



Texas Department of Insurance

Division of Workers' Compensation, Office of the Commissioner

7551 Metro Center Drive, Suite 100 • MS-1 • Austin, Texas 78744-1645

512-804-4400 telephone • 512-804-4401 fax • www.tdi.texas.gov

April 22, 2014

The Honorable René Oliveira, Chair
Members, House Business and Industry Committee

Dear Chairman Oliveira and Members:

I'm pleased to provide you with an update on the activities of the Texas Department of Insurance, Division of Workers' Compensation (DWC), as well as information for the committee's interim charge on *the voluntary nature of workers' compensation in Texas and how it meets the needs of employers and employees* in anticipation of the April 22, 2014 hearing.

The Texas workers' compensation system continues to show significant improvements in a variety of areas, including injury rates, employer participation, claims costs, return-to-work outcomes, access to care, and insurance rates and premiums. Key improvements include:

- Declining injury rates (27% decline since 2004);
- Decreasing number of workers' compensation claims filed (22% decline since 2004)
- Decreasing workers' compensation insurance rates (50% decline from 2003 through 2011);
- More employers opting to participate in the system (% of employers that are non-subscribers decreased from 38% in 2004 to 33% in 2012);
- Declining medical costs (According to a 16-state comparison by the Workers' Compensation Research Institute (WCRI), in 2001, Texas was among the highest nationally in terms of medical costs per claim. By 2011, Texas was almost 23% below the median cost of those same 16 states, including Florida, Pennsylvania, Louisiana and Illinois);
- Declining use of opioid prescriptions by injured employees (10 percent decline) with the implementation of the new pharmacy formulary, which helps to reduce prescription drug abuse, save lives and facilitate a more productive workforce;
- Improvements in access to medical care (# of physicians treating workers' compensation claims has improved over time, the average # of claims treated by physicians has decreased from 18.3 claims per physician in 2004 to 16.1 claims per physician in 2010);

- More employees returning to work (almost 79% of employees currently receiving Temporary Income Benefits return to work within 6 months compared to 74% in 2004); and
- Employees returning to work faster (median days off of work reduced from 26 days to 20 days), which reduces system costs;

Workers' Compensation Legislation

Last session several pieces of legislation passed that directly or indirectly impacted workers' compensation, including bills that: clarified coverage options for temporary employees and professional employer organizations; authorized informal and voluntary medical networks for durable medical equipment and home health care; clarified existing statutes which prohibit the misuse of DWC's name or symbols in a deceptive manner; and postponed the Sunset date for DWC and the Office of Injured Employee Counsel from 2017 to 2021. A summary of these bills can be found in the attached DWC packet. DWC has fully implemented all workers' compensation legislation from the 83rd legislative session.

Rule Projects

Since last session, DWC has initiated several rule projects designed to update and modernize existing rules, as well as align workers' compensation medical necessity and medical billing requirements with group health and Federal requirements. Currently DWC is in the process of undertaking rules to update attorney fees, clarify the use of debit cards for income benefit payments, and specify the process that insurance carriers should use to make determinations about an injured employee's eligibility for Lifetime Income Benefits. The following is a summary of the rule projects DWC has completed/initiated since last session:

- Accident Prevention Rules: Adopted new and amended rules regarding accident prevention services insurance carriers provide to their policyholders (28 TAC Ch 166). These rules clarified expectations regarding the types of services carriers should provide policyholders as well as how these services should be offered. Streamlined the process for the Division to review the adequacy of these services.
- Utilization Review Rules: Adopted rules (28 TAC Ch 133 and 134) to clarify the process that insurance carriers use to review the medical necessity of health care services. These rules align DWC's rules with Insurance Code, Ch 4401 and other group health utilization review rules adopted by the Department.
- Medical Billing Rules: Adopted amendments (28 TAC §133.10) to incorporate a new Federal medical billing form into the Texas workers' compensation system to ensure that health care provider billing requirements for workers' compensation remain consistent with group health.
- Medical Data Reporting Rules: Adopted amendments (28 TAC §133.803 and 133.807) to allow the reporting of ICD-10 diagnosis codes once the Federal implementation of these codes takes effect.

- Update of SOAH Rules: Proposed amendments to existing rules (28 TAC Ch 148 and 149) regarding appeals of enforcement actions and medical fee dispute appeals to the State Office of Administrative Hearings (SOAH) to better align these rules with changes to statute that were made in 2011.
- Debit Cards: Currently working on a proposal to amend an existing rule and propose a new rule regarding the use of debit card for income benefit payments to injured employees, including clarifying which fees are prohibited and which fees require plain language disclosure to the injured employee.
- Attorney Fees: Currently working on a proposal (28 TAC Ch 150) to increase the hourly rate for attorneys and legal assistants as well as the number of hours that can be billed for communications on a claim and informal settlement of disputes.
- Lifetime Income Benefits (LIBs): Currently working on a proposal (28 TAC Ch 131) to clarify how an injured employee's request for Lifetime Income Benefits should be processed by an insurance carrier to ensure that these requests are handled timely and appropriately.
- Return-to-Work Guidelines: The Workers' Compensation Act requires DWC to adopt evidence-based return-to-work guidelines. In 2007, DWC adopted the Medical Disability Advisor published by the Reed Group as its return-to-work guideline. DWC has recently received a rule petition to consider adopting another guideline in addition to the one currently adopted. In response, DWC denied the petition due to a lack of information, but published a concept draft rule to gather information from stakeholders regarding the need to adopt an alternative return-to-work guideline and the cost/benefit of such a change.

Other Important Issues

- Pharmacy Formulary: The 2005 legislative reforms (H.B. 7) required DWC to adopt a closed formulary for prescription medications. This formulary was adopted by rule in December 2010 to be effective for claims with a date of injury on or after September 1, 2011 and to become effective for older claims on September 1, 2013.¹ The closed formulary complements the other important provisions of the Labor Code, which focused greater attention on improving the cost and the quality of health care for injured employees, including the adoption of new evidence-based treatment guidelines in 2007 (*Official Disability Guidelines, Treatment for Workers' Comp* published by the Work Loss Data Institute).

With significant input from stakeholders, including health care providers and insurance carriers, DWC defined the closed formulary to include all FDA-approved drugs, with the exception of those drugs listed in Appendix A of DWC's adopted

¹ See 28 Texas Administrative Code (TAC), Rules 134.506, 134.510, 134.520, 134.530 and 134.540, adopted rules of the Texas Department of Insurance, Division of Workers' Compensation (DWC).

treatment guidelines as “not recommended” drugs for workers’ compensation claims (also referred to as “N drugs”), compounds including an “N drug,” or experimental and investigational drugs. Under the closed formulary rules, “N drugs” must first be preauthorized by the insurance carrier before these drugs may be dispensed to injured employees.

Now that the closed formulary is in effect, we have begun to see the positive impact of these efforts through reduced prescription drug utilization and costs for new and older claims. The number of prescriptions for “N drugs” has been reduced by 74 percent and the cost of those “N drug” prescriptions has fallen 81 percent. Pharmacy costs overall have been reduced 14 percent in the Texas workers’ compensation system; opioid use has been reduced 10 percent; and we’ve seen better use of generic alternatives to brand name drugs. A copy of the most recent results from our analysis of the formulary is included in the Workers’ Compensation Research and Evaluation Group (REG) packet.

The formulary has also fostered better treatment coordination between prescribing doctors and insurance carriers on individual workers’ compensation claims. Even more telling is the fact that we have not seen an increase in medical necessity disputes or complaints from injured employees since the implementation of the closed formulary in Texas. DWC has been contacted by several other states, including Louisiana, Oklahoma, California, looking to see if the adoption of a “Texas-like” pharmacy formulary can help reduce opioid use in their workers’ compensation systems. DWC continues to monitor the impact of the closed formulary on pharmacy cost and utilization and plans to look at what impact, if any, these reductions of “N drugs” have had on improving return-to-work outcomes for injured employees in Texas.

Transition to the Use of ICD-10 Diagnosis Codes: Labor Code Section 413.011 requires the Commissioner of Workers’ Compensation to adopt the most current reimbursement methodologies, models, and values or weights used by the federal Centers for Medicare and Medicaid Services (CMS), including applicable payment policies relating to coding, billing, and reporting. As part of the federal Affordable Care Act, doctors were required to transition from the current coding system for diagnoses (ICD-9) to a new, more detailed coding system - ICD-10.

Recent federal legislation led to the signing of H.R. 4302 by President Barack Obama which includes a provision that delays the implementation of ICD-10 diagnosis codes to no earlier than October 1, 2015 (these codes were initially required to be used on October 1, 2014). This delay also applies to the use of these codes in the Texas workers’ compensation system. DWC is ready to implement the use of these codes once the Federal implementation takes effect and is currently engaged in outreach to health care providers and insurance carriers in an effort to help prepare stakeholders for the upcoming transition.

Dispute Resolution

Although the number of workers' compensation claims filed and the number of new requests for a Benefit Review Conference (the first step of the administrative dispute resolution process) have continued to decline over time, DWC has seen an increase in the last couple of years in the number of dispute resolution proceedings concluded (both Benefit Review Conferences and Contested Case Hearings) and the number of disputed issues raised in these proceedings. Most of these new disputes involve issues regarding an injured employee's impairment rating, the date of maximum medical improvement and the extent of the employee's injury (see table below).

In most of these cases, the disputes regarding the extent of the employee's injury are being raised not as a result of a denial by an insurance carrier, but by the injured employee trying to dispute an impairment rating or date of maximum medical improvement assigned by the designated doctor (the doctor assigned by DWC at the request of the parties to address issues such as impairment rating, date of maximum medical improvement). The designated doctor's opinion has presumptive weight in dispute proceedings because the doctor is certified and assigned by DWC to the case and has received special training and testing, which makes these opinions harder for parties to overcome without other medical evidence.

DWC has begun to see the number of BRCs concluded subside slightly in 2013 and we are currently working on some initiatives to encourage the parties to be more prepared in dispute proceedings and to improve the quality of designated doctor opinions in an effort to reduce the number and length of time to resolve disputes.

It's important to note that the vast majority of workers' compensation claims still go through the system with no disputes. Only about 5 percent of workers' compensation claims initiated in 2012 have had a dispute before DWC and that number has remained between 5-7 percent going back several years. Additionally very few of these disputes make it all the way through the administrative dispute process at DWC into district court (less than 1 percent).

	2009	2010	2011	2012	2013
% of Claims with Disputes	7%	7%	7%	5%*	N/A
# of BRCs Concluded	9,082	7,929	8,402	11,107	10,711
# of CCHs Concluded	4,578	4,078	4,156	6,079	6,420

Source: Texas Department of Insurance, Division of Workers' Compensation, 2014.

Note: Data regarding the number of claims filed for 2013 and the % of disputed claims are not complete due to reporting lags. * A single claim may have multiple disputes filed over the life of the claim. Therefore, the % of claims with a dispute proceeding may continue to increase over time.

Interim Charge on the Voluntary Nature of Workers' Compensation in Texas

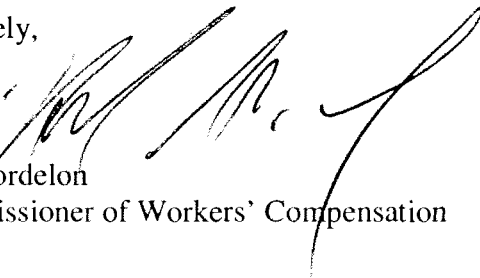
In terms of the interim charge, I've included a copy of the Workers' Compensation Research and Evaluation Group's 2012 analysis of employer participation in the Texas workers' compensation system. This report provides an estimate of the percentage of employers and employees that are covered by workers' compensation, as well as information regarding the reasons why employers make certain coverage decisions and

the availability of benefits provided by non-subscribing employers. This study is updated on a biennial basis and new employer/employee estimates will be available to the committee this September.

Non-subscribing employers are required to report their coverage status to DWC. In addition, if the employer has five or more employees, they must also report each occupational fatality, occupational disease or injury resulting in more than one day of lost time. DWC continues to monitor these reporting requirements, and if necessary, initiate enforcement action.

I am available if you have any questions or need any additional information.

Sincerely,

A handwritten signature in black ink, appearing to read 'Rod Bordelon', is written over the printed name and title.

Rod Bordelon
Commissioner of Workers' Compensation

Texas Department of Insurance
Division of Workers' Compensation

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<div>Key Phone List Changes (512) 804-4986</div> <div>IT Help Desk (512) 463-6466</div> <div>Inclement Weather (512) 804-4157 (512) 804-4239 (ICEY)</div>	<div>KEY TELEPHONE LISTING</div> <div>Texas Department of Insurance – Division of Workers’ Compensation</div> <div>Delivery – 7551 Metro Center Drive, Ste. 100, Austin 78744</div> <div>Internet: http://www.tdi.gov (Revised 02/14)</div>	<div>DWC Metro Receptionist (512) 804-4221</div> <div>DWC Building Services (512) 804-4220</div>			
<div>NOTE: An asterisk indicates a new IP number. When dialing IP numbers, a 7...Indicates a pause is needed between dialing 7 and the extension. After the 7, and pause, you will hear instructions to complete your extension dialing.</div>					
	<div>NAME</div>	<div>TEL.#</div>	<div>FAX #</div>	<div>M.S.</div>	<div>LOC.</div>
Commissioner of Workers’ Compensation	Rod Bordelon	804-4400	804-4401	MS-1	Metro
Executive Assistant	Idalia Salazar	804-4403	804-4401	MS-1	Metro
General Counsel	Dirk Johnson	804-4422	804-4401	MS-15	Metro
Subsequent Injury Fund/Associate General Counsel	Marisa Lopez-Wagley	804-4739	804-4759	MS-15	Metro
Self-Insurance Regulation, Team Lead	Tammy Lara	804-4778	804-4776	MS-60	Metro
Administration Support	Cindi Spelman	804-4785	804-4776	MS-60	Metro
Claims Examination Team	Michael Buggs	804-4789	804-4776	MS-60	Metro
Financial Team	Glenn Dobmeier	804-4781	804-4776	MS-60	Metro
Safety	Bryan Morrow	804-4795	804-4776	MS-60	Metro
Public Affairs, Deputy Commissioner	Allison Castle	305-9051	475-2025	113-3A	Hobby
Public Affairs, Assistant to Deputy Commissioner	Michele Greer	305-9472	475-2025	113-3A	Hobby
Government Relations, Director	Melissa Hamilton	463-6123	463-2025	113-3A	Hobby
Policy and Research, Special Deputy Commissioner	Amy Lee	804-4410	804-4401	MS-1	Metro
WC Research & Evaluation Group, Director	D. C. Campbell	322-3566	490-1050	105-2A	Hobby
Medical Advisor	Dr. David G. Davis	804-4415	490-1040	MS-41	Metro
Associate Medical Advisor	Dr. Edwin Buster	804-4879	490-1040	MS-41	Metro
Internal Audit, Director	Greg Royal	804-4127	804-4126	MS-2	Metro
Internal Audit	Matt Milam	804-4134	804-4126	MS-2	Metro
Internal Audit	Alain Fontaine	804-4130	804-4126	MS-2	Metro
Operations, Executive Deputy Commissioner	Patricia Gilbert	804-4302	804-4301	MS-1	Metro
Designated Doctor Outreach and Oversight, Director	Dr. Bill Defoyd	804-4853	804-4207	MS-45	Metro
Quality Monitoring	Lisa Wharry	804-4210	804-4207	MS-45	Metro
Training & Outreach	Chuck Whitacre	804-4689	804-4207	MS-45	Metro
Information Management Services, Director	Tammy Campion	804-4717	804-4817	MS-63	Metro
Operations Support, Director	Joe McElrath	804-5010	804-4301	MS-1	Metro
Business Process Improvement	Hugo Salazar	804-4581	804-4301	MS-1	Metro
TXCOMP Development Project Manager	Genice Mancini	804-4406	804-4817	MS-5	Metro
Communications Coordinator	Michelle Banks	804-4203	804-4201	MS-5	Metro
Communications Web Coordinator	Susan Criner	804-4204	804-4201	MS-5	Metro
Communications Translation Services	Helen Vogel	804-4158	804-4201	MS-5	Metro
Outreach Planning & Coordination, Director	Angelia Johnson	804-4530	804-4301	MS-1	Metro
Reimbursement Program for Small Employers	Janice Pousson	804-5000	804-4817	MS-5	Metro
Speaker Bureau Coordinator	Janice Pousson	804-4685	804-4817	MS-5	Metro
Records Management & Support, Director	Sherry Brunson	804-4104	804-4101	MS-600	Metro
Project Knowledge & Support	Sherry Brunson	804-4104	804-4101	MS-600	Metro
Records Center, Manager	Thomasina Tijerina	804-4990 301	804-4991	MS-92	RC
Records Processing, Manager	Wanda Diggs	804-4372	804-4378	MS-93	Metro
Document Imaging, Supervisor	Richard Ramirez	804-4118	804-4378	MS-94	Metro
EDI Claims Processing	Lydia Cardenas	804-4375	804-4378	MS-94	Metro
Insurance Coverage, Manager	Marcia Medina	804-4147	804-4346	MS-96	Metro
Designated Doctor Exam Coordination, Manager	Mark Rhemann	804-4673	804-4207	MS-603	Metro
Field Operations, Acting Director	Kathy McMaster	804-4125	490-1037	MS-65	Metro
Coastal Region – Regional Administrator (BU, HE, HW, LF)	Barbara Voloto	713-924-2200 505	713-514-0713	MS-207	HE
Northern Region – Regional Administrator (DA, DN, FW, TY, WA, WF)	Cindy Barnes	817-446-4488 500	817-446-5060	MS-103	FW
Northern Region – Assistant Regional Administrator	June Mitchell	940-380-1400 500	940-380-1408	MS-102	DN
Southern Region – Regional Administrator (AU, CC, LR, SA, WS)	John Garza	210-593-0070 500	210-593-0062	MS-305	SA
Southern Region – Assistant Regional Administrator	Bobby Gonzalez	361-883-2551 500	361-881-8631	MS-302	CC
Western Region – Regional Administrator (AB, AM, EP, LB, MO, SG)	Luis Mata	915-351-5260 500	915-351-5272	MS-403	EP
Western Region- Assistant Regional Administrator	vacant				
Austin North (AU) Field Office Team Lead	Estell Cunningham	512-933-1899 7 1400	512-928-4875	MS-301	AU
Abilene (AB) Field Office Team Lead	Joanne Wilson	325-695-4992 500	325-695-9789	MS-401	AB
Amarillo (AM) Field Office Team Lead	Teresa Rodriguez	806-351-1222 500	806-351-1444	MS-402	AM
Beaumont (BU) Field Office Manager	Wynetta Johnson	713-924-2200 500	409-899-5207	MS-201	BU
Corpus Christi (CC) Field Office Manager	Bobby Gonzalez	361-883-2551 500	361-881-8631	MS-302	CC
Dallas (DA) Field Office Manager	vacant	214-350-9299 500	214-350-3750	MS-101	DA
Denton (DN) Field Office Manager	June Mitchell	940-380-1400 500	940-380-1408	MS-102	DN
El Paso (EP) Field Office Manager	Luis Mata	915-351-5260 500	915-351-5272	MS-403	EP
Fort Worth (FW) Field Office Manager	Cindy Barnes	817-446-4488 500	817-446-5060	MS-103	FW
Houston-East (HE) Field Office Manager	Wynetta Johnson	713-924-2200 500	713-514-0713	MS-207	HE
Houston-West (HW) Field Office Manager	Rochelle Johnson	281-260-3035 500	281-272-1089	MS-204	HW
Laredo (LR) Field Office Team Lead	Diana Hinojosa	956-718-2040 *2100	956-725-8771	MS-304	LR
Lubbock (LB) Field Office Team Lead	Debra Green	806-744-4569 500	806-740-0092	MS-404	LB
Lufkin (LF) Field Office Manager	Rochelle Johnson	281-260-3035 500	936-639-6406	MS-205	LF
Midland (MO) Field Office Team Lead	Vacant	432-699-1281 500	432-699-7309	MS-405	MO
San Angelo (SG) Field Office Team Lead	Irma Cardenas	325-657-0404 500	325-659-8536	MS-407	SG
San Antonio (SA) Field Office Manager	John Garza	210-593-0070 500	210-593-0062	MS-305	SA
Tyler (TY) Field Office Team Lead	Rebecca Allen	903-534-6250 500	903-534-5276	MS-209	TY
Waco (WA) Field Office Team Lead	David Erbe	254-755-7011 500	254-755-7594	MS-105	WA
Weslaco (WS) Field Office Team Lead	Sofia J. Torres	956-447-4416 *3200	956-447-4775	MS-303	WS
Wichita Falls (WF) Field Office Contact	June Mitchell	940-380-1400 500	940-380-1408	MS-102	DN
Health Care Management, Executive Deputy Commissioner	Matthew Zurek	804-4870	804-4301	MS-41	Metro
Return to Work Outreach & Special Initiatives	Brent Hatch	804-4102	804-4301	MS-1	Metro
Return to Work Outreach & Special Initiatives	Pat Crawford	804-4683	804-4301	MS-1	Metro
Vocational Rehabilitation Registry	Brent Hatch	804-4102	804-4301	MS-1	Metro
Health Care Policy & Implementation, Manager	Ruth Richardson	804-4850	804-5001	MS-7	Metro
Health Care Business Management, Director	Mary Landrum	804-4814	804-4868	MS-48	Metro

Medical Advisor Main Line	Main Line	804-4875	490-1040	MS-41	Metro
Medical Quality Review Panel (MQRP) Coordinator	Mary Landrum	804-4814	490-1040	MS-41	Metro
Medical Fee Team, Manager	Martha Luevano	804-4858	804-4868	MS-48	Metro
Medical Benefits Education	Regina Schwartz	804-4691	490-1040	MS-41	Metro
Provider Outreach	Amy Rich	804-4809	490-1040	MS-41	Metro
System Monitoring & Oversight, Director	Teresa Carney	804-4702	804-4576	MS-8	Metro
Complaint Resolutions, Manager	Denny Whitehouse	804-4750	490-1030	MS-8	Metro
Audits & Investigations, Manager	Darrell Cooper	804-4768	804-4576	MS-8	Metro
EDI/TXCOMP Help Desk		1-888-4TXCOMP	490-1039	MS-5	Metro
Workplace Safety, Director	Karen Puckett	804-5020	804-4611	MS-20	Metro
Director’s Assistant	Lori Wood	804-5022	804-4611	MS-20	Metro
Safety Training & Inspections, Manager	Christopher D’Amura	804-4626	804-4601	MS-24	Metro
Safety Violations Hotline		1-800-452-9595	804-4606	MS-21A	Metro
CFOI Data Collection, Manager	Deborah Jones	804-4651	804-4633	MS-23A	Metro
Federal Data Collection, Manager	Deborah Jones	804-4651	804-4652	MS-23B	Metro
BLS Survey Main Number		804-4657	804-4652	MS-23B	Metro
BLS Survey (<i>Toll Free</i>)		1-866-237-6405	804-4652	MS-23B	Metro
OSHA Data Collection Main Number		804-4634	804-4517	MS-23B	Metro
OSHA Data Collection (<i>Toll Free</i>)		1-866-819-9408	804-4517	MS-23B	Metro
OSHCON, Manager	Steve Marcyes	804-4640	804-4641	MS-22	Metro
OSHCON System Analyst	Gloria Newton	804-4642	804-4641	MS-22	Metro
Resource Center	Alyson Williams	804-4625	804-4621	MS-25	Metro
Hearings, Deputy Commissioner	Kerry Sullivan	804-4015	804-4011	MS-30	Metro
Deputy Commissioner Assistant	Lisa Acosta	804-4013	804-4071	MS-30	Metro
Chief Clerk of Proceedings	Tiffany Duarte	804-4055	804-4011	MS-36	Metro
Chief Clerk Support/SOAH Docketing	Anita Johnson	804-4075	804-4071	MS-35	Metro
Customer Service & Records	Ammie Navarro	804-4050	804-4011	MS-35	Metro
Dispute Processing Support Team I	Mary Mutschink	804-4062	804-4011	MS-35	Metro
Appeals Panel Docketing	Neal Bertling	804-4073	804-4011	MS-35	Metro
Benefit Review Officer, Manager	Randy Steger	804-4085	804-4011	MS-34	Metro
Central Benefit Review Officer	Barbara McWilliams	804-4081	804-4011	MS-34	Metro
Central Benefit Review Officer	Catherine Rowe	804-4083	804-4011	MS-34	Metro
Hearings Officer, Manager	Gene Kraft	804-4080	804-4071	MS-34	Metro
Appeals Panel, Manager	Daniel Barry	804-4439	804-4071	MS-36	Metro
Office of Workers’ Compensation Counsel, Director	Tracey Beaver	804-4280	804-4276	MS-4D	Metro
Administrative Assistant	Maria Jimenez	804-4703	804-4276	MS-4D	Metro
Open Records Liaison	Erica Clark	804-4434	804-4276	MS-4D	Metro
Enforcement, Associate Commissioner	Sandra Nicolas	305-7297	475-1772	MC-110A	Hobby
Director	Leah Gillum	804-4278	804-4701	MS-11	Metro
Case Intake Unit & Open Records Liaison	Michelle Quartermaine	804-4755	804-4701	MS-11	Metro
Human Resources, Director	Patricia David	804-4452	804-4451	MS-74	Metro
Personnel and Benefits Team Lead	Isela Mata	804-4473	804-4451	MS-74	Metro
Employee Benefits	Skii Wellington	804-4473	804-4451	MS-74	Metro
Payroll	Michelle Fultz	463-6573	475-1864	MC-112	Hobby
Professional Development	Buffy Burnett	305-9745	475-1864	MC-112	Hobby
Information Technology Services, Director	Amy Lugo	305-7252	490-1000	102-ITS	Hobby
		804-4902	804-4901	MS-82	Metro
Computer Help Desk	Dean David	804-4906	804-4901	MS-82	Metro
Telecom	Rob Sutton	804-4982	804-4901	MS-82	Metro
Staff Services					
Facilities Leasing & Receiving	Norma Mitchell	804-4220	804-4216	MS-72A	Metro
Mailroom/Admin. Services	Patricia Wells	804-4242	804-4241	MS-72B	Metro
Risk Management	Roland Rivera	804-4225	804-4216	MS-72	Metro

Commonly Requested Telephone Numbers

WC/ Injured Employee Hotline	(800) 252-7031	TXCOMP / Technical Help / External	(888) 4-TXCOMP (888) 489-2667
Office of Injured Employee Counsel (OIEC)	(866) 393-6432	Safety Violations Hotline	(800) 452-9595
Fraud Hotline	(888) 327-8818 (512) 463-6700	OSHCON/Safety Information	(800) 687-7080
DWC Open Records	(512) 804-4434	Texas Mutual Insurance Company	(512) 224-3800 (800) 859-5995
DWC Publications / Forms	(512) 804-4240	Texas Workforce Commission (TWC)	(512) 463-2222
DWC Speakers’ Bureau	(512) 804-4685	Department of Assistive & Rehabilitative Services (DARS)	(800) 628-5115
RTW Reimbursement Program for Employers	(512) 804-5000	Health & WC Network Cert and QA	(512) 322-4266
Comp Connection	(800) 372-7713		

Texas Department of Insurance
Division of Workers' Compensation
Translation and Definition of commonly-used Acronyms

ADL	Approved Doctor List <i>List previously maintained by the TDI-DWC of doctors who treated workers' compensation patients</i>
AIA	American Insurance Association
ASC	Ambulatory Surgical Center <i>Facility that performs outpatient surgical procedures</i>
AWW	Average Weekly Wage <i>Used to determine the amount of an injured employee's income benefits</i>
BLS	U.S. Department of Labor, Bureau of Labor Statistics
BRC	Benefit Review Conference <i>Informal mediation-style review of a workers' compensation dispute; precedes contested case hearing (CCH)</i>
BRO	Benefit Review Officer <i>DWC employee who oversees a BRC</i>
CCH	Contested Case Hearing <i>Formal DWC hearing on a disputed issue</i>
CMS	Centers for Medicare and Medicaid Services <i>Federal agency that administers the Medicare system</i>
CPT	Current Procedural Terminology (Code) <i>Used on a medical bill to describe services provided to a patient</i>
DARS	Department of Assistive and Rehabilitative Services
DBs	Death Benefits
DD	Designated Doctor <i>DWC-approved doctor used to assess an injured employee's Maximum Medical Improvement and assign an Impairment Rating</i>
DDL	Designated Doctor List <i>DWC-maintained list of doctors certified as DDs</i>
DME	Durable Medical Equipment
DOI	Date of Injury
EDI	Electronic Data Interchange
EOB	Explanation of Benefits <i>Provided by insurance carriers as response to a medical bill, often to explain a denial or reduction on payment</i>
HCP	Health Care Provider
IAB	Industrial Accident Board (defunct) <i>Predecessor agency to the Texas Workers' Compensation Commission (TWCC) which was the predecessor agency to the TDI-DWC</i>
IAIABC	International Association of Industrial Accident Boards and Commissions
ICT	Insurance Council of Texas
IIBs	Impairment Income Benefits <i>Compensates an injured employee for extent of permanent impairment related to a compensable injury</i>
IR	Impairment Rating <i>Percentage assessment of impairment that determines duration of an injured employee's IIBs and eligibility (in part) for supplemental income benefits (SIBs)</i>

Texas Department of Insurance
Division of Workers' Compensation
Translation and Definition of commonly-used Acronyms

IRO	Independent Review Organization <i>Independent organization used to review and rule on disagreements over the necessity of medical care</i>
LIBs	Lifetime Income Benefits <i>Income benefits paid for the life of the injured employee for certain defined injuries</i>
MAC	Medical Advisory Committee (defunct) <i>Advisory body to the TWCC, DWC's predecessor agency</i>
MAR	Maximum Allowable Reimbursement <i>Amount of reimbursement for a medical service set by the DWC's medical fee guidelines(s)</i>
MDA	The Medical Disability Advisor, Workplace Guidelines for Disability Duration <i>DWC adopted return-to-work guidelines</i>
MDR	Medical Dispute Resolution <i>Process for adjudicating disputes over necessity of and/or payment for medical care</i>
MFG	Medical Fee Guideline(s) <i>DWC rules of schedules of reimbursement amounts for medical services</i>
MMI	Maximum Medical Improvement <i>Assessment that an injured employee has recovered to the greatest extent possible from his/her injury; precedes assignment of Impairment Rating</i>
MQRP	Medical Quality Review Panel <i>Panel established by HR 2600 to assist DWC health care providers and insurance carriers</i>
NCCI	National Council of Compensation Insurers
ODG	Official Disability Guidelines – Treatment in Workers' Comp <i>DWC adopted treatment guidelines</i>
OIEC	Office of Injured Employee Counsel
OMA	Office of the Medical Advisor
OSHA	Federal Occupational Health and Safety Administration
PCIAA	Property and Casualty Insurance Association of America
RME	Required Medical Examination <i>An injured employee medical examination approved and ordered by the TDI-DWC at the request of an insurance carrier</i>
ROC	Research and Oversight Council on Workers' Compensation (defunct) <i>State agency that conducted research on and provided oversight in the Texas workers' compensation system; research functions transferred to TDI in 2003</i>
RTW	Return to Work
SAWW	State Average Weekly Wage <i>State wage benchmark historically used to set the cap on weekly income benefits in the Texas workers' compensation system</i>
SIBs	Supplemental Income Benefits <i>Long-term income benefits that compensate injured employees for high Impairment Ratings coupled with ongoing inability to work</i>

Texas Department of Insurance
Division of Workers' Compensation

Translation and Definition of commonly-used Acronyms

SIF	Subsequent Injury Fund <i>DWC-administered state fund used to compensate injured employees who qualify for LIBs based on two separate injuries</i>
SOAH	State Office of Administrative Hearings <i>State agency; in workers' compensation, serves as an appeal body for a medical fee dispute after a decision by the DWC's Medical Fee Dispute Resolution section</i>
SORM	State Office of Risk Management <i>State agency that administers most state employee workers' compensation claims</i>
TD	Treating Doctor
TDI	Texas Department of Insurance
TIBs	Temporary Income Benefits <i>Initial lost-time income benefits for injured employees; may be paid for up to two years</i>
TPA	Third Party Administrator <i>In workers' compensation, an entity used to pay or administer workers' compensation claims; certified by TDI</i>
TPCIGA	Texas Property and Casualty Insurance Guarantee Association <i>Assumes responsibilities for workers' compensation claims of insurers that become insolvent</i>
TWC	Texas Workforce Commission
URA	Utilization Review Agent <i>Certified by TDI to review and determine the necessity of medical care</i>
WCRI	Workers' Compensation Research Institute



Texas Department of Insurance

Division of Workers' Compensation

7551 Metro Center Drive, Suite 100 • Austin, Texas 78744-1645
512-804-4000 telephone • 512-804-4001 fax • www.tdi.texas.gov

State Average Weekly Wage (SAWW) / Maximum and Minimum Weekly Benefits

The following table provides the maximum (max) and minimum (min) weekly benefits established in the Texas Workers' Compensation Act applicable to dates of injuries on or after January 1, 1991.

Fiscal Year	SAWW* State Average Weekly Wage	Temporary Income Benefits (TIBS) max	TIBs min	Impairment Income Benefits (IIBs) max	IIBs min	Supp- lemental Income Benefits (SIBs) max	SIBs min	Lifetime Income Benefits (LIBs) max	LIBs min	Death Benefits max	Death Benefits min
2014 (10/1/13-09/30/14)	\$849.89	\$850.00	\$127.00	\$595.00	\$127.00	\$595.00	N/A	\$850.00	\$127.00	\$850.00	N/A
2013 (10/1/12-09/30/13)	\$817.94	818.00	123.00	573.00	123.00	573.00	N/A	818.00	123.00	818.00	N/A
2012 (10/1/11-09/30/12)	\$787.47	787.00	118.00	551.00	118.00	551.00	N/A	787.00	118.00	787.00	N/A
2011 (10/1/10-09/30/11)	\$766.34	766.00	115.00	536.00	115.00	536.00	N/A	766.00	115.00	766.00	N/A
2010 (10/1/09-09/30/10)	\$772.64	773.00	116.00	541.00	116.00	541.00	N/A	773.00	116.00	773.00	N/A
2009 (10/1/08-09/30/09)	\$749.63	750.00	112.00	525.00	112.00	525.00	N/A	750.00	112.00	750.00	N/A
2008 (10/1/07-09/30/08)	\$712.11	712.00	107.00	498.00	107.00	498.00	N/A	712.00	107.00	712.00	N/A

Fiscal Year	SAWW* State Average Weekly Wage	Temporary Income Benefits (TIBS) max	TIBs min	Impairment Income Benefits (IIBs) max	IIBs min	Supp- lemental Income Benefits (SIBs) max	SIBs min	Lifetime Income Benefits (LIBs) max	LIBs min	Death Benefits max	Death Benefits min
2007 (10/1/06-9/30/07)	\$673.80	674.00	101.00	472.00	101.00	472.00	N/A	674.00	101.00	674.00	N/A
2006 (9/1/05-9/30/06)	\$540.00	540.00	81.00	378.00	81.00	378.00	N/A	540.00	81.00	540.00	N/A
2005 (9/1/04-8/31/05)	\$539.00	539.00	81.00	377.00	81.00	377.00	N/A	539.00	81.00	539.00	N/A
2004 (9/1/03-8/31/04)	\$537.00	537.00	81.00	376.00	81.00	376.00	N/A	537.00	81.00	537.00	N/A
2003 (9/1/02-8/31/03)	\$536.74	537.00	81.00	376.00	81.00	376.00	N/A	537.00	81.00	537.00	N/A
2002 (9/1/01-8/31/02)	\$535.62	536.00	80.00	375.00	80.00	375.00	N/A	536.00	80.00	536.00	N/A
2001 (9/1/00-8/31/01)	\$533.00	533.00	80.00	373.00	80.00	373.00	N/A	533.00	80.00	533.00	N/A
2000 (9/1/99-8/31/00)	\$531.00	531.00	80.00	372.00	80.00	372.00	N/A	531.00	80.00	531.00	N/A
1999 (9/1/98-8/31/99)	\$523.31	523.00	78.00	366.00	78.00	366.00	N/A	523.00	78.00	523.00	N/A
1998 (9/1/97-8/31/98)	\$508.26	508.00	76.00	356.00	76.00	356.00	N/A	508.00	76.00	508.00	N/A
1997 (9/1/96-8/31/97)	\$490.92	491.00	74.00	344.00	74.00	344.00	N/A	491.00	74.00	491.00	N/A
1996 (9/1/95-8/31/96)	\$480.13	480.00	72.00	336.00	72.00	336.00	N/A	480.00	72.00	480.00	N/A

Fiscal Year	SAWW* State Average Weekly Wage	Temporary Income Benefits (TIBs) max	TIBs min	Impairment Income Benefits (IIBs) max	IIBs min	Supp- lemental Income Benefits (SIBs) max	SIBs min	Lifetime Income Benefits (LIBs) max	LIBs min	Death Benefits max	Death Benefits min
1995 (9/1/94-8/31/95)	\$471.66	472.00	71.00	330.00	71.00	330.00	N/A	472.00	71.00	472.00	N/A
1994 (9/1/93-8/31/94)	\$464.10	464.00	70.00	325.00	70.00	325.00	N/A	464.00	70.00	464.00	N/A
1993 (9/1/92-8/31/93)	\$456.36	456.00	68.00	319.00	68.00	319.00	N/A	456.00	68.00	456.00	N/A
1992 (9/1/91-8/31/92)	\$437.65	438.00	66.00	306.00	66.00	306.00	N/A	438.00	66.00	438.00	N/A
1991 (1/1/91-8/31/91)	\$428.25	428.00	64.00	300.00	64.00	300.00	N/A	428.00	64.00	428.00	N/A

*The state average weekly wage (SAWW) since 10/1/06 has been 88% of the average weekly wage in covered employment for the preceding year as computed by the Texas Workforce Commission (TWC).

The SAWW in 2004, 2005, and 2006 were established statutorily. Prior to 2004, the SAWW was based on the average weekly wage of manufacturing production workers in Texas.



Division of Workers' Compensation

Texas Department of Insurance

FOR IMMEDIATE RELEASE – February 10, 2014

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Commissioner Bordelon Sets Lowest Maintenance Tax Rate Since 2010

AUSTIN, TX — Texas Workers' Compensation Commissioner Rod Bordelon has determined, pursuant to Texas Labor Code Section 403.002(b), that the maintenance tax rate be lowered to 1.543 percent of gross premiums collected by workers' compensation insurance carriers from January 1, 2013 through December 31, 2013.

The maintenance tax supports the operations of the Division of Workers' Compensation (DWC) and the Office of Injured Employee Counsel.

“Our efforts to improve agency efficiency along with a growing Texas economy where more businesses are offering insurance coverage have allowed the lowering of this tax rate to its lowest level since 2010,” Commissioner Bordelon said. “This is another milestone representing significant improvements in the workers' compensation system begun by the Legislature in 2005.”

The maintenance tax rate applies to insurance companies writing workers' compensation policies in Texas and is capped at 2 percent of gross premiums collected by insurance companies. Certified self-insured and group self-insured employers also pay maintenance taxes based on the previous year's claim liabilities and expenses.

The order setting maintenance tax rates is available on the agency website here: http://www.tdi.texas.gov/company/documents/Maintenance_Tax_2014.pdf.

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TEXAS DEPARTMENT OF INSURANCE

Media Relations | 333 Guadalupe | P.O. Box 149109 | MCI05-1A | Austin, TX 78714 | Phone (512) 463-6425 | Fax (512) 463-6141 | www.tdi.texas.gov



Division of Workers' Compensation

Texas Department of Insurance

FOR IMMEDIATE RELEASE – April 7, 2014

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Commissioner Testifies: Closed Pharmacy Formulary Successfully Reduces Opioid Drug Prescriptions for Injured Employees

AUSTIN, TX —Commissioner of Workers' Compensation Rod Bordelon today presented testimony to the Texas House Committee on Public Health regarding the recent decline in the number and cost of opioid drug prescriptions in the Texas workers' compensation system. Bordelon said the adoption of new pharmacy rules has produced positive results.

Since the Division of Workers' Compensation (DWC) implemented a closed pharmacy formulary for the treatment of injured employees, Bordelon told Committee Chairwoman Lois Kolkhorst and committee members, the number of "not-recommended" or "N-drug" prescriptions have declined 74 percent and the cost of those prescriptions has dropped 82 percent from 2010 to 2011. Opioid drug prescriptions have fallen 10 percent since the implementation of the formulary. The closed pharmacy formulary took effect for new workers' compensation claims on September 1, 2011 and for older claims on September 1, 2013.

"There is no disputing the growing concern over the abuse of prescription drugs, particularly opioids," Bordelon said. "It's a serious issue in health care, including workers' compensation."

"We are seeing significant downward trends in opioid drug prescriptions in the treatment of injured employees in Texas," he said. "The new closed formulary, along with evidence-based treatment guidelines, utilization reviews and enforcement efforts, has helped combat overutilization of unnecessary drugs in Texas, while safeguarding medically necessary care that promotes an injured employee's ability to return to work quickly and safely."

The closed formulary includes all FDA-approved drugs, except for investigational and experimental drugs and excludes drugs listed as "not recommended" in Appendix A of DWC's adopted treatment guidelines. Under the formulary, prescriptions for "N drugs" must be preauthorized by the insurance carrier before being dispensed to an injured employee.

Bordelon's testimony was invited to address an interim charge from Speaker of the House of Representatives Joe Straus. The Committee on Public Health was asked to "assess the prevalence of nonmedical prescription drug use in the state (including opioid analgesics, stimulants, tranquilizers, and sedatives) and address adverse health impacts."

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Public Information Office | 333 Guadalupe | P.O. Box 149109 | MC105-1A | Austin, TX 78714 | Phone (512) 463-6425 | Fax (512) 463-6141 | www.tdi.texas.gov

Significant Workers' Compensation Legislation Passed During the 83rd Legislature, Regular Session

Bill Number/Relating Clause	Author/Sponsor	Description
SB 381 Relating to the misuse of the name or symbols of the division of workers' compensation of the Texas Department of Insurance in a deceptive manner.	Van de Putte/Oliveira	Clarifies that the use of the Texas Department of Insurance, Division of Workers' Compensation's (TDI-DWC's) name, TDI's name, and other terms and state symbols is prohibited if they are used in a "deceptive manner" in an effort to create a false impression that something is endorsed, approved, sponsored, authorized or associated with TDI-DWC, TDI, or the State of Texas.
SB 784 Relating to the licensing of captive insurance companies; authorizing fees and authorizing and imposing taxes.	Carona/Smithee	Allows the formation of pure captive insurance companies in Texas. Sets up basic licensing requirements for companies and registration requirement for captive managers. Workers' compensation captives can only reinsure – cannot directly write workers' compensation coverage. Authorizes a captive insurance company to issue a contractual reimbursement policy to an affiliated certified self insured or an affiliated large deductible policy holder
SB 1286 Relating to the regulation of professional employer services; authorizing fees.	Williams/Hunter	Makes several changes to the Staff Leasing Act, including replacing the term "staff leasing company" with "professional employer organization." Allows either the client company or the PEO to obtain workers' compensation coverage for leased employees and clarifies that the client and the PEO can decide who will provide the coverage in an agreement. Allows TDI-DWC to obtain copies of these agreements. The bill also clarifies the calculation of premiums in situations where the client is providing workers' compensation coverage. The bill also states that the client is considered to be the insured employer for the purposes of recovery of a claim by the Texas Property and Casualty Insurance Guaranty Association (TPCIGA).
SB 1322 Relating to the provision of durable medical equipment and home health care services through informal and voluntary networks in the workers' compensation system; providing penalties.	Van de Putte/Oliveira	Allows contractual discounts off of the TDI-DWC fee guideline for durable medical equipment and home health services rendered on non-network claims (i.e., claims that are not subject to a certified network under Chapter 1305, Insurance Code or a political subdivision health plan under Section 504.053(b)(2), Labor Code). Requires durable medical equipment and home health informal and voluntary networks to register with TDI-DWC and provide quarterly notices to contracted providers letting them know which insurance carriers have access to their contractual discounts.

<p>HB 1675 Relating to the sunset review process and certain governmental entities subject to that process</p>	<p>Bonnen/Nichols</p>	<p>Postpones the Sunset date for TDI-DWC and the Office of Injured Employee Counsel (OIEC) until 2021.</p>
<p>HB 1762 Relating to workers' compensation and other remedies available to an injured temporary employee.</p>	<p>Price/Deuell</p>	<p>This bill provides that a certificate of insurance coverage showing that a temporary employment service maintained workers' compensation insurance is proof of workers' compensation insurance coverage for the temporary employment service and the client of the service with respect to employees of the temporary employment service assigned to the client. The bill also requires the state and its political subdivisions to accept the certificate as proof of workers' compensation coverage.</p>
<p>HB 3152 Relating to the payment of and contracts with health care providers by certain entities under contract with a certified workers' compensation network.</p>	<p>Giddings/Fraser</p>	<p>This bill clarifies that specialty networks (e.g., physical therapy, DME, diagnostic testing, etc.) that operate as delegated agents for certified workers' compensation networks under Chapter 1305, Insurance Code as well as agents for network health care providers must provide transparency in health care provider and certified network contracts. This transparency includes letting the certified network know that the specialty network is also an agent of the health care provider for billing purposes as well as letting the health care provider know how much the provider would have been paid if the provider had directly contracted with the certified network.</p>

Division of Workers' Compensation - Rule Chart

For other general Workers' Compensation rule information see <http://www.tdi.texas.gov/wc/rules/>; for network specific Workers' Compensation rules see <http://www.tdi.texas.gov/wc/wcnet/indexwcnet.html>. If there are any questions regarding the information in this chart, contact the Office of Workers' Compensation Counsel at 512-804-4703 or by email at rulecomments@tdi.texas.gov.

<u>Rule Project</u>	<u>28 Texas Administrative Code (TAC)</u>	<u>Synopsis</u>	<u>Status</u>
State Office of Administrative Hearings Processes Update (SOAH)	New §§148.3 - 148.5 and 148.24 Amend §§148.1, 148.2, 148.6 - 148.8, 148.10, 148.11, 148.13 - 148.17, and 148.19 - 148.23 Repeal §§148.3 - 148.5, 148.9, 148.12, 148.18 and Chapter 149	Chapter 148 governs all contested case hearings to adjudicate disputes before SOAH as authorized by the Texas Workers' Compensation Act. The repeal of §§149.1 - 149.5 and 149.7 - 149.10 is necessary because the memorandum of understanding with the State Office of Administrative Hearings is no longer required to be adopted by rule under Labor Code §402.073(a).	Proposed: 3/28/2014 Close of the formal comment period: 4/28/2014 Commentors: none as of 4/15/2014 Informal posted on 11/15/2013 (Chapter 148 only) Close of comment period for informal: 12/13/2013 Commentors: one
Return to Work Guidelines	§137.10	DWC posted a concept draft on the TDI-DWC website to request input from system participants regarding the possible adoption of different return-to-work guidelines prompted by a stakeholder's petition for rulemaking.	Concept: 4/1/2014 Close of comment period for concept: 4/29/2014 Commentors: 15 as of 4/15/2014
Debit Card Payments	New: §124.6 Amend §124.5	Amendments to section 124.5 and new 124.6 clarify workers' compensation income benefit payments made by insurance carriers to claimants through debit cards.	2 nd Informal: 2/21/2014 Close of comment period for the 1 st informal: 3/11/2014 Commentors: seven 1 st Informal: 12/9/2013 Close of comment period for the 2 nd informal: 1/20/2014 Commentors: four
Legal Fees	Amend §152.3 and §152.4	Amendments increase the maximum fees for legal services that may be charged by claimant and insurance carrier attorneys by \$25, and the fees that may be charged by legal assistants by \$15. The number of hours an attorney may charge claimants and insurance carriers for communications, direct dispute resolution, and the preparation and submission of a settlement or agreement are also increased to encourage both early intervention between the parties and	Informal: 12/19/2013 (§152.4 only) Close of comment period for informal: 1/31/2014 Commentors: 14 Concept: 6/21/2013 (§152.4 only) Close of comment period for concept: 7/12/2013 Commentors: 19

<u>Rule Project</u>	<u>28 Texas Administrative Code (TAC)</u>	<u>Synopsis</u>	<u>Status</u>
		resolution before the parties enter the formal administrative resolution process.	
Lifetime Income Benefits	Amend Chapter 131	The Division seeks to ensure that eligibility determinations and payments of LIBs are prompt, and to ensure injured workers' request for Lifetime Income Benefits are processed promptly by the insurance carrier.	Estimated informal posting: Spring 2014
URA Companion Rules ADOPTED 3/7/2014	Amend §§133.2, 133.240, 133.250, 133.305, 134.110, 134.502, and 134.600	Project will synchronize key portions of WC bill processing; voluntary certification; and prospective, concurrent, and retrospective utilization review with the Utilization Review Agent rules in 28 TAC Chapter 19 adopted on 1/31/2013.	<ul style="list-style-type: none"> - Adoption: 3/7/2014 - Texas Register submission: 3/10/2013 - Published in the <i>Texas Register</i>: 3/21/2013
Access to Board Records (ABR) OLD Law ADOPTED 12/16/2013	Repeal §41.50 and Subchapter B	Proposed pursuant to the rule review process.	<ul style="list-style-type: none"> - Adoption: 12/16/2013 - Texas Register submission: 12/16/2013 - Published in the <i>Texas Register</i>: 12/27/2013 - Effective: 1/5/2014
Billing-CMS1500 (CMS1500) ADOPTED 12/16/2013	Amend §133.10	Rule amendments are to ensure synchronization of workers' compensation paper billing processes in respect to the Centers for Medicare & Medicaid Services (CMS) claim form 1500. The Office of Management and Budget (OMB) approved the revised 1500 (02/12) on 6/17/2013.	<ul style="list-style-type: none"> - Adoption: 12/16/2013 - Texas Register submission: 12/16/2013 - Published in the <i>Texas Register</i>: 12/27/2013 - Effective: 4/1/2014
Information Requested on Written Communication (IRWCC) ADOPTED 11/21/2013	Amend §102.8	Proposed pursuant the rule review process.	<ul style="list-style-type: none"> - Adoption: 11/21/2013 - Texas Register submission: 11/22/2013 - Published in the <i>Texas Register</i>: 12/6/2013 - Effective: 12/12/2013
Crime Victims Compensation (CVC) OLD Law ADOPTED	Repeal Chapter 89	Proposed pursuant the rule review process.	<ul style="list-style-type: none"> - Adoption: 11/21/2013 - Texas Register submission: 11/22/2013 - Published in the <i>Texas Register</i>: 12/6/2013 - Effective: 12/12/2013

<u>Rule Project</u>	<u>28 Texas Administrative Code (TAC)</u>	<u>Synopsis</u>	<u>Status</u>
11/21/2013			
Agency Administration ADOPTED 11/21/2013	Repeal Chapter 103	Proposed pursuant the rule review process.	<ul style="list-style-type: none"> - Adoption: 11/21/2013 - Texas Register submission: 11/22/2013 - Published in the <i>Texas Register</i>: 12/6/2013 - Effective: 12/12/2013
Required Information to Insureds (RII) OLD Law ADOPTED 11/12/2013	Repeal §43.15 and §43.20	Proposed pursuant the rule review process.	<ul style="list-style-type: none"> - Adoption: 11/12/2013 - Texas Register submission: 11/18/2013 - To published in the <i>Texas Register</i>: 11/29/2013 - Effective: 12/8/2013
§130.1 Adopted 8/5/2013	Amend §130.1	This amendment is intended to clarify the Division's longstanding interpretation of the rule that an impairment rating (IR) based on an injured employee's condition on a date that is not the date of maximum medical improvement (MMI) is invalid.	<ul style="list-style-type: none"> - Adoption: 8/5/2013 - Published in the <i>Texas Register</i>: 8/16/2013 - Effective: 8/25/2013
Accident Prevention Services (APS) Adopted 3/11/2013	New §166.2 Amend §§166.1, 166.3, and 166.5 Repeal §§166.2, 166.4, and 166.6 - 166.9	<ul style="list-style-type: none"> - Amendments address: <ul style="list-style-type: none"> o accident prevention service requirements imposed on insurance companies; o rules that governing annual reports to the Division; and o Division inspection of insurance companies' accident prevention services. - Section 166.6 and §166.7 will primarily be recodified into the remainder of Chapter 166. - This project also addresses the rule review recommendations for the repeal of §166.8 and §166.9. 	<ul style="list-style-type: none"> - Adoption: 3/11/2013 - Published in the <i>Texas Register</i>: 3/22/2013 - Effective: 10/1/2013 <p>The following forms were informally proposed in conjunction with the proposal and were revised to conform with the adopted rules.</p> <ul style="list-style-type: none"> • Revised DWC-105 • Revised DWC-109
Medical State Reporting-IDC10 (MSR-IDC10) Adopted 1/28/2013	Amend §134.803 and §134.807	Amendments allow for the submission of International Classification of Diseases (ICD) 10 Codes under Division rules governing medical bill and payment reporting by insurance carriers. The ICD 10 codes are being implemented by the Centers for Medicare & Medicaid Services (CMS) for CMS billing on October 1, 2014. (Medical Data Interchange rules).	<ul style="list-style-type: none"> - Adoption: 1/28/2013 - Published in the <i>Texas Register</i>: 2/8/2013 - Effective: 2/17/2013 <p>This proposal adopted by reference the revised Texas Electronic Data Interchange Medical Difference Table.</p>

Employer Rights and Responsibilities

Information for Employers from the Division of Workers' Compensation

Workers' Compensation Insurance Coverage

Workers' compensation insurance coverage provides covered employees with income and medical benefits if they sustain a work-related injury or illness. Except as otherwise provided by law, Texas private employers can choose whether or not to provide workers' compensation insurance coverage for their employees. Except in cases of gross negligence or an intentional act or omission of the employer, workers' compensation insurance limits an employer's liability if an employee brings suit against the employer for damages. Certain building or construction employers who contract with governmental entities are required to provide workers' compensation coverage for each employee working on the public project. Some clients may also require their contractors to have workers' compensation insurance.

Providing Workers' Compensation Insurance

If employers choose to provide workers' compensation, they must do so in one of the following ways:

- purchase a workers' compensation insurance policy from an insurance company licensed by the Texas Department of Insurance (TDI) to sell the coverage in Texas;
- be certified by the Texas Department of Insurance, Division of Workers' Compensation (TDI-DWC) to self-insure workers' compensation claims; or
- join a self-insurance group that has received a certificate of approval from the TDI.

Note: Political subdivisions may self-insure, buy coverage from insurance companies, or enter into inter-local agreements with other political subdivisions that self-insure.

EMPLOYER RIGHTS

Covered employers have the following rights:

- the right to contest the compensability of a workers' compensation claim if the insurance carrier accepts liability for payment of benefits;
- the right to be notified of a proposal to settle a claim or of any administrative or judicial proceeding related to resolution of a claim (after making a written request to the insurance carrier);
- the right to attend dispute resolution proceedings related to an employee's claim and present relevant evidence about the disputed issues;

- the right to report suspected fraud to the TDI-DWC or to the insurance carrier;
- the right to contest the failure of the insurance carrier to provide required accident prevention services; and
- the right to receive return-to-work coordination services as necessary to facilitate an employee's return to employment.

To dispute a workers' compensation claim, an employer may file the DWC Form-004, and the DWC Form-045, *Request to Schedule, Reschedule or Cancel a Benefit Review Conference (BRC)*, which may be obtained from the TDI website at <http://www.tdi.texas.gov/forms/form20employer.html> or by calling 1-800-252-7031.

Non-Reimbursable Employer Payments

An employer is not entitled to and cannot seek reimbursement from the employee or insurance carrier if after a work-related injury or illness they voluntarily:

- continue to pay the injured employee's salary continuation; or
- pay the injured employee salary supplementation to supplement income benefits paid by the insurance carrier.

Employer Voluntary Payments of Benefits

An employer may voluntarily pay income or medical benefits to an employee during a period in which the insurance carrier has:

- contested compensability of the injury;
- contested liability for the injury; or
- has not completed its initial investigation of the injury. *Note:* an employer is only allowed to pay benefits in this situation for the first two weeks after the injury.

For reimbursement, the employer is required to timely report the injury to the insurance carrier and to let the insurance carrier know, within 7 days of beginning

For further assistance, call

1-800-252-7031 or visit

<http://www.tdi.texas.gov/wc/employer/index.html>

voluntary payments, that voluntary payments are being made. The insurance carrier is only required to reimburse the employer for the amount of benefits the insurance carrier would have paid. If the employer made payments in excess of what the insurance carrier would have paid, the excess amount is not reimbursable, unless there is a written agreement between the injured employee and the employer that the excess amount can be recouped from future impairment income benefits paid by the insurance carrier, if any. The employer must file the DWC Form-002, *Employer's Report for Reimbursement of Voluntary Payment*. The DWC Form-002 may be obtained from the TDI website at <http://www.tdi.texas.gov/forms/form20employer.html> or by calling 1-800-252-7031.

EMPLOYER RESPONSIBILITIES

Reporting Workers' Compensation Insurance Coverage to Employees

Employers must tell their employees that they carry workers' compensation insurance by providing a written notice of coverage to new employees upon hire. The written notice must inform employees of their right to reject workers' compensation coverage and retain their common law right of action. This notice must be in the wording and format prescribed by TDI-DWC's *New Employee Notice*.

Employers must also post a written notice at their place of business telling their employees that they carry workers' compensation insurance. This notice must be in the wording and format prescribed by TDI-DWC's Notice 6, *Notice to Employees Concerning Workers' Compensation in Texas*. The notice must be in English, Spanish, and any other language that is common to the employees and must be posted at conspicuous locations at the employers' place of business.

A written notice must be provided again to each employee and the Notice 6 must be updated when changes in coverage status (obtained, terminated, or canceled) occur. The TDI-DWC's *New Employee Notice* and Notice 6 may be obtained from the TDI website at <http://www.tdi.texas.gov/forms/form20employer.html> or by calling 1-800-252-7031.

Reporting Injuries and Illnesses

Employers are required to report to its insurance carrier, within 8 days, any:

- work-related injury resulting in the employee's absence from work for more than one day;

- occupational disease of which the employer has knowledge; and
- work-related fatality.

Employers should report these injuries and illnesses using the DWC Form-001, *Employer's First Report of Injury or Illness*. An employer must keep a record of all work-related injuries, illnesses and fatalities for at least 5 years after the date the record was created, or for the period of time required by the Occupational Safety and Health Administration (OSHA), whichever is longer.

The employer must also provide a copy of the completed DWC Form-001 to the injured employee, along with a copy of the *Notice of the Injured Employee Rights and Responsibilities in the Texas Workers' Compensation System*. The DWC Form-001 may be obtained from the TDI website at <http://www.tdi.texas.gov/forms/form20employer.html>. The employee's notice of rights and responsibilities may be obtained from the TDI website at <http://www.oiec.texas.gov/resources/ierightsresp.html>. Both forms may also be obtained by calling 1-800-252-7031.

Employer's Wage Statement & Supplemental Report of Injury

An employer must report an injured employee's wages and other fringe benefits (i.e. health premiums, uniform allowance, etc.) to the insurance carrier. The employer is required to send the DWC Form-003, *Employer's Wage Statement*, to the insurance carrier and the injured employee within 30 days of the earliest of: the date the employer is notified that the employee is entitled to income benefits; or the date of employee's death as a result of a compensable injury.

An employer must also report any changes in an injured employee's pay or employment status to the insurance carrier. The employer must send the DWC Form-006, *Supplemental Report of Injury*, to the insurance carrier and the injured employee within:

- 10 days from the end of a pay period in which an employee's pay changes;
- 10 days from the date an employee resigns or is terminated;
- 3 days from the date the employee begins to lose time from work as a result of the injury;
- 3 days from the date an employee returns to work; and
- 3 days from the date an injury causes an employee to miss additional work after returning to work.

Safe Workplace

Employers must take all actions reasonably necessary to ensure a safe workplace and take all steps reasonably necessary to protect the life, health and safety of the employees.

Compliance

Employers that fail to comply with workers' compensation requirements commit an administrative violation and may be subject to administrative penalties. The information provided in this fact sheet and workers' compensation requirements are pursuant to: Texas Labor Code §§406.002, 406.005, 406.007, 406.033, 406.034, 406.096, 408.003, 408.001, 409.011, 409.005, 409.006, 411.032, 411.103 and 413.021; and 28 Texas Administrative Code §§110.101, 120.1, 120.2, 120.3, 120.4, 126.13, 129.7 and 160.3.

If you have any questions regarding reporting requirements or compliance with the law, contact TDI-DWC at 1-800-252-7031. For more information on workers' compensation for employers, visit the TDI website at <http://www.tdi.texas.gov/wc/employer/index.html>.

Non-Covered Employers

Information for Employers from the Division of Workers' Compensation

What is Workers' Compensation Insurance Coverage?

Texas employers, except for public entities, can choose whether or not to provide workers' compensation insurance coverage for their employees. Workers' compensation provides covered employees with income and medical benefits if they are injured on the job or have a work-related injury or illness. Workers' compensation is regulated by the Texas Department of Insurance, Division of Workers' Compensation (TDI-DWC).

Participation in the workers' compensation system in Texas is voluntary for most employers. Employers who choose to have workers' compensation insurance may:

- purchase a workers' compensation insurance policy from a private insurance company;
- self-insure, if the employer can meet the requirements to self-insure under the Texas Workers' Compensation Act (the Act) and is certified through the TDI-DWC;
- self-insure through the Texas Department of Insurance with a group of same or similar private employers; or
- if a governmental entity, purchase a workers' compensation policy from a private insurance company, or self-insure either individually or as a group.

With few exceptions, workers' compensation insurance limits the employer's liability for a work-related injury or death sustained by the employee.

For additional information, visit the TDI website for:

- information regarding benefits that employees are eligible for: <http://www.tdi.texas.gov/wc/employee/benefits.html>.
- information regarding Employer Rights and Responsibilities: <http://www.oiec.texas.gov/resources/ierightsresp.html>.
- information about how to become self-insured through the TDI-DWC: <http://www.tdi.texas.gov/wc/si/index.html>.

Non-Covered Employers

[Sections 406.001, 406.002, 406.004, 406.005, 406.033, Rules 110.101, 160.2]

Non-covered employers are employers who **DO NOT** have workers' compensation insurance coverage. Although a Texas employer may choose **not** to have coverage, non-covered employers must comply with certain workers' compensation requirements.

Notice of No Coverage to Employees

[Sections 406.005 and 406.007, Rule 110.101]

Employers who **DO NOT** have workers' compensation coverage must post written notice at their workplace telling their employees that they do not have workers' compensation insurance. This notice must be in English, Spanish, and any other language that is appropriate.

This notice must be placed in the employer's personnel office (if any) and in a prominent place where employees can see it regularly. The notice must be in the wording and format adopted by the TDI-DWC (Notice 5). To obtain Notice 5, visit the TDI website at <http://www.tdi.texas.gov/forms/form20.html>.

If this notice is not properly posted in the workplace, an employer will be liable for any administrative violations.

All employers who **DO NOT** have workers' compensation insurance must give written notice of non-coverage to new employees upon hire. To obtain the language that must be in this notice, visit the TDI website at <http://www.tdi.texas.gov/forms/form20.html>.

The TDI-DWC encourages all employers to keep a copy of the notice provided to each new employee. The notice may be signed and dated by the employer and the new employee.

If this notice is not provided to new employees, an employer will be held liable for any administrative violations.

Notice Requirements for Change of Coverage

[Section 406.005, Rule 110.101]

When a non-covered employer purchases a workers' compensation policy they are required to notify their employees within 15 days of the policy's effective date.

This notice must be placed in the employer's personnel office (if any) and in a prominent place where employees can see it regularly. The notice must be in the wording and format adopted by the TDI-DWC (Notice 6). To obtain Notice 6, visit the TDI website at <http://www.tdi.texas.gov/forms/form20.html>.

If this notice is not provided to employees, an employer will be held liable for any administrative violations.

Notice of Non-Covered Employer Report of Injury, Illness or Fatality

[Sections 411.032 and 406.091, Rule 160.2]

Non-covered employers that have **more than** four (4) employees are required to report to the TDI-DWC:

- any work-related injuries that cause an employee to miss more than one (1) day of work,
- all occupational illnesses, and
- all fatalities that occur at the work place.

All employees are included under this requirement with the following exceptions:

- a domestic worker;
- casual worker engaged in employment incidental to a personal residence;
- certain farm and ranch workers; or
- workers covered by a method of compensation established under federal law.

Reportable injuries, illnesses and fatalities must be filed with the TDI-DWC monthly, using the *Non-covered Employer's Report of Occupational Injury or Illness* (DWC Form-007). The completed DWC Form-007 reporting all such injuries that have occurred during a calendar month must be filed no later than the seventh (7th) day of the month following the month of the occurrence. If there are no reportable injuries for a specific month, this report is not required.

To obtain a copy of the DWC Form-007 and information for non-covered employers, visit the TDI website at <http://www.tdi.texas.gov/forms/form20.html>.

For more information on workers' compensation for employers see the following facts sheets:

- Employers Rights and Responsibilities

Workers' Compensation in Texas IW

Information for Employees from the Division of Workers' Compensation

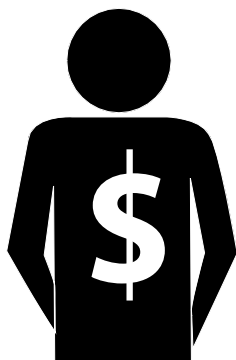
Who is the Division of Workers' Compensation?

The Texas Department of Insurance, Division of Workers' Compensation (TDI-DWC) is a state agency that regulates the delivery of workers' compensation benefits to injured employees and to eligible family members of employees killed on the job. The TDI-DWC also helps resolve disputes about claims and provides workplace safety and health services. The TDI-DWC does not pay benefits. Benefits are paid by workers' compensation insurance companies, by employers certified by this agency to self-insure, or by self-insured governmental entities.

What is Workers' Compensation?

Workers' compensation is a state-regulated insurance program that typically will pay your medical bills and replace a portion of your lost wages if:

- you are injured at work or have a work-related illness; and
- your employer has workers' compensation insurance coverage under the Texas Workers' Compensation Act.



Workers' compensation typically will pay for the medical treatment of your work-related injury or illness if:

- you are injured at work or have a work-related illness; and
- your employer has workers' compensation insurance coverage under the Texas Workers' Compensation Act.

Workers' compensation will also replace a portion of your lost wages if:

- your employer has workers' compensation insurance coverage under the Texas Workers' Compensation Act; and
- your injury occurs at work or you have an illness related to your job.
- your work-related injury or illness causes you to lose all or some of your wages for more than seven (7) days from one or more jobs.

Contact Information for the Central and Local TDI-DWC Offices

Central Office

7551 Metro Center Drive, Suite 100
Austin, TX, 78744-1645
(512) 804-4000

Abilene

1290 South Willis, Suite 102
Abilene, TX 79605-4064
(325) 695-4992

Amarillo

7112 IH-40, West, Bldg. D
Amarillo, TX 79106-2503
(806) 351-1222

Austin

4616 West Howard Lane, Suite 130
Austin, TX 78728-6303
(512) 933-1899

Beaumont

Concord Square Office Park
6430 Concord Rd.
Beaumont, TX 77708-4315
(409) 899-5589

Corpus Christi

5155 Flynn Parkway, Suite 218
Corpus Christi, TX 78411-4316
(361) 883-2551

**For further assistance,
call 1-800-252-7031 or visit**

<http://www.tdi.texas.gov/wc/employee/index.html>

Dallas

1515 West Mockingbird Lane, Suite 100
Dallas, TX 75235-5078
(214) 350-9299

Denton

Dallas Drive Tech Center
625 Dallas Dr., Suite 475
Denton, TX 76205-5299
(940) 380-1400

El Paso

El Paso State Office Building
401 Franklin Avenue, Suite 330
El Paso, TX 79901-1250
(915) 351-5260

Fort Worth

6900 Anderson Blvd., Suite 200
Fort Worth, TX 76120-3030
(817) 446-4488

Houston East

Elias Ramirez Building
5425 Polk Street, Suite 130
Houston, TX 77023-1454
(713) 924-2200

Houston West

350 North Sam Houston Parkway East
Suite 110
Houston, TX 77060-3318
(281) 260-3035

Laredo

5420 Springfield Avenue
Laredo, TX 78041-3605
(956) 718-2040

Lubbock

22 Briercroft Office Park, Suite A
Lubbock, TX 79412-3089
(806) 744-4569

Lufkin

310 Harmony Hill Drive, Suite 100
Lufkin, TX 75901-5953
(936) 639-6425

Midland/Odessa

Executive Office Park
4500 West Illinois Avenue, Suite 315
Midland, TX 79703-5486
(432) 699-1281

San Angelo

State of Texas Services Center
622 South Oakes Street, Suite M
San Angelo, TX 76903-7035
(325) 657-0404

San Antonio

9514 Console Drive, Suite 200
San Antonio, TX 78229-2043
(210) 593-0070

Tyler

3800 Paluxy Drive, Suite 570
Tyler, TX 75703-1665
(903) 534-6250

Waco

Raleigh Building
801 Austin Ave., Suite 840
Waco, TX 76701-1937
(254) 755-7011

Weslaco

1108 West Pike Blvd.
Weslaco, TX 78596-4651
(956) 447-4416

As an injured employee in Texas, you have the right to free assistance from the Office of Injured Employee Counsel (OIEC). This assistance is offered at local offices across the State. These local offices also provide other workers' compensation system services from the Texas Department of Insurance (TDI). TDI is the State agency that administers and regulates the workers' compensation system through the Division of Workers' Compensation (DWC).

Many services provided by OIEC and DWC can be completed over the telephone. You can contact OIEC by calling the toll-free telephone number 1-866-EZE-OIEC (1-866-393-6432). Additional information, including office locations, is available on the Internet at: www.oiec.texas.gov. You can contact DWC by calling the toll-free telephone number 1-800-252-7031. Information about DWC is available on the Internet at: www.tdi.texas.gov.

1-866-EZE-OIEC
(1-866-393-6432)

www.oiec.texas.gov
OIECInbox@oiec.state.tx.us

Office of Injured Employee Counsel Central Office
7551 Metro Center Drive, Suite 100, MS-50
Austin, TX 78744-1609

Local Field Offices exist throughout
the State of Texas and are staffed to assist you.



The statutory authority for the
Office of Injured Employee Counsel
is found in the Texas Labor Code, Chapter 404.

Publication 448.2e
Revised 06/2012

Injured Employee Rights and Responsibilities

in the Texas Workers'
Compensation System



YOUR RIGHTS IN THE TEXAS WORKERS' COMPENSATION SYSTEM

You have the right to hire an attorney to help you with your workers' compensation claim.

For assistance locating an attorney, contact the State Bar of Texas' lawyer referral service at 1-877-983-9227 or www.texasbar.com. Attorney referral information can also be found on OIEC's website at www.oiec.texas.gov.

You have the right to receive assistance from OIEC if you do not have an attorney.

OIEC Customer Service Representatives and Ombudsmen are available to answer your questions and provide assistance with your workers' compensation claim by calling OIEC or visiting an OIEC office. You must sign a written authorization before an OIEC employee can access information on your claim. Call or visit an OIEC office to fill out the written authorization. Customer Service Representatives and Ombudsmen are trained in the field of workers' compensation and can help you with scheduling a dispute resolution proceeding about your workers' compensation claim. An Ombudsman can also assist you at a benefit review conference (BRC), contested case hearing (CCH), and an appeal. However, Ombudsmen cannot make decisions for you or give legal advice.

You may have the right to receive medical and income benefits regardless of who was at fault for your injury, with certain exceptions. Your beneficiaries may be entitled to death and burial benefits.

Information about the exceptions can be found at www.tdi.texas.gov or by visiting with OIEC staff.

You may have the right to receive medical care to treat your workplace injury or illness for as long as it is medically necessary and related to the workplace injury.

You may have the right to reimbursement of your incurred expenses after traveling to attend a medical appointment or required medical examination if the trip meets qualifying conditions.

You may have the right to receive income benefits for your work-related injury.

There are several types of income benefits and eligibility requirements. Information on the types of income benefits that may be available and the eligibility requirements can be found at www.tdi.texas.gov or by visiting with OIEC staff.

You may have the right to dispute resolution regarding income and medical benefits.

You may request Medical Dispute Resolution if you disagree with the insurance carrier regarding medical benefits. You may request Indemnity (Income) Dispute Resolution if you disagree with the insurance carrier regarding income benefits. The law provides that your dispute proceedings will be held within 75 miles from your residence.

You have the right to choose a treating doctor.

If you are in a Workers' Compensation Health Care Network (network), you must choose your doctor from the network's treating doctor list. You may change your treating doctor once without network approval. If you are not in a network, you may initially choose any doctor who is willing to treat your workers' compensation injury; however, changing your treating doctor must be pre-approved by DWC if you are not in a network. If you are employed by a political subdivision (e.g., city, county, school district) you must follow its rules for choosing a treating doctor. It is important to follow all the rules in the workers' compensation system. If you do not follow these rules, you may be held responsible for payment of medical bills. OIEC staff can help you to understand these rules.

You have the right for your workers' compensation claim information to be kept confidential.

In most cases, the contents of your claim file cannot be obtained by others. Some parties have a right to know what is in your claim file, such as your employer or your employer's insurance carrier. Also, an employer that is considering hiring you may get limited information about your claim from DWC.

YOUR RESPONSIBILITIES IN THE TEXAS WORKERS' COMPENSATION SYSTEM

You have the responsibility to tell your employer if you have been injured at work while performing the duties of your job. You must tell your employer within 30 days of the date you were injured or first knew your injury or illness might be work-related.

You have the responsibility to know if you are in a Workers' Compensation Health Care Network (network).

If you do not know whether you are in a network, ask the employer you worked for at the time of your injury. If you are

in a network, you have the responsibility to follow the network rules. If there is something you do not understand, ask your employer or call OIEC. If you would like to file a complaint about a network, call TDI's Customer Help Line at 1-800-252-3439 or file a complaint online at www.tdi.texas.gov/consumer/complfrm.html#wc.

If you worked for a political subdivision (e.g., city, county, school district) at the time of your injury, you have the responsibility to find out how to receive medical treatment. Your employer should be able to provide you with the information you will need in order to determine which health care providers can treat you for your workplace injury.

You have the responsibility to tell your doctor how you were injured and whether the injury is work-related.

You have the responsibility to send a completed Employee's Claim for Compensation for a Work-Related Injury or Occupational Claim Form (DWC041) to DWC.

You have one year to send the form after you were injured or first knew that your illness might be work-related. Send the completed DWC041 form even if you already are receiving benefits. You may lose your right to benefits if you do not timely send the completed claim form to DWC. For a copy of the DWC041 form you may contact DWC or OIEC.

You have the responsibility to provide your current address, telephone number, and employer information to DWC and the insurance carrier.

DWC can be contacted at 1-800-252-7031.

You have the responsibility to tell DWC and the insurance carrier anytime there is a change in your employment status or wages. (Examples of changes include: you stop working because of your injury; you start working; or you are offered a job).

Eligible beneficiaries or persons seeking death and burial benefits have the responsibility to send a completed Beneficiary Claim for Death Benefits (DWC042) to DWC within one year following the employee's date of death.

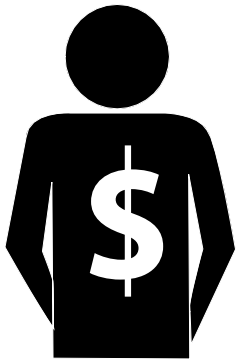
You are prohibited from making frivolous or fraudulent claims or demands.

Temporary Income Benefits (TIBs) BEN

Information for Injured Employees from the Division of Workers' Compensation

Income benefits replace a portion of wages you lose because of a work-related injury or illness. There are four types of income benefits:

- temporary income benefits (TIBs);
- impairment income benefits (IIBs);
- supplemental income benefits (SIBs); and
- lifetime income benefits (LIBs).



Income benefits may not exceed the maximum weekly amount set by state law. Temporary income benefits, impairment income benefits, and lifetime income benefits are also subject to a minimum amount set by state law. The maximum and minimum benefit amounts are based on the state average weekly wage. A copy of the maximum and minimum benefits for each benefit type can

be found on the Texas Department of Insurance website at <http://www.tdi.texas.gov/wc/employee/maxminbens.html>.

You must report any income (other than workers' compensation benefits you may be receiving) to the Texas Department of Insurance, Division of Workers' Compensation (TDI-DWC) and the insurance carrier so an adjustment can be made to your income benefit payments. You may be fined and/or charged with fraud if you receive temporary income benefits or supplemental income benefits while also receiving wages from an employer without informing the TDI-DWC and the insurance carrier.

Income benefits are not payable following the death of an injured employee. In the case of an injured employee's death, the injured employee's beneficiaries may be eligible to file a claim for and receive death benefits if the injured employee's death was due to the work-related injury or illness.

Temporary Income Benefits (TIBs)

[Texas Labor Code §§408.101 – 408.105, 28 Texas Administrative Code §§129.1 – 129.11]

You may be paid TIBs if your work-related injury or illness causes you to lose all or some of your wages for more than seven (7) days. If you work more than one job, you may be paid TIBs if you lose all or some of your wages from other employers. (See "Average Weekly Wage Calculations" fact sheet under Multiple Employment).

Amount of Temporary Income Benefits

TIBs equal 70 percent of the difference between your average weekly wage and the wages you are able to earn after your work-related injury. If you earned less than \$8.50 per hour before you were injured, your temporary income benefits for the first 26 weeks of payments will equal 75 percent of the difference between your average weekly wage and the wages you are able to earn after your work-related injury.

The amount of TIBs is subject to maximum and minimum benefit amounts. For example, if your average weekly wage was \$500, and your injury or illness caused you to lose all of your income, your TIBs would be \$350 a week:

Your average weekly wage	\$500
Minus your wages after the injury	<u>- 0</u>
Lost wages	\$500
70 percent of \$500 (.70 x \$500) equals	\$350

After an injury, your doctor may release you to return to work at modified duty; i.e., changes made to your regular job, or a temporary or alternate work assignment. You may still be entitled to TIBs if your employer provides the modified duty at reduced wages.

**For further assistance,
call 1-800-252-7031 or visit**

<http://www.tdi.texas.gov/wc/employee/index.html>

For example, if your average weekly wage prior to the work-related injury was \$500, and you returned to work doing a modified job after the work-related injury and you are now earning \$200 per week working only 4 hours per day, your temporary income benefits would still be \$210 a week.

Your average weekly wage	\$500
Minus your wages after the injury	- 200
Lost wages	\$300

70 percent of \$300 (.70 x \$300) equals \$210

By returning to work, you are able to receive a total of \$410 per week. This includes the wages you are able to earn (\$200) plus the TIBs (\$210) paid to you by the insurance carrier for lost wages.

When TIBs Begin and End

You become eligible for TIBs after you miss more than seven (7) days from work. Remember, disability refers to your inability to earn an income, not to a physical handicap. You have disability if your work-related injury or illness causes you to lose all or some of your usual pay. Benefits are not paid for the first week of lost wages unless disability lasts for two (2) weeks (14 days) or more.

TIBs end at the earlier of:

- the date you reach maximum medical improvement (the point that your work-related injury or illness has improved as much as it is going to improve);
- the date you are again physically able to earn your average weekly wage which would be the same wages you were earning prior to being injured on-the-job; or
- at the end of 104 weeks.

Definitions

Average Weekly Wage (AWW) typically is the average amount of weekly wages you earned during the 13 weeks immediately before your work-related injury or illness occurred. Income and death benefit payments are based on your average weekly wage.

Disability occurs when a work-related injury or illness causes you to lose the ability to earn your normal weekly wages. Disability refers to your ability to earn an income, not to a physical handicap.

Maximum Medical Improvement (MMI) is the earlier of:

- the point in time when your work-related injury or illness has improved as much as it is going to improve; or
- 104 weeks from the date you became eligible to receive income benefits or any approved extension based upon approval for spinal surgery.

If you have had spinal surgery or have been approved for spinal surgery within 12 weeks of the expiration of the statutory MMI period, you may request an extension of MMI from the TDI-DWC in accordance with the 28 Texas Administrative Code §126.11.

Maximum Weekly Income Benefit may not exceed 100 percent of the state average weekly wage rounded to the nearest whole dollar. The TDI-DWC will compute the maximum weekly income benefit for October 1 through September 30 of each year no later than October 1st of each year.

Minimum Weekly Income Benefit is 15 percent of the state average weekly wage rounded to the nearest whole dollar. The TDI-DWC will compute the minimum weekly income benefit for October 1 through September 30 of each year no later than October 1st of each year.

For more information on Workers' Compensation Benefits see the following fact sheets:

- Workers' Compensation Benefits
- Dispute Resolution
- Average Weekly Wage Calculation

Impairment Income Benefits (IIBs)

BEN

Information for Injured Employees from the Division of Workers' Compensation

Income benefits replace a portion of wages you lose because of a work-related injury or illness. There are four types of income benefits:

- temporary income benefits (TIBs);
- impairment income benefits (IIBs);
- supplemental income benefits (SIBs); and
- lifetime income benefits (LIBs).

Income benefits may not exceed the maximum weekly amount set by state law. Temporary income benefits, impairment income benefits, and lifetime income benefits are also subject to a minimum amount set by state law. The maximum and minimum benefit amounts are based on the state average weekly wage.



You must report any income (other than income benefits you may be receiving) to the Texas Department of Insurance, Division of Workers' Compensation (TDI-DWC) and the insurance carrier so an adjustment can be made to your income benefit payments. You may be fined and/or charged with fraud if you receive temporary income benefits or supplemental income benefits while also receiving wages

from an employer without informing the TDI-DWC and the insurance carrier.

Income benefits are not payable following the death of an injured employee. In the case of an injured employee's death, the injured employee's beneficiaries may be eligible to file a claim for and receive death benefits if the injured employee's death was due to the work-related injury or illness.

Impairment Income Benefits (IIBs)

[Texas Labor Code §§408.121 – 408.129;

28 Texas Administrative Code §§130.1 – 130.11]

You may be entitled to Impairment Income Benefits (IIBs) if you have permanent impairment from a work-related injury or illness. Generally, Maximum Medical Improvement (MMI) is reached when you are as well as you are going to be from the work-related injury or illness. This does not mean that you will not need follow

up care with your health care provider, be completely pain free, or that you are released to return to work. When the health care provider determines you have reached MMI, the health care provider will determine if there is any permanent physical or functional damage. The health care provider will assign an impairment rating (IR) using the 4th Edition of the *American Medical Association (AMA) Guides to the Evaluation of Permanent Impairment*. The impairment rating describes the degree of permanent damage to your body as a whole.

If you have not previously reached maximum medical improvement, the workers' compensation law generally establishes MMI at 104 weeks from the 8th day of disability. A doctor that is certified by the TDI-DWC to do Impairment Rating examinations must make an assessment of permanent impairment, if any. If an IR has not been assigned before the 104-week date when your temporary income benefits (TIBs) end, you may not receive IIBs until a doctor assigns an IR. TIBs can no longer be paid after 104 weeks (or maximum medical improvement). Your impairment rating determines whether you are eligible for IIBs. Three (3) weeks of IIBs are paid for each percentage of impairment.

For example, if you receive a 10 percent Impairment Rating, you will receive 30 weeks of IIBs because 3 weeks of IIBs are paid for each percentage of impairment ($10 \times 3 = 30$ weeks of IIBs).

Amount of Impairment Income Benefits

Impairment Income Benefits equal 70 percent of your average weekly wage (AWW). There is a state maximum for impairment income benefits just as there is for TIBs. The maximum for IIBs is 70 percent of the state AWW. A copy of the current maximum and minimum benefits for each type of income benefit can be found on the TDI website at <http://www.tdi.texas.gov/wc/employee/maxminbens.html>.

For example, if your average weekly wage was \$539, your weekly IIB rate would be \$377.

**For further assistance,
call 1-800-252-7031 or visit**

<http://www.tdi.texas.gov/wc/employee/index.html>

Average weekly wage = \$539

70 percent of \$539 = \$377

If your average weekly wage was \$500, your weekly IIB rate would be \$350.

Average weekly wage = \$500

70 percent of \$500 = \$350

If your IIB rate is greater than the maximum benefit amount (\$541), you will only receive the maximum benefit amount.

State Average Weekly Wage = \$787

Your average weekly wage = \$836.42

70 percent of \$836.42 = \$585.49

(\$551 maximum limit for IIBs)

You will receive \$551

When Impairment Benefits Begin and End

You become eligible for Impairment Income Benefits (IIBs) the day after you reach maximum medical improvement (MMI). IIBs end after you have received a total of three (3) weeks of payments for each percentage point of your impairment rating.

For example, if you have an impairment rating of 6 percent, you would receive a total of 18 weeks of IIBs. Because IIBs are not wage replacement benefits, you can work while receiving IIBs.

Definitions

Average Weekly Wage (AWW) typically is the average amount of weekly wages you earned during the 13 weeks immediately before your work-related injury or illness occurred. Income and death benefit payments are based on your average weekly wage.

Disability occurs when a work-related injury or illness causes you to lose the ability to earn your weekly wages. Disability refers to your inability to earn an income, not to a physical handicap.

Impairment Rating is the percentage of permanent physical damage to your body that resulted from a work-related injury or illness.

Maximum Medical Improvement (MMI) is the earlier of:

- the point in time when your work-related injury or illness has improved as much as it is going to improve; or
- 104 weeks from the date you became eligible to receive income benefits (also known as “statutory MMI”) or any approved extension based upon approval for spinal surgery.

If you have had spinal surgery or have been approved for spinal surgery within 12 weeks of the expiration of the statutory MMI period, you may request an extension of MMI from the TDI-DWC in accordance with 28 Texas Administrative Code §126.11.

Maximum Weekly Income Benefit may not exceed 100 percent of the state average weekly wage rounded to the nearest whole dollar. The TDI-DWC will compute the maximum weekly income benefit for October 1 through September 30 of each year no later than October 1st of each year.

Minimum Weekly Income Benefit is 15 percent of the state average weekly wage rounded to the nearest whole dollar. The TDI-DWC will compute the maximum weekly income benefit for October 1 through September 30 of each year no later than October 1st of each year.

For more information on Workers' Compensation Benefits see the following fact sheets:

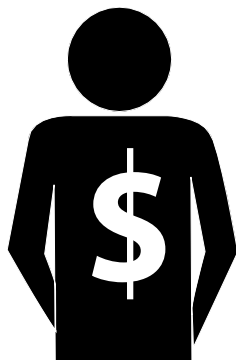
- Workers' Compensation Benefits
- Dispute Resolution

Supplemental Income Benefits (SIBs) ^{BEN}

Information for Injured Employees from the Division of Workers' Compensation

Income benefits replace a portion of wages you lose because of a work-related injury or illness. There are four types of income benefits:

- temporary income benefits (TIBs);
- impairment income benefits (IIBs);
- supplemental income benefits (SIBs); and
- lifetime income benefits (LIBs).



Income benefits may not exceed the maximum weekly amount set by state law. Temporary income benefits, impairment income benefits, and lifetime income benefits are also subject to a minimum amount. The maximum and minimum benefit amounts are based on the state average weekly wage.

Income benefits are no longer payable following the death of an injured employee. The injured employee's beneficiaries may be eligible to file a claim for and receive death benefits if the injured employee's death was due to the work-related injury or illness.

Supplemental Income Benefits (SIBs)

**[Texas Labor Code §408.141 – 408.151,
28 Texas Administrative Code §130.100 – 130.109]**

Supplemental Income Benefits (SIBs) are income benefits paid monthly by the insurance carrier after your IIBs have ended. You may apply for SIBs quarterly (4 times per year, or every 3 months) if you meet the requirements. The period of time you are receiving SIBs is called the "SIBs quarter."

You may be eligible to receive SIBs if you meet the following entitlement requirements:

- you have an impairment rating of 15 percent or more;
- you have not elected to have any of your impairment income benefits paid in a lump sum;
- you have not returned to work, or you have returned to work, but are earning less than 80 percent of your average weekly wage, as a direct result of your work-related injury; and

- you have demonstrated an active effort to comply with Texas Department of Insurance, Division of Workers' Compensation (TDI-DWC) work search requirements.

When Supplemental Income Benefits Begin and End

If you are eligible, SIBs will begin the day after your IIBs end. Unlike TIBs, IIBs and LIBs, you must apply for SIBs to be considered for entitlement. The TDI-DWC may send you notice if your impairment rating is 15 percent or greater and inform you of what information is necessary to support your application (DWC Form-052, *Application for Supplemental Income Benefits*) for the 1st quarter of SIBs. This 13-week period is called the "qualifying period," during which you must look for work or meet one of the other TDI-DWC work-search requirements.

Your entitlement to receive SIBs ends at 401 weeks (approximately 7 ½ years) from the date of your injury. If you have an occupational illness, entitlement for SIBs ends at 401 weeks from the date you first became eligible to receive income benefits. If you are not entitled to SIBs for four consecutive quarters (one year), you may permanently lose entitlement to those benefits.

Determining Entitlement

The TDI-DWC will make a determination of entitlement for the 1st quarter based on the information on your application. The TDI-DWC will review your work search efforts during the qualifying period, any possible job offers, current medical documentation provided by your doctor supporting why you are unable to work (if applicable), and whether your inability to earn your pre-injury wage is a direct result of your impairment.

The insurance carrier will provide you with an application for future quarters of SIBs. After you apply for the 1st quarter through TDI-DWC, you must send your application and documentation for all subsequent quarters directly to the insurance carrier for consideration. If the insurance carrier finds that you are eligible, you will receive benefits for the quarter. If you disagree with a decision that you are not entitled to SIBs or if you disagree with the amount of the payment, contact your local TDI-DWC field office.

**For further assistance,
call 1-800-252-7031 or visit**

<http://www.tdi.texas.gov/wc/employee/index.html>

Work Search Requirements

To qualify for SIBs, you must show an active effort to comply with the TDI-DWC work search requirements. You must maintain and provide supporting documentation (applications, letters and notes) to clearly demonstrate your active efforts to meet one or any combination of the following TDI-DWC work search requirements **each week** during your entire qualifying period:

- you have returned to work in a position that is equal to your ability to work; or
- you have actively participated in a vocational rehabilitation program [such as those offered by the Department of Assistive and Rehabilitative Services (DARS) or a private vocational rehabilitation program]; or
- you have been unable to perform any type of work in any capacity as documented by a doctor; or
- you have actively participated in work search efforts through the Texas Workforce Commission (TWC) appropriate for the injured employee's county, or by other documented job searches. SIBs applicants are now required to perform at least the minimum number of weekly work searches required for their county of residence.

Information about the SIBs application process, including the number of mandatory weekly work search requirements by county, is available on the TDI website at <http://www.tdi.texas.gov/wc/employee/suppben.html>.

If you do not meet at least one of the work search requirements described above **each week** during the entire qualifying period, you will not be entitled to SIBs, unless you can show that you had reasonable grounds for failing to comply with the TDI-DWC work search requirements. Please note that when you are looking for work, you may combine work search efforts done on your own with those done through TWC during each week of the qualifying period.

Amount of Supplemental Income Benefits

Supplemental Income Benefits equal 80 percent of the difference between 80 percent of your average weekly wage (earned prior to your work-related injury or illness) and your weekly wages (if you have any earnings or offered wages during this 13-week period) after the work-related injury or illness.

For example, if your average weekly wage was \$500 before you were injured, and your injury caused you to lose all of your income, your SIBs rate would be \$320 a week:

Your average weekly wage	\$500
80 percent of \$500 (.80 x \$500)	\$400
Minus wages earned or offered	<u>-0</u>
Equals	\$400
80 percent of \$400 (.80 x \$400) equals	\$320

To determine the amount of your monthly SIBs, multiply the weekly benefit amount by the average number of weeks in a month (4.34821). In this example, your monthly supplemental income benefit would be \$1,391.43: \$320 x 4.34821 equals \$1,391.43.

If you earn any wages during the qualifying period, the wages are deducted when calculating your SIB rate.

Example:

Your average weekly wage	\$500
80 percent of \$500 (.80 x \$500)	\$400
Minus your wages earned or offered	<u>- \$200</u>
Equals	\$200
80 percent of \$200 (.80 x \$200) equals	\$160
\$160 x 4.34821 equals	\$695.71 (monthly SIB rate)

Definitions

Average Weekly Wage (AWW) typically is the average amount of weekly wages you earned during the 13 weeks immediately before your work-related injury or illness occurred. Income and death benefit payments are based on your average weekly wage.

Impairment Rating is the percentage of permanent physical and functional damage to your body that resulted from a work-related injury or illness.

Maximum Benefit Amount may not exceed 100 percent of the state average weekly wage rounded to the nearest whole dollar. The TDI-DWC will compute the maximum weekly income benefit for each state fiscal year no later than October 1st of each year.

Minimum Benefit Amount is 15 percent of the state average weekly wage rounded to the nearest whole dollar. The TDI-DWC will compute the minimum weekly income benefit for each state fiscal year no later than October 1st of each year.

Lifetime Income Benefits (LIBs)

BEN

Information for Injured Employees from the Division of Workers' Compensation

Income benefits replace a portion of wages you lose because of a work-related injury or illness. There are four types of income benefits:

- temporary income benefits (TIBs);
- impairment income benefits (IIBs);
- supplemental income benefits (SIBs); and
- lifetime income benefits (LIBs).

Income benefits may not exceed the maximum weekly amount set by state law. Temporary income benefits, impairment income benefits, and lifetime income benefits are also subject to a minimum amount set by state law. The maximum and minimum benefit amounts are based on the state average weekly wage.



You must report any income (other than workers' compensation benefits you may be receiving) to the Texas Department of Insurance, Division of Workers' Compensation (TDI-DWC) and the insurance carrier so an adjustment can be made to your income benefit payments. You may be fined and/or charged with fraud if you receive temporary income benefits or supplemental income benefits while also receiving wages

from an employer without informing the TDI-DWC and the insurance carrier.

Income benefits are no longer payable following the death of an injured employee. In the case of an injured employee's death, the injured employee's beneficiaries may be eligible to file a claim for and receive death benefits if the injured employee's death was due to the work-related injury or illness.

Lifetime Income Benefits (LIBs)

**[Texas Labor Code §§408.161 – 408.162,
28 Texas Administrative Code §§131.2 – 131.4]**

Certain work-related injuries may result in a condition for which you are entitled to income benefits for your lifetime.

Lifetime Income Benefits are paid if you incur:

- total and permanent loss of sight in both eyes;
- loss of both feet at or above the ankle;
- loss of both hands at or above the wrist;

- loss of one foot at or above the ankle and the loss of one hand, at or above the wrist;
- an injury to the spine that results in permanent and complete paralysis of both arms, both legs, or one arm and one leg;
- a physically traumatic injury to the brain resulting in incurable insanity or imbecility; or
- third degree burns that cover at least 40 percent of the body and require grafting, or third degree burns covering the majority of either both hands or one hand and the face.

Note: For purposes of this law, the total and permanent loss of use of a body part is an injury to that body part that ceases to possess any substantial utility as a member of the body.

Amount of Lifetime Income Benefits

Lifetime income benefits equal 75 percent of your average weekly wage, with a 3 percent increase each year.

For example, if your average weekly wage is \$500, your lifetime income benefits would be \$375 a week:

75 percent of \$500 (.75 x \$500) equals \$375

There are maximum and minimum rates for LIBs. The maximum and minimum changes on October 1st of each year based on the state average weekly wage.

When Lifetime Income Benefits Begin

Lifetime income benefits are paid from the time it is determined that your injury has resulted in a condition that meets one of the qualifying conditions for lifetime income benefits. If there is a dispute over eligibility for lifetime income benefits, the issue is addressed through TDI-DWC's dispute resolution process.

When Lifetime Income Benefits End

You may receive Lifetime Income Benefits for the rest of your life.

**For further assistance,
call 1-800-252-7031 or visit**

<http://www.tdi.texas.gov/wc/employee/index.html>

Death and Burial Benefits

BEN

Information for Beneficiaries from the Division of Workers' Compensation

[Texas Labor Code §§408.181 – 408.187,
28 Texas Administrative Code §§122.100; 132.1 – 132.17]

Death and Burial Benefits

Death benefits may be available to replace a portion of family income that is lost when an employee dies because of a work-related injury or occupational illness. A surviving spouse, minor children, dependent grandchildren or other dependents of the deceased employee may be eligible to receive death benefits.

Death benefits may be paid to:

- surviving spouse;
- minor child(ren);
- child(ren) enrolled in an accredited educational institution who is less than 25 years old;
- dependent grandchild(ren);
- other dependent family member(s); or
- non-dependent parents — only when there are no surviving eligible dependent family members.

Non-dependent parents of the deceased employee may be entitled to death benefits when there are no surviving eligible dependent family members.

How to File For Death Benefits

To file a claim for death benefits, a beneficiary must complete and submit a *Beneficiary Claim for Death Benefits* (DWC Form-042) to the Texas Department of Insurance, Division of Workers' Compensation (TDI-DWC) within one year of the death of the employee.

When Death Benefits Begin and End

A legal beneficiary becomes eligible for death benefits the day after the employee's death. Death benefits are paid until the beneficiary no longer meets the entitlement requirements.

Distribution and Duration of Death Benefits to Eligible Beneficiaries

A **surviving spouse** may receive death benefits for the remainder of his or her life unless the spouse remarries. If there are dependent children at the time the employee dies, the death benefits are distributed one half to the surviving spouse, and the remaining half is distributed among the eligible children.

A **surviving spouse** who remarries will receive a lump sum payment of death benefits equal to two years (104 weeks) of the benefits. If there are dependent children who still qualify for the death benefit after the expiration of the 104 weeks, the entire benefit will be re-distributed and divided equally among the dependent children if there is more than one child.

A **child** is eligible to receive death benefits until he or she reaches 18; or until age 25 if the child is enrolled as a full-time student in an accredited educational institution. If there is more than one eligible child, as one child loses eligibility the benefits are re-distributed equally among the remaining eligible children. Children over 18 will need to show evidence of ongoing enrollment in an accredited educational institution, to remain eligible to receive the benefits.

A **child with physical or mental disability** who is a dependent on the date the deceased employee died may receive death benefits until the date the child dies or no longer has the disability. An eligible child with a physical or mental disability will need to provide the insurance carrier documentation of the disability for the remainder of his or her life. An adult child who is a dependent of the deceased employee for a reason other than physical or mental disability may remain eligible for death benefits for 364 weeks after the date the deceased employee died. An eligible adult child claiming death benefits will need to provide documentation to the insurance carrier to establish dependent status, and evidence of ongoing eligibility, such as medical records, to remain eligible to receive the benefits.

Grandchild(ren) may be eligible to receive death benefits if the grandchild was at least 20% dependent on the deceased employee at the time of the employee's death, unless the grandchild's own parent is eligible for the benefit. An eligible grandchild can receive death benefits until the grandchild reaches age 18. A grandchild who is eligible to receive death benefits and who is not a minor at the time of the employee's death may be eligible to receive no more than 364 weeks of death benefits.

**For further assistance,
call 1-800-252-7031 or visit**

<http://www.tdi.texas.gov/wc/employee/index.html>

Other dependent family members, such as a dependent parent, stepparent, sibling, or grandparent of the deceased employee may also qualify for death benefits, but only if there is no eligible surviving spouse, child or grandchild. The duration of these benefits is limited to 364 weeks.

Non-dependent parents may qualify as eligible beneficiaries if there is no eligible surviving spouse, child or grandchild, and there are no surviving dependents who are parents, siblings or grandparents of the deceased. The duration of these benefits is limited to 104 weeks.

When There Are No Surviving Eligible Beneficiaries

If at any time, there are no eligible beneficiaries, or the eligible beneficiaries are no longer eligible and at least 364 weeks have not been paid by the insurance carrier, the remaining benefits are paid to the Subsequent Injury Fund administered by TDI-DWC.

Amount of Death Benefits

Death benefits equal 75 percent of the deceased employee’s average weekly wage and are subject to minimum and maximum benefit amount restrictions. For example, if the deceased employee’s average weekly wages were \$500, death benefits would equal \$375 per week:

75 percent of \$500 (.75 x \$500) = \$375

How To File For Burial Benefits

Burial benefits may also be available to pay some of the deceased employee’s burial expenses. Burial benefits are only paid to the person(s) who paid the burial expenses.

DEATH BENEFITS EXAMPLE SCENARIO AND TIMELINE

An employee dies because of a work-related injury or occupational illness.

The deceased employee was married with two children; one child was 1 year old and the other child was 3 years old.

Day after death benefits begin —

Half to spouse and half to the parent of the dependent 1-year-old and 3-year-old minor children on behalf of the minor.

3 years later —

Spouse remarries; and insurance carrier pays 104 weeks of half of the death benefits in a lump sum payment to spouse. If qualified, the children continue to receive half of benefits for those 104 weeks.

2 years after the spouse of the deceased remarried (104 weeks) —

Insurance carrier begins to pay entire death benefit to the minor children.

When oldest child turns 18, but does not enroll in college —

Eligibility for death benefits for that child stops and the insurance carrier continues to pay the entire benefit amount to the remaining minor child.

Dispute Resolution

DR

Information for Injured Employees from the Division of Workers' Compensation

Workers' compensation is a state-regulated insurance program that pays your bills for medically-necessary health care and replaces a portion of your lost wages if you have a work-related injury or illness and your employer has workers' compensation insurance under the Texas Workers' Compensation Act.

If a dispute arises about your injury or illness, the first thing you should do is call the insurance carrier and discuss your problem(s) with your adjuster. If you are unable to resolve the dispute, you may request dispute resolution through the Texas Department of Insurance, Division of Workers' Compensation (TDI-DWC), the state agency that regulates the delivery of workers' compensation. You may be required to attend one or more dispute resolution proceedings held at the local TDI-DWC office. The Office of Injured Employee Counsel (OIEC) can help you if you do not have an attorney or other representation to present your side of the dispute.



Office of Injured Employee Counsel

An Ombudsman is a specially trained OIEC employee who can assist you free of charge if you have a dispute related to your workers' compensation claim. You may ask for help from an Ombudsman if you have not hired an attorney to represent you and you do not have any other type of representation. You may request Ombudsman assistance by calling 1-866-EZE-OIEC (1-866-393-6432).

What is Dispute Resolution?

There are several steps that may occur in the dispute resolution process in a workers' compensation claim: Benefit Review Conference; Arbitration or Contested Case Hearing; Appeals Panel and Judicial Review.

Benefit Review Conference (BRC)

The BRC is an informal meeting held at a local TDI-DWC office where, you will meet with someone from the insurance company to discuss the disputed issues in front of a TDI-DWC Benefit Review Officer. If the dispute is resolved, an agreement may be written and signed by you and the insurance carrier.

A party may also request a BRC to appeal a medical fee dispute decision on a fee dispute filed with the TDI-DWC Medical Fee Dispute Resolution section on or after June 1, 2012. A first responder request for a BRC must be accelerated by the TDI-DWC and given priority in accordance with the Texas Labor Code §504.055.

Arbitration

If the dispute was not resolved at the BRC, the injured employee and other parties to the dispute may agree to resolve the dispute through arbitration instead of proceeding to a Contested Case Hearing. At arbitration an independent arbitrator chosen by the TDI-DWC hears both sides of a dispute and makes a decision. The decision of the arbitrator is final and cannot be appealed. A party may also request to resolve a medical fee dispute by arbitration after a BRC for fee disputes is filed with the TDI-DWC on or after June 1, 2012.

Contested Case Hearing (CCH)

Following a BRC, if all of the parties do not choose arbitration, a CCH is the next level of dispute resolution. A CCH is a formal hearing conducted by a TDI-DWC Hearing Officer who makes a decision about the disputed issue(s) that were not resolved at the BRC. Following the CCH, you will receive the Hearing Officer's written decision and order.

Appeals Panel

After the CCH, any party that disagrees with the Hearing Officer's decision may request review of that decision by the TDI-DWC Appeals Panel. Instead of holding a hearing, the parties submit written statements describing their position that are reviewed by the Appeals Panel along with the Hearing Officer's decision and the record from the CCH. The Appeals Panel may issue a written decision, which is the final step in the TDI-DWC's dispute resolution process.

Judicial Review

If a party disagrees with the TDI-DWC Appeal Panel's decision, the decision may be appealed to a court of law for a decision.

Attorney Representation

You may hire an attorney to represent you for your claim. An attorney may attend dispute resolution proceedings with you and present any evidence that supports your side of the dispute. The attorney's fees will be deducted from your income benefit payments as ordered by the TDI-DWC. You may contact the State Bar of Texas for assistance in obtaining an attorney to represent you at <http://www.texasbar.com> or 1-800-252-9690.



Texas Department of Insurance

Division of Workers' Compensation

7551 Metro Center Drive, Suite 100 • Austin, Texas 78744-1609

512-804-4000 • 512-804-4001 fax • www.tdi.state.tx.us

Dispute Resolution Flowchart

