



Division of Workers' Compensation

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To: Texas Workers' Compensation System Participants

From: Kara Mace, Deputy Commissioner, Legal Services

Date: June 21, 2021

RE: Senate Bill 22, 87th Legislature, Regular Session (2021) and Opportunity to Review and Comment on:

- *Sample Request to Reprocess a SARS-CoV-2 or COVID-19 Claim;*
- *New Plain Language Notice PLN-15, Notice of Request to Reprocess a SARS-CoV-2 or COVID-19 Claim Subject to Texas Government Code Section 607.0545; and*
- *Updated PLN-14, Notice of Continuing Investigation*

Senate Bill (SB) 22 adds new Texas Government Code Section 607.0545 to create a rebuttable presumption that a severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2) or coronavirus disease 2019 (COVID-19) injury or death is work-related for certain first responders. This includes detention officers, custodial officers, firefighters, peace officers, and emergency medical technicians. To qualify for the presumption, a first responder must meet certain conditions.

SB 22 applies to a claim for benefits filed on or after June 14, 2021. Under 28 Texas Administrative Code Section 124.2(g), a "claim for benefits" means the first written notice of injury as provided in Section 124.1 (concerning Notice of Injury).

SB 22 also allows certain first responders or their beneficiaries to timely file an initial claim for benefits by December 14, 2021, if the first responder contracted SARS-CoV-2 or COVID-19 between March 13, 2020, and June 14, 2021. The changes in law from SB 22 apply to these claims.

In addition, SB 22 provides a process to allow certain first responders or their beneficiaries, who previously filed a SARS-CoV-2 or COVID-19 claim for benefits and whose claim was denied by the insurance carrier, to request in writing that the insurance carrier reprocess the claim. Insurance carriers must apply the changes in law made under SB 22 to those reprocessed claims. Insurance carriers must reprocess a claim within 60 days after receiving a written request and must notify the injured employee or beneficiary and the Texas Department of Insurance, Division of Workers' Compensation (DWC) whether the claim is accepted or denied and how to dispute any denial using a plain language notice (PLN) that DWC develops. Covered employees or their beneficiaries must request that the insurance carrier reprocess the claim by June 14, 2022.

Finally, SB 22 creates a process for certain first responders to be reimbursed for out-of-pocket expenses, including copayments and partial payments, directly from the insurance carrier for SARS-CoV-2 or COVID-19 claims later determined to be work-related using the presumption Texas Government Code Section 607.0545 created. Insurance carriers will have 45 days to process written reimbursement requests from certain first responders. If denied, injured employees have up to 120 days from the denial to request medical dispute resolution under Texas Labor Code Chapter 413.

To implement SB 22, DWC has created a new draft *Sample Request to Reprocess a SARS-CoV-2 or COVID-19 Claim* for injured employees or beneficiaries to use. **The injured employee, beneficiary, or attorney may request that the insurance carrier reprocess the claim in any written form. You are not required to use this sample request.**

DWC has also created a new draft PLN insurance carriers must use when reprocessing COVID-19 claims. DWC is accepting public comments on the proposed PLN-15, *Notice of Request to Reprocess a SARS-CoV-2 or COVID-19 Claim Subject to Texas Government Code Section 607.0545*.

DWC also updated the font type and instructions on the PLN-14, *Notice of Continuing Investigation* to show that the notice applies to claims subject to SB 22. It also includes an additional recommended font style for insurance carriers to use.

The proposed sample request and plain language notice are available on the TDI website at www.tdi.texas.gov/wc/rules/drafts.html.

Email your comments to RuleComments@tdi.texas.gov. We must receive your written comments by 5 p.m., Central time, on Monday, July 12, 2021. You may also mail or deliver your comments to:

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