

No. 2020-6503

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

**Date:** 10-13-2020

**Subject Considered:**

City of Wichita Falls  
P.O. Box 1431  
Wichita Falls, Texas 76307-1431

Consent Order  
DWC Enforcement File No. 22126

**General remarks and official action taken:**

This is a consent order with City of Wichita Falls (Wichita Falls). The commissioner of the Texas Department of Insurance, Division of Workers' Compensation (DWC) considers whether DWC should take disciplinary action against Wichita Falls.

**Waiver**

Wichita Falls acknowledges that the Texas Labor Code and other applicable laws provide certain rights. Wichita Falls 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. Wichita Falls 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. Wichita Falls was not classified in the 2007, 2009, 2010, 2012, 2014, 2016, or 2018 Performance Based Oversight (PBO) assessments.

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

3. On [REDACTED], DWC issued a contested case hearing decision and order (CCH D&O) requiring Wichita Falls to pay benefits in accordance with the decision. Wichita Falls received the CCH D&O on [REDACTED].
4. The CCH D&O became final on [REDACTED]. Wichita Falls was required to comply with the CCH D&O within 20 days. The deadline to comply was [REDACTED].
5. Wichita Falls paid benefits with interest in the amount of [REDACTED] in compliance with the CCH D&O on [REDACTED] which was 1,127 days late.

**Assessment of Sanction**

1. 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.
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: the seriousness of the violation, including the nature, circumstances, consequences, extent, and gravity of the prohibited act; and the penalty necessary to deter future violations.
  4. DWC found the following factors in TEX. LAB. CODE § 415.021(c) and 28 TEX. ADMIN. CODE § 180.26(e) to be mitigating: 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; prompt and earnest actions to prevent future violations.
  5. Wichita Falls acknowledges it communicated with DWC about the relevant statutes and rules it violated; the facts establish that the administrative violation occurred; and 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. Wichita Falls 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, and 402.00128.
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)(7), and 28 TEX. ADMIN. CODE § 180.26(h).
3. Wichita Falls 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), an insurance carrier or its representative commits an administrative violation each time it violates a DWC rule.
6. Pursuant to TEX. LAB. CODE § 415.002(a)(22), an insurance carrier or its representative commits an administrative violation each time it fails to comply with a provision of the Texas Workers' Compensation Act.
7. 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.
8. 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.
9. Wichita Falls violated TEX. LAB. CODE §§ 415.002(a)(20), 415.002(a)(22), 415.0035(e), and 415.021 when it failed to timely comply with a DWC order for benefits.

### Order

It is ordered that City of Wichita Falls must pay an administrative penalty of \$3,250 within 30 days from the date of this order. City of Wichita Falls must pay the administrative penalty by 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 9999, P.O. Box 149104, Austin, Texas 78714-9104.



---

Cassie Brown  
Commissioner of Workers' Compensation

Approved Form and Content:



---

Van B. Moreland  
Staff Attorney, Enforcement  
Compliance and Investigations  
Division of Workers' Compensation

Commissioner's Order  
City of Wichita Falls  
DWC Enforcement File No. 22126  
Page 6 of 6

**Affidavit**

STATE OF Texas

§

COUNTY OF Wichita

§

§

Before me, the undersigned authority, personally appeared Christi Klyn  
who being by me duly sworn, deposed as follows:

"My name is Christi Klyn. I am of sound mind, capable of making this statement, and have personal knowledge of these facts which are true and correct.

I hold the office of Director of H.R. and am the authorized representative of City of Wichita Falls. I am duly authorized by the organization to execute this statement.

City of Wichita Falls has knowingly and voluntarily entered into this consent order and agrees with and consents to the issuance and service of this consent order."

Christi Klyn  
Affiant

SWORN TO AND SUBSCRIBED before me on 9/22, 2020.

(NOTARY SEAL)



Tina Harmon  
Signature of Notary Public

Tina Harmon  
Printed Name of Notary Public

2/2/2023  
Commission Expiration

Confidential Information Redacted  
Texas Labor Code §§402.083 and 402.092