

No. **2026-9799**

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

Date: 2/13/2026

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. 37740, 37984, & 38040

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 Accrued Impairment Income Benefits Based on a Certifying Doctor Report

File No. 37984

4. On [REDACTED], Respondent received a DWC Form-69, *Report of Medical Evaluation*, from the injured employee's certifying doctor (CD) in connection with a CD examination.
5. The CD determined that the injured employee reached maximum medical improvement (MMI) on [REDACTED], with a [REDACTED] impairment rating (IR).
6. Respondent was required to pay accrued impairment income benefits (IIBs) no later than five days after receiving the CD report. The deadline to pay benefits was [REDACTED].
7. On [REDACTED], Respondent sent a Plain Language Notice Form-3b, *Notice of Maximum Medical Improvement and Permanent Impairment* (PLN-3b), to an injured employee. In the PLN-3b, Respondent informed the injured employee that it was disputing the IR assigned by the CD and assigned an IR of [REDACTED].
8. On the same day, Respondent paid [REDACTED] in IIBs 42 days late.
9. On [REDACTED], Respondent paid interest one day late.

Failure to Accurately Pay Temporary Income Benefits (TIBs)

File No. 37740

10. On [REDACTED], Respondent sent a Plain Language Notice Form-2A, *Notice of First Temporary Income Benefit Payment* (PLN-2A), to an injured employee. In the PLN-2A, Respondent informed the injured employee that it would pay TIBs at a rate of [REDACTED] per week.
11. On [REDACTED], and [REDACTED], DWC ordered Respondent to pay [REDACTED] in attorney fees for representing an injured employee at a rate of [REDACTED] of each income benefit paid to the injured employee.

12. On [REDACTED], [REDACTED], and [REDACTED], Respondent paid TIBs at a rate of [REDACTED] per week, deducting [REDACTED] for attorney fees and paying [REDACTED] to the injured employee.
13. Respondent should have paid TIBs at a rate of [REDACTED] per week, deducting [REDACTED] for attorney fees and paying [REDACTED] to the injured employee. Respondent underpaid the injured employee [REDACTED] in TIBs over the three payments.
14. On [REDACTED], Respondent paid the underpaid TIBs with interest 37 days late.

Failure to Timely Pay of Accrued TIBs

File No. 38040

15. Respondent was required to pay 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.	[REDACTED]	[REDACTED]	[REDACTED]	1
b.	[REDACTED]	[REDACTED]	[REDACTED]	1
c.	[REDACTED]	[REDACTED]	[REDACTED]	1

16. On [REDACTED], Respondent paid interest [REDACTED] and 16 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, involving TIBs and IIBs delivered between one and 42 days late;
 - b. Respondent has a history of similar administrative violations, including 85 consent orders and nine warning letters involving similar conduct;
 - c. a penalty is necessary to deter future violations;
 - d. the violations had a negative impact on the delivery of ██████████ in benefits to three injured employees; and
 - e. Respondent has a heightened awareness of the legal duty to comply with the Texas Workers' Compensation Act and DWC rules. Respondent is the 11th largest Texas Workers' Compensation insurance carrier with the highest recidivist rate in fiscal year 2025.¹
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).

¹ <https://www.tdi.texas.gov/company/top40.html>

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 415.021.
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 Pay Accrued IIBs Based on a CD Report

File No. 37984

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 § 408.121(b), an insurance carrier must pay IIBs no later than five days after the insurance carrier receives the doctor's report certifying MMI.

8. Pursuant to 28 Tex. Admin. Code § 130.8, an insurance carrier must pay benefits in accordance with the treating doctor's medical evaluation report no later than five days after receiving the treating doctor's medical evaluation report when MMI is not disputed.
9. Respondent violated Tex. Lab. Code §§ 408.121(b); 409.023; 415.002(a)(16), (20), and (22); and 28 Tex. Admin. Code § 130.8 by failing to timely pay accrued income benefits within five days of receiving the CD report.

Failure to Accurately Pay TIBs

File No. 37740

10. 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.
11. 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. 38040

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, 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.
14. 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 payment of TIBs.

Failure to Timely Pay Interest with Income Benefits


File Nos. 37984 & 38040

15. 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.
16. 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 \$6,700 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.



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 Compliance and am the authorized representative of Indemnity Insurance Company of North America. 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 January 14, 2026.