



# Texas Department of Insurance

Workers' Compensation Research and Evaluation Group

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## Insurance Carrier Pharmacy Closed Formulary Data Call Results on Legacy N-Drug Claims

September 2013

This report is available at [www.tdi.texas.gov/wc/regulation/roc](http://www.tdi.texas.gov/wc/regulation/roc). Information in this report can be obtained in alternative formats by contacting the Texas Department of Insurance via email at [WCResearch@tdi.texas.gov](mailto:WCResearch@tdi.texas.gov)

Insurance Carrier Pharmacy Closed Formulary Data Call  
Legacy Injuries Pre-Sept 2011 with N-drug Prescriptions Sept. 1, 2012 - July 15, 2013

**Background**

Effective September 1, 2013, legacy claims—injuries that occurred prior to September 1, 2011—are subject to the pharmacy closed formulary adopted by the Texas Department of Insurance, Division of Workers’ Compensation (TDI-DWC).<sup>1</sup> The pharmacy closed formulary includes all FDA-approved drugs, except for investigational and experimental drugs and excludes drugs listed as “N” drugs (or “not recommended” drugs) in Appendix A of TDI-DWC’s adopted treatment guidelines – the Official Disability Guidelines: Treatment in Workers’ Comp, published by the Work Loss Data Institute. Prescriptions for drugs that are excluded from the formulary require preauthorization from the insurance carrier before they can be dispensed, unless an agreement is reached between the insurance carrier and the prescribing doctor on a claim-by-claim basis.

In an ongoing effort to monitor the number of these claims, the Workers’ Compensation Research and Evaluation Group (REG), on behalf of TDI-DWC, recently concluded two data calls to selected insurance carriers (see Table 1) for the purpose of collecting information on legacy claims that have been prescribed and dispensed at least one of the drugs excluded from the TDI-DWC’s adopted pharmacy closed formulary (i.e., N-Drugs). It should be noted that the information in this report is a summary of the data these selected insurance carriers self-reported to the REG.

Table 1  
Selected Insurance Carriers

Ace American Insurance Co	Old Republic Insurance Co
American Home Assurance Co	Safeco Insurance Co of America
Amguard Insurance Co	State Office of Risk Management
Arrowood Indemnity Co	Texas A & M University System
Big Spring ISD	Texas Cotton Ginners Trust
City of Austin	Texas Department of Transportation
Facility Insurance Corp	Texas Mutual Insurance Co
Harris County	Texas Property & Casualty Insurance Guaranty Association

<sup>1</sup> Claims with dates of injury on or after September 1, 2011 (new claims) have been subject to the closed formulary since September 2011.

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Hartford Fire Insurance Co	Travelers Indemnity Co
Hartford Ins Co of the Midwest	Travis County
Indemnity Insurance Co of North America	Texas Municipal League Intergovernmental Risk Pool
Insurance Co of the State of PA	United States Fidelity & Guaranty Co
Liberty Insurance Corp	University of Texas System
Liberty Mutual Fire Insurance Co	Zurich American Insurance Co
New Hampshire Insurance Co	

The data calls (held in March and July, 2013) requested that the selected insurance carriers report on their outreach activities as they relate to the implementation of the pharmacy closed formulary for legacy claims, especially for the requirement under 28 TAC §134.510, which states that insurance carriers must send a written notification to the injured employee, prescribing doctor, and pharmacy (if known) informing them that the closed formulary will apply to legacy claims effective September 1, 2013. In addition to the numbers of letters that insurance carriers sent, the data calls requested that insurance carriers submit the number of peer-to-peer conversations conducted between the insurance carrier and the prescribing doctors, as well as the number of agreements reached on all legacy claims that received at least one N-drug prescription between September 1, 2012 and July 15, 2013. Results from both data calls confirm that as of July 15, 2013 many insurance carriers had not initiated any peer-to-peer conversations with prescribing doctors for their legacy claims; however, for those insurance carriers who did conduct peer-to-peer conversations, more than 70 percent of those conversations ended with agreements on individual legacy claims.<sup>2</sup>

As announced in the July data call memo, this report presents the key results from the collected information, aggregated by insurance carrier. The REG will issue another data call after the September 1, 2013 deadline to obtain complete information on the status of legacy claims subject to the pharmacy closed formulary. The results of this data call will also be published.

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<sup>2</sup> Some insurance carriers who did not conduct peer-to-peer conversations with prescribing doctors did conduct initial reviews of individual claims and in some cases, sent written communications to the prescribing doctor that the insurance carrier had “voluntarily certified” ongoing use of the prescription drug(s) associated with the specific workers’ compensation claim.

Texas Department of Insurance, Workers’ Compensation Research and Evaluation Group, 2013.

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Table 2  
Letters to Injured Employees and Prescribing Doctors  
As a Percentage of the Number of Legacy N-drug Claims

Insurance Carriers	Number of Legacy N-drug Claims Reported	Letters to Injured Employees		Letters to Prescribing Doctors	
		Number	%	Number	%
Texas Mutual Insurance Co	1,950	1,950	100%	1,950	100%
Liberty Insurance Corp	693	632	91%	632	91%
Liberty Mutual Fire Insurance Company	449	421	94%	421	94%
New Hampshire Insurance Co	422	406	96%	406	96%
American Home Insurance Company	385	364	95%	364	95%
Texas Property & Casualty Insurance Guaranty Association	375	375	100%	375	100%
Texas Municipal League Intergovernmental Risk Pool	345	345	100%	345	100%
Insurance Co of the State of PA	311	302	97%	302	97%
Zurich American Insurance Co	280	280	100%	280	100%
Ace American Insurance Co	271	269	99%	270	100%
State Office of Risk Management	256	256	100%	256	100%
Facility Insurance Corp	236	236	100%	236	100%
Old Republic Insurance Co	220	216	98%	216	98%
Indemnity Insurance Co of North America	204	202	99%	202	99%
Arrowood Indemnity Co	149	149	100%	149	100%
Travelers Indemnity Co	139	139	100%	139	100%
Hartford Ins Co of the Midwest	102	95	93%	99	97%
City of Austin	55	55	100%	55	100%
Hartford Fire Insurance Co	33	31	94%	33	100%
Texas Department of Transportation	25	25	100%	25	100%
Texas A & M University System	23	23	100%	23	100%
United States Fidelity & Guaranty Co	18	15	83%	18	100%
Harris county	11	11	100%	11	100%
Safeco Insurance Co of America	11	11	100%	11	100%
Texas Cotton Ginners Trust	10	10	100%	10	100%
University of Texas System	10	10	100%	10	100%
Travis County	5	3	60%	3	60%
Amguard Insurance Co	1	1	100%	1	100%
Big Spring ISD	1	1	100%	1	100%
<b>Total</b>	<b>6,990</b>	<b>6,833</b>	<b>98%</b>	<b>6,843</b>	<b>98%</b>

Source: Self-reported data from selected insurance carriers, Insurance Carrier Pharmacy Closed Formulary Data Call, 2013.

Insurance Carrier Pharmacy Closed Formulary Data Call  
Legacy Injuries Pre-Sept 2011 with N-drug Prescriptions Sept. 1, 2012 - July 15, 2013

Table 3  
Letters to Pharmacies  
As a Percentage of the Number of Legacy N-drug Claims

Insurance Carriers	Number of Legacy N-drug Claims Reported	Letters to Pharmacies	
		Number	%
Texas Mutual Insurance Co	1,950	1,950	100%
Liberty Insurance Corp	693	128	19%
Liberty Mutual Fire Insurance Company	449	164	37%
New Hampshire Insurance Co	422	396	94%
American Home Insurance Company	385	306	80%
Texas Property & Casualty Insurance Guaranty Association	375	375	100%
Texas Municipal League Intergovernmental Risk Pool	345	345	100%
Insurance Co of the State of PA	311	287	92%
Zurich American Insurance Co	280	279	100%
Ace American Insurance Co	271	251	93%
State Office of Risk Management	256	256	100%
Facility Insurance Corp	236	236	100%
Old Republic Insurance Co	220	215	98%
Indemnity Insurance Co of North America	204	185	91%
Arrowood Indemnity Co	149	107	72%
Travelers Indemnity Co	139	139	100%
Hartford Ins Co of the Midwest	102	100	98%
City of Austin	55	0	0%
Hartford Fire Insurance Co	33	33	100%
Texas Department of Transportation	25	25	100%
Texas A & M University System	23	23	100%
United States Fidelity & Guaranty Co	18	11	61%
Harris county	11	11	100%
Safeco Insurance Co of America	11	0	0%
Texas Cotton Ginners Trust	10	10	100%
University of Texas System	10	10	100%
Travis County	5	0	0%
Amguard Insurance Co	1	1	100%
Big Spring ISD	1	1	100%
<b>Total</b>	<b>6,990</b>	<b>5,844</b>	<b>84%</b>

Source: Self-reported data from selected insurance carriers, Insurance Carrier Pharmacy Closed Formulary Data Call, 2013.

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Table 4  
Peer-to-Peer Conversations with Prescribing Doctors  
As a Percentage of the Number of Legacy N-drug Claims

Insurance Carriers	Number of Legacy N drug Claims Reported	Peer-to-Peer Conversations	
		Number	%
Texas Mutual Insurance Co	1,950	816	42%
Liberty Insurance Corp	693	0	0%
Liberty Mutual Fire Insurance Company	449	0	0%
New Hampshire Insurance Co	422	33	8%
American Home Insurance Company	385	43	11%
Texas Property & Casualty Insurance Guaranty Association	375	32	9%
Texas Municipal League Intergovernmental Risk Pool	345	3	1%
Insurance Co of the State of PA	311	17	6%
Zurich American Insurance Co	280	95	34%
Ace American Insurance Co	271	89	33%
State Office of Risk Management	256	0	0%
Facility Insurance Corp	236	10	4%
Old Republic Insurance Co	220	55	25%
Indemnity Insurance Co of North America	204	35	17%
Arrowood Indemnity Co	149	93	62%
Travelers Indemnity Co	139	24	17%
Hartford Ins Co of the Midwest	102	5	5%
City of Austin	55	6	11%
Hartford Fire Insurance Co	33	1	3%
Texas Department of Transportation	25	0	0%
Texas A & M University System	23	0	0%
United States Fidelity & Guaranty Co	18	0	0%
Harris county	11	2	18%
Safeco Insurance Co of America	11	0	0%
Texas Cotton Ginners Trust	10	0	0%
University of Texas System	10	0	0%
Travis County	5	0	0%
Amguard Insurance Co	1	0	0%
Big Spring ISD	1	0	0%
<b>Total</b>	<b>6,990</b>	<b>1,359</b>	<b>19%</b>

Source: Self-reported data from selected insurance carriers, Insurance Carrier Pharmacy Closed Formulary Data Call, 2013.

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Table 5  
Claims Status and Percentage of Claims Remaining  
As a Percentage of the Number of Legacy N-drug Claims as of 15 July 2013

Insurance Carriers	Number of Legacy N drug Claims Reported	Number of Agreements Reached	Number of Claims No Longer Receiving N-Drugs	Number of Remaining Claims	Percent of Claims Remaining
Texas Mutual Insurance Co	1,950	621	872	457	23%
Liberty Insurance Corp	693	0	473	220	32%
Liberty Mutual Fire Insurance Company	449	0	244	205	46%
New Hampshire Insurance Co	422	10	146	266	63%
American Home Insurance Company	385	20	113	252	65%
Texas Property & Casualty Insurance Guaranty Association	375	69	47	259	69%
Texas Municipal League Intergovernmental Risk Pool	345	0	137	208	60%
Insurance Co of the State of PA	311	12	110	190	61%
Zurich American Insurance Co	280	28	74	179	64%
Ace American Insurance Co	271	55	40	177	65%
State Office of Risk Management	256	0	132	124	48%
Facility Insurance Corp	236	9	70	157	67%
Old Republic Insurance Co	220	47	31	143	65%
Indemnity Insurance Co of North America	204	16	32	156	76%
Arrowood Indemnity Co	149	72	1	76	51%
Travelers Indemnity Co	139	6	10	123	88%
Hartford Ins Co of the Midwest	102	4	12	86	84%
City of Austin	55	8	1	46	84%
Hartford Fire Insurance Co	33	1	0	32	97%
Texas Department of Transportation	25	6	2	17	68%
Texas A & M University System	23	0	0	23	100%
United States Fidelity & Guaranty Co	18	1	0	17	94%
Harris county	11	3	3	7	64%
Safeco Insurance Co of America	11	0	6	5	45%
Texas Cotton Ginners Trust	10	2	0	8	80%
University of Texas System	10	7	1	2	20%
Travis County	5	0	3	2	40%
Amguard Insurance Co	1	0	0	1	100%
Big Spring ISD	1	0	0	1	100%
<b>Total</b>	<b>6,990</b>	<b>997</b>	<b>2,560</b>	<b>3,439</b>	<b>49%</b>

Source: Self-reported data from selected insurance carriers, Insurance Carrier Pharmacy Closed Formulary Data Call, 2013.

Note: Six claims were reported both as No Longer on N-drugs and with Agreements Reached.

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Table 6  
Reasons Insurance Carriers Did Not Reach Agreement with Prescribing Doctors  
As a Percentage of the Number of Responses

Insurance Carriers	Reasons					
	1. Employee no longer receiving N drug 2. Agreement still in negotiation 3. Carrier hasn't yet initiated peer to peer conversation 4. Prescribing doctor unavailable to discuss employee's treatment 5. Other (Please explain)					
	#1	#2	#3	#4	#5	Total
Texas Mutual Insurance Co	58%	3%	0%	0%	40%	1,514
Liberty Insurance Corp	68%	0%	0%	15%	17%	698
Liberty Mutual Fire Insurance Company	54%	0%	0%	13%	32%	450
New Hampshire Insurance Co	34%	0%	0%	38%	27%	434
American Home Insurance Company	28%	4%	0%	36%	33%	399
Texas Municipal League Intergovernmental Risk Pool	39%	1%	0%	1%	59%	347
Texas Property & Casualty Insurance Guaranty Association	14%	9%	0%	2%	76%	339
Insurance Co of the State of PA	33%	1%	0%	34%	32%	330
Zurich American Insurance Co	25%	9%	0%	46%	20%	291
Ace American Insurance Co	15%	1%	0%	39%	45%	271
State Office of Risk Management	52%	21%	0%	2%	26%	256
Facility Insurance Corp	28%	0%	0%	60%	11%	248
Indemnity Insurance Co of North America	16%	2%	0%	61%	21%	205
Old Republic Insurance Co	17%	1%	2%	43%	37%	178
Travelers Indemnity Co	7%	0%	8%	70%	15%	152
Arrowood Indemnity Co	2%	0%	4%	40%	55%	53
City of Austin	2%	56%	0%	5%	37%	43
Hartford Midwest	29%	2%	12%	34%	22%	41
Texas A & M University System	0%	0%	0%	0%	100%	23
Texas Department of Transportation	10%	0%	0%	0%	90%	21
United States Fidelity & Guaranty Co	0%	41%	0%	12%	47%	17
Safeco Insurance Co of America	55%	0%	0%	0%	45%	11
Texas Cotton Ginners Trust	0%	78%	0%	0%	22%	9
Harris county	38%	38%	0%	25%	0%	8
Hartford Fire Insurance Co	0%	0%	0%	50%	50%	8
Travis County	60%	0%	0%	0%	40%	5
University of Texas System	20%	0%	20%	0%	60%	5
Amguard Insurance Co	0%	0%	0%	0%	100%	1
Big Spring ISD	0%	0%	0%	0%	100%	1
<b>Total</b>	<b>40%</b>	<b>3%</b>	<b>0%</b>	<b>21%</b>	<b>35%</b>	<b>6,358</b>

Source: Self-reported data from selected insurance carriers, Insurance Carrier Pharmacy Closed Formulary Data Call, 2013.

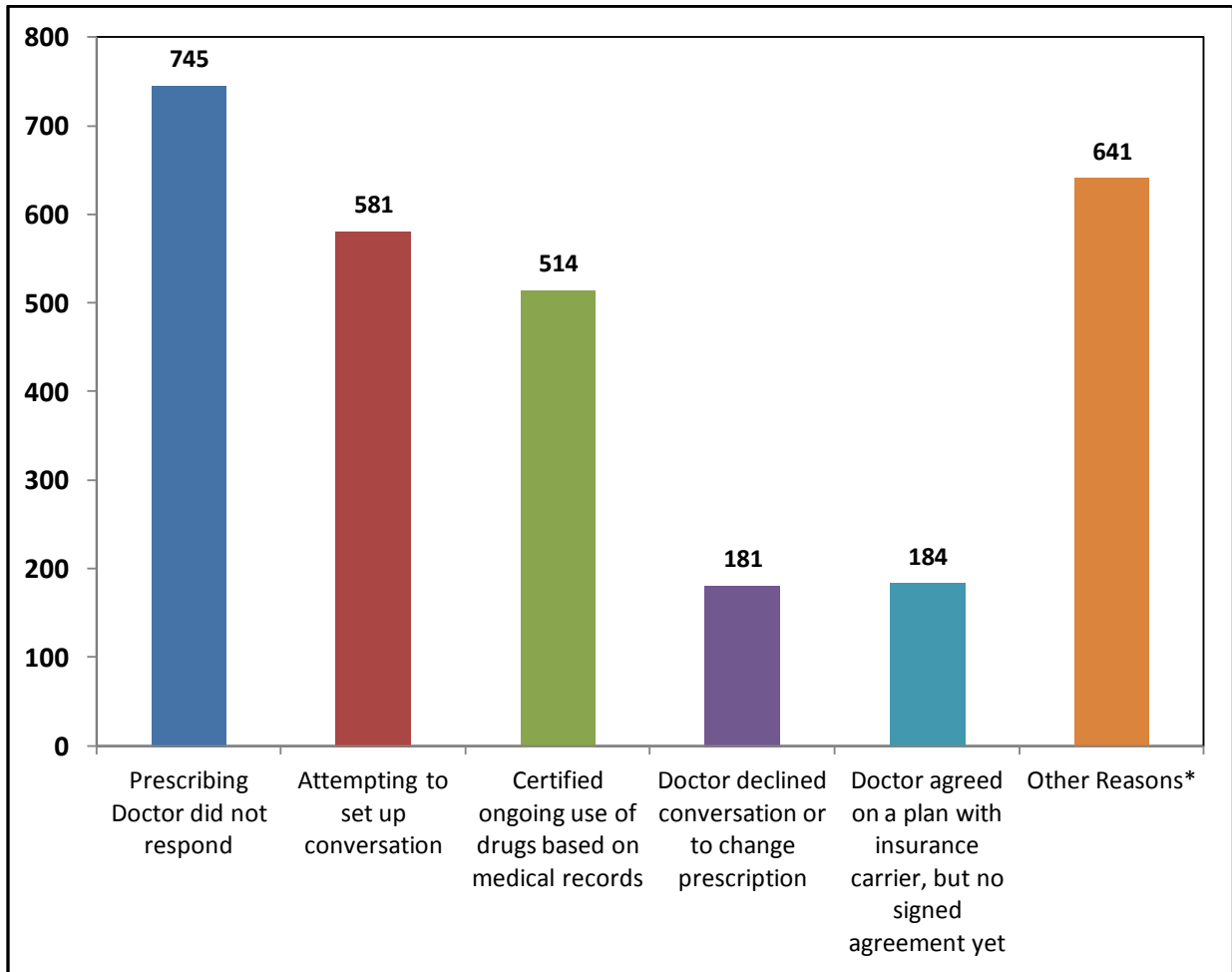
Note: The number of reasons exceeds the total number of claims without agreements because some reasons were added when not required. Rounding may lead to total percentages not equal to 100%.

Texas Department of Insurance, Workers' Compensation Research and Evaluation Group, 2013.



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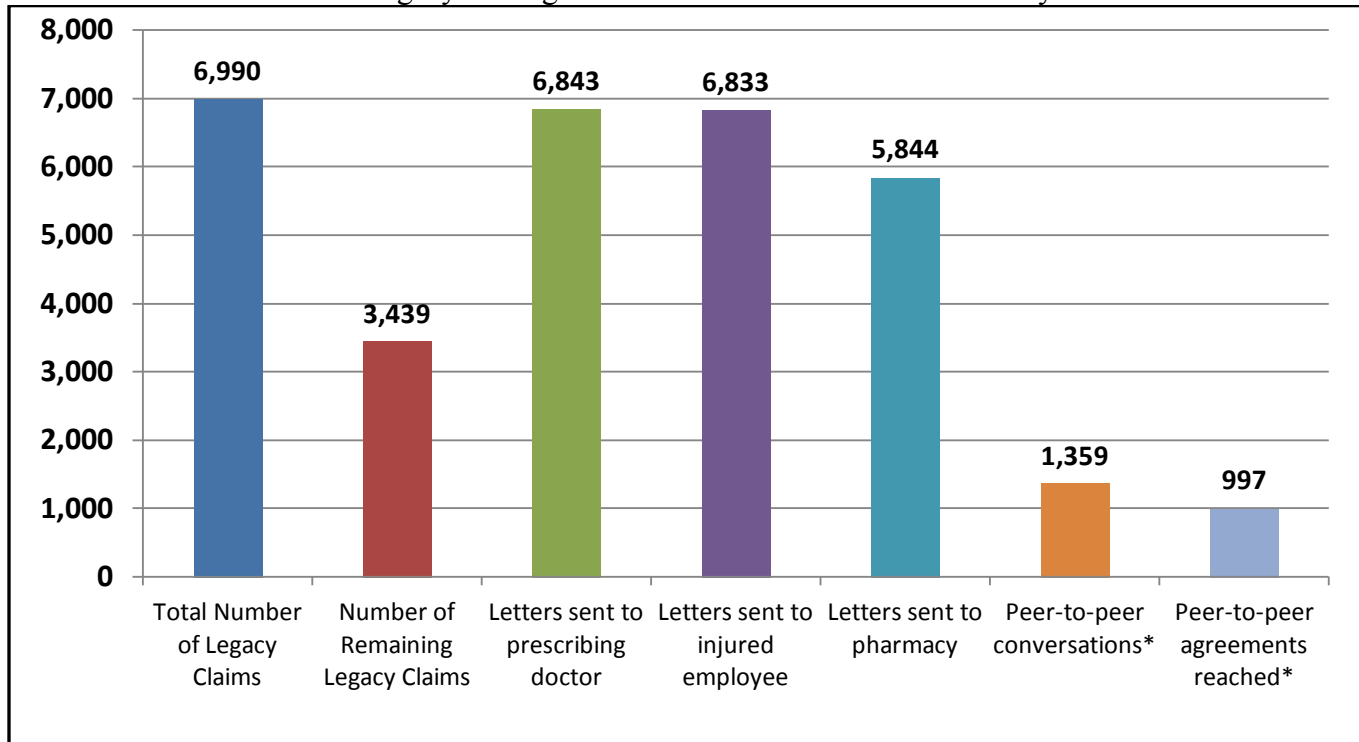
Figure 1  
Most Frequent 'Other' Reasons Insurance Carriers Reported  
for Not Having Agreements with Prescribing Doctors



Source: Self-reported data from selected insurance carriers, Insurance Carrier Pharmacy Closed Formulary Data Call, 2013.  
Note: \*Other Reasons include Provider No Longer Treating Injured Employee, Will Address in Future Medical Appointment, and Peer-to-Peer Scheduled.

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Figure 2  
Number of Legacy N-drug Claims and Insurance Carrier Activity Counts



Source: Self-reported data from selected insurance carriers, Insurance Carrier Pharmacy Closed Formulary Data Call, 2013.  
Note: \*Of the 1,359 peer-to-peer conversations held between insurance carriers and prescribing doctors, 997 (73%) ended in agreements reached.

**Summary:**

- The selected insurance carriers reported 6,990 legacy claims, pre-Sept 2011 injuries with post-Aug 2012 N-drug prescriptions.
- Insurance carriers sent letters to 98 percent of these legacy claims, to the prescribing doctors of 98 percent of these legacy claims, and to pharmacies that dispensed N-drugs to 84 percent of these legacy claims.
- Insurance carriers' had peer-to-peer conversations with prescribing doctors for only 19 percent of legacy claims.
- When a peer-to-peer conversation did take place, approximately 79 percent of these conversations led to either agreements or injured employees no longer receiving N-drugs.
- The insurance carriers reached agreements with the prescribing doctors for 14 percent of legacy claims (997).
- Approximately 37 percent (2,560) of the reported legacy claims are no longer receiving prescriptions for N-drugs.
- Despite the relatively low percentage of claims with peer-to-peer conversations, when the percentage of legacy claims with agreements are combined with the percentage of legacy claims no longer receiving N-drugs, the percentage of legacy claims that remain subject to the closed formulary on September 1, 2013 is reduced by more than half (49 percent or approximately 3,439 legacy claims remain).

Texas Department of Insurance, Workers' Compensation Research and Evaluation Group, 2013.



## **Texas Department of Insurance Workers' Compensation Research and Evaluation Group**

For more information, contact via email: [WCResearch@tdi.texas.gov](mailto:WCResearch@tdi.texas.gov)

Texas Department of Insurance WCREG Website:

[www.tdi.texas.gov/wc/regulation/roc/](http://www.tdi.texas.gov/wc/regulation/roc/)

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Per Chapter 405 of the *Texas Labor Code*, the Workers' Compensation Research and Evaluation Group (REG) at the Texas Department of Insurance is responsible for conducting professional studies and research on various system issues, including:

- the delivery of benefits;
  - litigation and controversy related to workers' compensation;
  - insurance rates and rate-making procedures;
  - rehabilitation and reemployment of injured employees;
  - the quality and cost of medical benefits;
  - employer participation in the workers' compensation system;
  - employment health and safety issues; and
  - other matters relevant to the cost, quality, and operational effectiveness of the workers' compensation system.
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