. On [REDACTED], Respondent paid \$ [REDACTED] in interest one day late. On [REDACTED], Respondent paid the remaining [REDACTED] interest 59 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. Respondent's late payment of \$ [REDACTED] in TIBs up to 220 days late is serious;
 - b. Respondent's disciplinary history includes a recent consent order involving a significant accrued TIBs violation;
 - c. A penalty is necessary to deter future violations;
 - d. The delayed delivery of \$ [REDACTED] in income benefits has a negative impact on the injured employee; and
 - e. Evidence shows Respondent has a 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 mitigating: Respondent's claims handlers attended additional training on July 23, 2024, on the use of PLN-11s and general compliance issues.
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 TIBs

6. 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.
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 TIBs.

Failure to Timely Pay Interest

10. 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.
11. Respondent violated Tex. Lab. Code §§ 408.064, 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.

Commissioner's Order
Everest National Insurance Company
DWC Enforcement File No. 36455
Page 6 of 7

Order

It is ordered that Everest National Insurance Company must pay an administrative penalty of \$9,500 within 30 days from the date the Commissioner signs the order.

After receiving an invoice, Everest National 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.



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 California §
§
COUNTY OF Orange §

Pursuant to the Tex. Civ. Prac. and Rem. Code § 132.001(a), (b), and (d), my name is Tim Roberts. I hold the position of Vice President-Claims and am the authorized representative of Everest National Insurance Company. My business address is:

725 Town and Country Road Orange Orange
CA 92868
(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.

Tim Roberts
Declarant

Executed on June 11, 2025.