

No. **2026-9908**

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

Date: 5/4/2026

Subject Considered:

Ace American Insurance Company
436 Walnut Street
Philadelphia, Pennsylvania 19106-3703

Consent Order
DWC Enforcement File Nos. 38195 & 38286

General remarks and official action taken:

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

Failure to Timely Comply with a Benefit Dispute Agreement (BDA)

File No. 38286

3. On Oct. 21, 2025, the parties executed a BDA regarding average weekly wage, disability, and post injury earnings. The resolution of these issues created an obligation to pay temporary income benefits (TIBs).
4. Respondent received the DWC-approved BDA by fax on Oct. 23, 2025. Respondent was required to pay benefits to the injured employee within five days of receiving the DWC-approved agreement, or by Oct. 28, 2025.
5. On Nov. 13, 2025, Respondent paid \$13,884 in TIBs 16 days late.
6. On Dec. 12, 2025, Respondent fully complied with the BDA by paying an additional \$335 in TIBs, which was 45 days late.

Failure to Timely Pay Initial TIBs

File No. 38195

7. On Nov. 26, 2024, Respondent received notice of an employee's workplace injury.
8. On Dec. 11, 2024, Respondent filed a Plain Language Notice Form 11, *Notice of Disputed Issues and Refusal to Pay Benefits* (PLN-11).
9. The instructions on Form PLN-11 specifically state that an insurance carrier must, "Provide a full and complete statement describing the reasons for the action it took. A generic statement such as "no medical evidence to support disability," "not part of compensable injury," "liability in question," "under investigation," and "eligibility questioned," or similar phrases with no further description of the factual basis for the action taken, does not satisfy the requirements of 28 TAC §124.2. Explain the reasons for disputing the issues in plain language without using unnecessary technical terms, acronyms, and abbreviations."
10. Respondent's PLN-11 was deficient because Respondent did not provide any fact-specific explanation for a dispute. Rather, Respondent's rationale was that

Respondent had been "unable to determine whether the injury resulted in disability and that the investigation would continue."

11. The injured employee's first day of disability began after surgery on July 17, 2025. The eighth day of disability accrued on July 24, 2025.
12. Respondent was required to initiate or properly dispute TIBs either 15 days after it received written notice of the injury or seven days after the accrual date, whichever was later. In this case, the latest date was July 31, 2025.
13. On Sept. 12, 2025, Respondent initiated \$1,376.49 in TIBs 43 days late.

Assessment of Sanction

1. Failure to timely comply with a benefit dispute agreement that is executed in good faith by the parties and approved by DWC increases the likelihood of disputes, and is harmful to injured employees and the Texas workers' compensation system because it damages system participants' faith in the dispute resolution process.
2. Failure to provide income benefits in a timely and cost-effective manner is harmful to injured employees and the Texas workers' compensation system.
3. 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.
- 4. 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 seriousness of the violation, including \$15,595.49 in benefits delivered up to 45 days late;
 - b. the negative impact on the delivery of benefits to an injured employee;
 - c. Respondent's history of similar administrative violations, including two recent consent orders involving BDAs and six consent orders involving failure to timely pay or dispute TIBs;
 - d. the penalty necessary to deter future violations; And
 - e. Respondent's heightened awareness of its legal duty to comply with the Texas Workers' Compensation Act and DWC rules. Respondent is the sixth largest workers' compensation insurance carrier in Texas with the fourth highest number of violations in fiscal year 2025.
- 5. DWC is aware of no mitigating factors pursuant to Tex. Lab. Code § 415.021(c) and 28 Tex. Admin. Code § 180.26(e).
- 6. 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).
- 7. 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 Timely Comply with a BDA

File No. 38286

6. Pursuant to Tex. Lab. Code § 415.010, a person commits a violation by breaching a provision of an agreement that DWC approved.
7. Respondent violated Tex. Lab. Code §§ 415.002(a)(22) and 415.010 by failing to timely comply with a BDA.

Failure to Timely Pay or Dispute Initial TIBs

File No. 38195

8. Pursuant to Tex. Lab. Code § 408.101, an employee is entitled to TIBs if the employee has a disability and has not attained maximum medical improvement.
9. 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.

10. 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.
11. Respondent violated §§ 408.081; 408.082; 409.021; 415.002(a)(16), (20), and (22); and 28 Tex. Admin. Code §§ 124.3 and 124.7 by failing to timely initiate TIBs.

Order

It is ordered that Ace American Insurance Company must pay an administrative penalty of \$7,000 within 30 days from the date the Commissioner signs the order.

After receiving an invoice from DWC, Ace American Insurance Company must pay the administrative penalty either: (1) by electronic transfer using the State Invoice Payment Service; OR (2) by company check, cashier's check, or money order.

To ensure proper check or money order processing:

- Make the check payable to "Texas Division of Workers' Compensation";
- Enclose a copy of the attached invoice with the check or money order; and
- Mail the check or money order to the Texas Department of Insurance, Attn: DWC Enforcement Section, MC AO-9999, P.O. Box 12030, Austin, Texas 78711-2030.



Jeff Nelson
Commissioner
TDI, Division of Workers' Compensation

Approved Form and Content:



Dan Garcia
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 Ace American Insurance Company. 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 March 27, 2026.