



GLENN HEGAR TEXAS COMPTROLLER OF PUBLIC ACCOUNTS

INTEROFFICE MEMO

DATE: November 10, 2022

TO: Emma Fuentes, Audit Division

FROM: Jenny Burleson, Tax Policy Division

RE: Texas Department of Insurance, Division of Worker's Compensation– Designated Doctor Exams

Summary:

STAR Accession No. 202210014L dated Oct. 20, 2022 determined charges for Designated Doctor Exams (Exams) ordered by the Texas Department of Insurance, Division of Workers' Compensation (TDI-DWC) are subject to Texas sales and use tax as insurance services. This statement of policy addresses issues related to workers' compensation insurance that the Comptroller had not addressed previously.

The Comptroller will delay implementation of the guidance provided by STAR Accession No. 202210014L until after the 2023 legislative session to allow TDI-DWC and workers' compensation system participants time to seek a legislative change. Doctors are not required to collect tax on charges for Exams at this time.

Background:

Workers' compensation is a state-regulated insurance program that pays medical bills and replaces some lost wages for employees who are injured at work or who have work-related diseases or illnesses. TDI-DWC regulates worker's compensation insurance coverage under Texas Labor Code, Chapter 408.

During treatment of an injury, an injured worker or the worker's attorney, insurance carrier, or TDI-DWC can request an Exam under Labor Code Section 408.0041. TDI-DWC orders an Exam to evaluate questions about an injured employee's medical condition and to resolve disputes about worker's compensation insurance benefits regarding a work-related injury or illness.

The Comptroller determined Exams are activities to handle, investigate, adjust, and/or pay claims or losses and meet the definition of "insurance claims adjustment or claims processing" under Rule 3.355(a)(8). STAR Accession No. 202210014L states that charges for Exams are an "insurance service" defined by Tax Code, Section 151.0039 and are subject to Texas sales and use tax under Sections 151.010, 151.0101(a)(9), 151.051, and Rule 3.355(b).

This statement of policy addresses issues related to worker's compensation insurance that the Comptroller had not previously addressed. The Comptroller will, however, delay implementation of this policy for Exams ordered under Labor Code Section 408.041 until after the 2023 legislative session. This allows TDI-DWC and the workers' compensation industry time to seek a legislative change. STAR Accession No. 202210014L is currently superseded. However, the policy will go into effect on Oct. 1, 2023 if a legislative change is not enacted.

Statement of Policy:

Doctors are not required to collect tax on charges for Designated Doctor Exams ordered by TDI-DWC under Chapter 408, Labor Code and performed prior to Oct. 1, 2023.
