

No. **2025-9439**

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

**Date: 7/31/2025**

**Subject Considered:**

Indemnity Insurance Company of North America  
115 Wild Basin Road, Suite 207  
West Lake Hills, Texas 78746

Consent Order  
DWC Enforcement File Nos. 36529, 36591, 36675, 36691, & 36757

**General remarks and official action taken:**

This is a consent order with Indemnity Insurance Company of North America (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 workers' compensation/employers' liability insurance in Texas.
2. Respondent classified as "average" tier in the 2020, 2022, and 2024 Performance Based Oversight (PBO) assessments.

Failure to Pay Subsequent Quarters of Supplemental Income Benefits (SIBs)

*File No. 36691*

3. An injured employee was drawing SIBs after a workplace injury. The 12th quarter of the injured employees SIBs began on [REDACTED].
4. Respondent's payment for the second month of the 12th quarter was due by the 37th day of the quarter, which was [REDACTED].
5. On [REDACTED], Respondent paid \$ [REDACTED] in SIBs for the second month of the 12th quarter seven days late.
6. Respondent failed to pay interest with the late payment.
7. Respondent's payment for the third month of the 12th quarter was due by the 67th day of the quarter, which was [REDACTED].
8. On [REDACTED], Respondent paid \$ [REDACTED] in SIBs for the third month of the 12th quarter 21 days late.
9. On [REDACTED], Respondent paid interest 101 and 56 days late respectively.

Failure to Timely Pay or Dispute Initial or Accrued Temporary Income Benefits (TIBs)

*File No. 36529*

10. On [REDACTED], Respondent received notice of an employee's workplace injury.
11. The injured employee's first day of disability was [REDACTED]. The eighth day of disability accrued on [REDACTED].
12. Respondent was required to initiate or dispute TIBs either 15 days after it received written notice of the injury or seven days after the accrual date, whichever is later. In this case, the latest date was [REDACTED].
13. On [REDACTED], Respondent paid \$ [REDACTED] in TIBs 64 days late.

14. On [REDACTED], Respondent paid interest one day late.

*File No. 36591*

15. Respondent was required to pay TIBs to the same injured employee in file no. 36529 (described above) 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.	[REDACTED] to [REDACTED]	[REDACTED]	[REDACTED]	11
b.	[REDACTED] to [REDACTED]	[REDACTED]	[REDACTED]	4

16. On [REDACTED], Respondent paid interest 27 days late.

*File No. 36675*

17. On [REDACTED], Respondent received notice of an employee's workplace injury.

18. The injured employee's first day of disability was [REDACTED]. The eighth day of disability accrued on [REDACTED].

19. Respondent was required to initiate or dispute TIBs either 15 days after it received written notice of the injury or seven days after the accrual date, whichever is later. In this case, the latest date was [REDACTED].

20. On [REDACTED], Respondent paid \$ [REDACTED] in TIBs 18 days late.

21. On [REDACTED], Respondent paid interest 27 days late.

Failure to Timely Pay Accrued Impairment Income Benefits (IIBs)

*File No. 36757*

22. Respondent was required to pay IIBs to an injured employee for the period from [REDACTED] to [REDACTED]. The IIBs payments were due seven days after the first day of the pay period. Respondent failed to timely pay \$ [REDACTED] in IIBs as follows:

	Payment Period	Date Due	Date Paid	Days Late
a.	██████████ to ██████████	██████████	██████████	14
b.	██████████ to ██████████	██████████	██████████	7
c.	██████████ to ██████████	██████████	██████████	1

23. On ██████████, Respondent paid interest 181 and 152 days late respectively.

**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 violations are serious, negatively impacting the delivery of \$ ██████████ in benefits up to 64 days late;

- b. Respondent's history of administrative violations includes 154 violations involving TIBs, IIBs, SIBs, and late interest since 2021;
  - c. a penalty is necessary to deter future violations considering Respondent has had 195 administrative violations since January 2021;
  - d. Respondent received an economic benefit as a result of paying income benefits and accrued interest late; and
  - e. Respondent is the 11th largest workers' compensation insurance carrier in Texas and has a heightened awareness of the legal duty to comply with the Texas Workers' Compensation Act and DWC rules.
4. DWC is aware of no mitigating factors 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, 402.00114, 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 violates a DWC rule or a provision of the Texas Workers' Compensation Act.

Failure to Pay Subsequent Quarters of SIBs

*File No. 36691*

6. Pursuant to Tex. Lab. Code § 408.144, SIBs are calculated quarterly and paid monthly.
7. 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.
8. 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.
9. Pursuant to 28 Tex. Admin. Code § 130.107, 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.
10. 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 failed to timely pay SIBs.

Failure to Timely Pay or Dispute Initial TIBs

*File Nos. 36529 & 36675*

11. Pursuant to Tex. Lab. Code § 408.101, an employee is entitled to TIBs if they have a disability and have not attained maximum medical improvement (MMI).
12. 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.

13. Pursuant to Tex. Lab. Code §§ 408.081; 408.082; 409.021; and 28 Tex. Admin. Code §§ 124.3 and 124.7, an insurance carrier is required to initiate payment of TIBs no later than the 15th day after it receives written notice of the injury or the seventh day after the accrual date, unless the insurance carrier notifies DWC and the injured employee in writing of its refusal to pay.
14. Respondent violated Tex. Lab. Code §§ 409.021; 415.002(a)(16), (20), and (22); and 28 Tex. Admin. Code §§ 124.3 and 124.7 when it failed to timely pay initial TIBs.

Failure to Timely Pay Accrued TIBs

*File No. 36591*

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.
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 pay accrued TIBs.

Failure to Timely Pay Accrued IIBs

*File No. 36757*

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 §§ 408.121; 415.002(a)(16), (20) and (22); and 28 Tex. Admin. Code § 130.8 each time Respondent failed to timely pay IIBs.

Failure to Timely Pay Interest with Indemnity Benefits

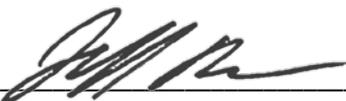
*File Nos. 36529, 36591, 36675, 36691, & 36757*

22. 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.
23. 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.

**Order**

It is ordered that Indemnity Insurance Company of North America must pay an administrative penalty of \$18,000 within 30 days from the date the Commissioner signs the order.

After receiving an invoice, Indemnity Insurance Company of North America 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:

  
\_\_\_\_\_  
Tyrus Housh  
Staff Attorney, Enforcement  
Compliance and Investigations  
TDI, Division of Workers' Compensation

**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 VP, Claims and am the authorized representative of Indemnity Insurance Company of North America. My business address is:

1 Beaver Valley Road, Wilmington, New Castle, Delaware, 19382.  
(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 June 30, 2025.