

No. _____

OFFICIAL ORDER
of the
TEXAS COMMISSIONER OF WORKERS' COMPENSATION

Date: _____

Subject Considered:

FORT BEND COUNTY
301 Jackson Street
Richmond, Texas 77469-3108

CONSENT ORDER
TDI ENFORCEMENT FILE NO. 13930

General remarks and official action taken:

The commissioner of workers' compensation considers whether disciplinary action should be taken against Fort Bend County.

WAIVER

Fort Bend County acknowledges that the Texas Labor Code and other applicable laws provide certain rights. Fort Bend County waives all of these rights and any other applicable procedural rights in consideration of the entry of this consent order.

FINDINGS OF FACT

The commissioner of workers' compensation makes the following findings of fact:

1. Fort Bend County is a governmental entity that provides workers' compensation benefits to its employees pursuant to TEX. LAB. CODE ANN. ch. 504.
2. Fort Bend County was not tiered in the 2007, 2009, 2010, 2012, 2014, or 2016 Performance Based Oversight assessments.

3. On March 30, 2017, the division initiated DWC Audit No. MBP-17-202 to determine whether Fort Bend County was complying with the Texas Labor Code and related rules regarding timely payment of initial medical bills, and the timely and accurate reporting of medical bill payment information to the division.
4. The audit examined initial medical bills submitted to the division between December 1, 2016 and February 28, 2017. The division identified 100 bills for audit. Four bills failed to meet selection criteria and were dropped from the audit sample. The remaining 96 bills were reviewed to determine Fort Bend County's compliance.
5. The audit focused on timeliness of medical bill processing and EDI reporting. The EDI audit focused on timeliness of reporting the medical bill payment data and the accuracy of seven data elements (rendering line provider NPI number, rendering line provider state license number, referring provider last/group name, referring provider state license number, billing provider FEIN, date bill received, and date paid or denied).

FAILURE TO TIMELY PAY MEDICAL BILLS

6. Fort Bend County failed to timely process 22% of the initial medical bills within 45 days of receipt (21 out of 96).
7. Specifically, Fort Bend County issued payments to health care providers less than 30 days late in 20 instances; and between 30 and 60 days late in 1 instance.

FAILURE TO SUBMIT TIMELY AND ACCURATE EDI MEDICAL BILL PAYMENT INFORMATION TO THE DIVISION

8. Fort Bend County failed to timely submit medical bill payment information to the division in 40% of the bills examined (38 out of 96).
9. Fort Bend County failed to accurately report the Rendering Line Provider State License Numbers for 4% of the bills examined (4 out of 96).
10. Fort Bend County failed to accurately report the Referring Provider Last/Group Names for 5% of the bills examined (5 out of 96).
11. Fort Bend County failed to accurately report the Referring Provider State License Numbers for 3% of the bills examined (3 out of 96).
12. Fort Bend County failed to accurately report the Dates of Bill Receipt for 22% of the bills examined (21 out of 96).

13. Fort Bend County failed to accurately report the Dates of Payment or Denial for 16% of the bills examined (15 out of 96).

ASSESSMENT OF PENALTY

14. The division relies on the medical bill payment information submitted by the insurance carriers for a variety of purposes, including, but not limited to, providing required information and reports to the legislature; ensuring that health care providers and insurance carriers comply with DWC medical policies and fee guidelines; creating medical fee guidelines, adopting treatment and return-to-work guidelines; and detecting patterns and practices in medical charges, payments, and protocols.
15. Prompt payment of medical bills is imperative to the division's goal of ensuring that injured employees have access to prompt, high-quality medical care.
16. Fort Bend County acknowledges harm to the system and agrees that the penalty assessed is reasonable.
17. In assessing the penalty for this case, the commissioner of workers' compensation fully considered the factors specified in TEX. LAB. CODE ANN. § 415.021(c), including as applicable, 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 demonstrated good faith of the violator, including actions taken to rectify the consequences of the prohibited act; the penalty necessary to deter future violations; and whether the administrative violation has a negative impact on the delivery of benefits to an injured employee; the history of compliance with electronic data interchange requirements; and other matters that justice may require, including any Performance Based Oversight (PBO) assessments; the promptness and earnestness of 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 Act and Division rules; and to the extent reasonable, the economic benefit resulting from the prohibited act.
18. Fort Bend County acknowledges that in assessing the penalty, the commissioner appropriately and fully considered the relevant applicable factors set forth in TEX. LAB. CODE ANN. § 415.021(c).
19. Fort Bend County acknowledges that this consent order sufficiently communicates information about the penalty, including: the relevant statutes or rules violated, the conduct giving rise to the violations, and the factors considered in determining the penalty.

CONCLUSIONS OF LAW

The commissioner of workers' compensation makes the following conclusions of law:

1. The commissioner of workers' compensation has jurisdiction over this matter pursuant to TEX. LAB. CODE ANN. §§ 402.001, 402.00111, 402.00114, 402.00116, 402.00128, 414.002, 414.003, and 414.004.
2. The commissioner of workers' compensation has authority to informally dispose of this matter as set forth under TEX. GOV'T CODE ANN. § 2001.056, TEX. LAB. CODE ANN. § 402.00128(b)(7), and 28 TEX. ADMIN. CODE § 180.26(h).
3. Pursuant to TEX. LAB. CODE ANN. § 415.021, the commissioner of workers' compensation may assess an administrative penalty against a person who commits an administrative violation.
4. Pursuant to TEX. LAB. CODE ANN. § 415.002(a)(20), an insurance carrier or its representative commits an administrative violation each time it violates a commissioner's rule.
5. Pursuant to TEX. LAB. CODE ANN. § 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.
6. Pursuant to TEX. LAB. CODE ANN. § 408.027 and 28 TEX. ADMIN. CODE § 133.240, insurance carriers are required to timely process and take final action on a properly completed medical bill within 45 days of receipt of the bill.
7. Fort Bend County violated TEX. LAB. CODE ANN. §§ 415.002(a)(20) and 415.002(a)(22) each time it failed to pay, reduce, deny, or determine to audit a properly completed medical bill within 45 days of receipt of the bill.
8. Pursuant to 28 TEX. ADMIN. CODE § 134.804(d), insurance carriers are responsible for the timely and accurate submission of medical EDI records.
9. Fort Bend County violated TEX. LAB. CODE ANN. § 415.002(a)(20) each time it failed to submit accurate medical EDI records to the division.

ORDER

Fort Bend County is ORDERED to pay an administrative penalty of \$30,000 within 30 days from the date of this Order.

The administrative penalty must be paid by company check, cashier's check, or money order made payable to the "State of Texas." Mail the administrative penalty to the Texas Department of Insurance, Attn: DWC Enforcement, MC 9999, P.O. Box 149104, Austin, Texas, 78714-9104.

W. Ryan Brannan
Commissioner of Workers' Compensation

Approved as to Form and Content:

Van B. Moreland
Staff Attorney, DWC Enforcement
Texas Department of Insurance

AFFIDAVIT

STATE OF TEXAS §
COUNTY OF FORT BEND §

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

"My name is Robert E. Hebert. 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 County Judge, and am the authorized representative of Fort Bend County. I am duly authorized by said organization to execute this statement.

Fort Bend County waives rights provided by the Texas Labor Code and other applicable laws, and acknowledges the jurisdiction of the commissioner of workers' compensation.

Fort Bend County is voluntarily entering into this consent order. Fort Bend County consents to the issuance and service of this consent order."

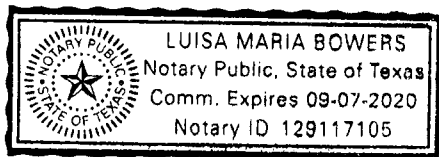
Robert E. Hebert

Affiant

SWORN TO AND SUBSCRIBED before me on March 13, 2018.

(NOTARY SEAL)

Luisa Maria Bowers
Signature of Notary Public



Luisa Maria Bowers
Printed Name of Notary Public

My Commission Expires: 9-7-2020

Approved As To Legal Form:

Raymond J. [Signature] 3/13/2018
Asst. County Atty. Date

ATTEST:

Laura Richard

Laura Richard, County Clerk

