

BEFORE THE INDUSTRIAL COMMISSION OF THE STATE OF IDAHO

IDAHO INDUSTRIAL COMMISSION

v.

HARTFORD INSURANCE COMPANY
OF THE MIDWEST

Surety,
Defendants.

I.C. No.: 16000909

**ORDER REVOKING
EXEMPTION FROM
WEEKLY PAYMENT
OF BENEFITS**

**FILED
October 30, 2023**

On September 14, 2023, the Idaho Industrial Commission (Commission) issued an Order to Hartford Insurance Company of the Midwest (Hartford) to either issue indemnity benefits to an injured worker owed for the time period of June 25, 2021, through August 19, 2021, or file a request to appear before the Commission to show cause why it should not suffer penalties for its failure to abide by the requirements of Idaho Code § 72-402 up to and including the withdrawal of its approval to write workers' compensation in the state of Idaho. This was ordered to occur within thirty (30) days from the date of the Order. Hartford failed to meet either of the ordered conditions within the prescribed timeline.

On October 13, 2023, Hartford sent the Commission Secretary an email requesting a deadline extension, stating it had learned the injured worker may have received total temporary disability (TTD) benefits under the Workers' Compensation laws of another state and received short-term disability benefits from her employer's self-insured program. It is unclear why this information was not known until the eve of the deadline. The Commission declined to extend the deadline.

A Hartford representative responded later on the same day that Hartford conceded

responsibility to make the subject indemnity payments to the injured worker. However, it was “not possible for the check to issue today, and [Hartford] would provide proof of issuance [the] next week.” Upon expiration of the thirty (30) days allowed by the Order, Hartford had neither issued the payment nor requested a show cause hearing.

Hartford’s Response of October 13, 2023, provided estimated calculations for the TTD owed for the time period of June 25, 2021, through August 19, 2021. Documentation included a ledger showing Short Term Disability benefits were issued to the injured worker from July 5, 2021, through July 16, 2021. Hartford alleged no TTD was owed while the worker received Short Term Disability benefits. On October 24, 2023, Hartford provided proof of payment to the worker, as evidenced by a check copy in the amount of \$3,680.74. As stated in its communication of October 13, 2023, Hartford declined to pay TTD benefits while Short Term Disability was paid from July 5, 2023, through July 16, 2023.

The Commission finds no statutory support for this practice. Idaho Code § 72-318 specifies, inter alia, that no contract, rule, regulation or device designed to relieve employer, in whole or in part, of its liability under the Workers’ Compensation laws shall be valid. The payment of third-party disability benefits does not relieve Employer of its statutory obligation to pay workers compensation benefits owed.

Further, Hartford’s claim that Idaho Code § 72-402 and IDAPA 17.01.01.305.11.a lack clarity regarding the requirement to issue income benefits within four (4) weeks from the date of disability is particularly perplexing. On August 17, 2021, and August 20, 2021, the Commission forwarded the Prompt Claims Servicing Guidance memorandum to Intermountain Claims. See

*Prompt Claims Servicing Policy Memo.*¹ The same policy memorandum was once again provided to Hartford on May 10, 2022, with the Preliminary Audit Findings Letter. This memorandum has also been provided with learning materials given to participants of the Commission's Certified Idaho Workers' Compensation Specialist course since its first issuance in 2018.

Hartford has continually refused to abide by deadlines given by statute, rule, Commission Order and audit letters as documented in the Audit Findings Letters. Further instances of similar noncompliance by Hartford are documented in the audits conducted of Hartford Insurance of the Midwest at both Intermountain Claims and at Hartford Fire Insurance Company. Of primary concern is Hartford's failure to routinely issue indemnity benefits timely. Under Idaho Code § 72-317, the Commission previously granted Hartford discretion to issue income benefits on other than a weekly basis. Because Hartford has not abided by the workers compensation claims adjusting requirements of the State of Idaho, the Commission hereby revokes Hartford's authority to issue income benefits on other than a weekly basis. All income benefits owing by Hartford shall be paid weekly.

Hartford's disregard of the regulatory and auditing process is concerning. Hartford is reminded of its obligation to promptly pay compensation, and the potential consequences for breach of this obligation, all as set forth at Idaho Code § 72-304:

The commission is authorized to make and change from time to time such rules and regulations as it shall deem necessary to secure the prompt payment of compensation, and after affording the surety opportunity to be heard, may withdraw its approval of any employer or surety who unnecessarily delays payment of compensation, and the commissioner of insurance upon notification accordingly shall withdraw his authorization of a surety to insure or guarantee the payment of workmen's compensation liability of employers in this state.

¹ All Commission policy memoranda can be viewed at <https://iic.idaho.gov/rules-and-legislation/policy-memorandums/>

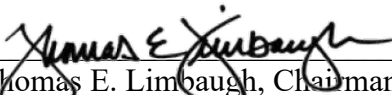
IT IS HEREBY ORDERED that Hartford shall commence weekly indemnity payments to all of its covered Idaho disabled workers pursuant to Idaho Code § 72-317. The Commission shall conduct an audit within one (1) year to evaluate compliance of all rules and statutes pertaining to the Idaho Workers' Compensation Law. Authority to issue payments on other than a weekly basis may be reinstated at the discretion of the Commission pending the results of any subsequent audit findings.

Further, Hartford is HEREBY ORDERED to provide within seven (7) days of this Order proof of issuance of indemnity benefits to the injured worker referenced in the Order of September 14, 2023, for the period of July 5, 2021, through July 16, 2021.

DATED this 30th day of October 2023.

INDUSTRIAL COMMISSION




Thomas E. Limbaugh, Chairman


Thomas P. Baskin, Commissioner


Aaron White, Commissioner

ATTEST:


Commission Secretary

CERTIFICATE OF SERVICE

I hereby certify that on October 30, 2023, a true and correct copy of **ORDER REVOKING EXEMPTION FROM WEEKLY BENEFIT PAYMENTS** was served by the method indicated below upon each of the following:

X US MAIL _____ FAX _____ HAND DELIVERY **X** EMAIL

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