

No. **2022-7346**

Confidential Information Redacted
Texas Labor Code §§402.083 and 402.092

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

Date: 6/21/2022

Subject Considered:

AAA Cooper Transportation
PO Box 6827
Dothan, Alabama 36302-6827

Consent Order
DWC Enforcement File No. 28336

General remarks and official action taken:

This is a consent order with AAA Cooper Transportation (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 is a private employer operating in Texas. Respondent currently holds a certificate of authority issued by DWC to act as a certified self-insurer pursuant to Tex. Lab. Code § 407 and 28 Tex. Admin. Code § 114.
2. Respondent was classified as "average" tier in the 2007 Performance Based Oversight (PBO) assessments. Respondent was not selected to be tiered in the 2009, 2010, 2012, 2014, 2016, 2018, or 2020 PBO assessments.

Failure to Pay Accrued Impairment Income Benefits Based on a Certifying Doctor Report

3. On [REDACTED] Respondent received a DWC Form-069, *Report of Medical Evaluation* report from the injured employee's certifying doctor (CD) in connection with a CD examination.
4. The CD determined that the injured employee reached maximum medical improvement (MMI) on [REDACTED], with a [REDACTED] impairment rating (IR).
5. Respondent was required to pay accrued impairment income benefits (IIBs) no later than five days after receiving the CD's report. The deadline to pay benefits was [REDACTED]
6. Respondent issued payment of IIBs on [REDACTED] which was 127 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: the seriousness of the violation, including the nature, circumstances, consequences, extent, and gravity of the prohibited act; the penalty necessary to deter future violations; and whether the administrative violation had a negative impact on the delivery of benefits to an injured employee.
 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 §§ 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.
5. Pursuant to Tex. Lab. Code § 408.121(b) and 28 Tex. Admin. Code § 130.8, the insurance carrier shall begin to pay IIBs not later than the fifth day after the date on which the insurance carrier receives the doctor's report certifying MMI. IIBs shall be paid for a period based on the IR unless that rating is disputed.
6. Respondent violated Tex. Lab. Code §§ 409.023 and 415.002(a)(16), (20), and (22) by failing to timely pay accrued income benefits in accordance with the certifying doctor's report.

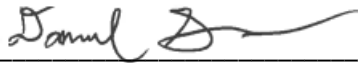
Order

It is ordered that AAA Cooper Transportation must pay an administrative penalty of \$6,200.00 within 30 days from the date of this order. AAA Cooper Transportation must pay the administrative penalty by 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.



Dan Paschal, J.D.
Deputy Commissioner
Policy & Customer Services
TDI, Division of Workers' Compensation

Approved Form and Content:



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

Unsworn Declaration

STATE OF Oklahoma §
§
COUNTY OF Oklahoma §

Pursuant to the Tex. Civ. Prac. and Rem. Code § 132.001(a), (b), and (d), my name is Shellie Chapman. I hold the position of Assistant Unit Manager and am the authorized representative of AAA Cooper Transportation. My business address is:

P O Box 166002, Altamonte Springs, FL, 32716.
(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.

Shellie Chapman

Declarant

Executed on June 9, 2022.