

Health Care Provider Quarterly Meeting

June 21, 2023 – 9:30 to 10:30 a.m.

Agenda items

- Welcome.
- Compliance and Investigations update.
- Health and Safety update.
- Hearings update.
- Operations and External Relations update.
- Q&A.
- Closing remarks.

Compliance and Investigations update

Debra Knight, Deputy Commissioner for Compliance and Investigations

CY2023 complaints

CY2023 complaints

858 complaints received

- 14: Attendance.
- 290: Communications.
- 0: Fraud.
- 239: Indemnity benefit delivery.
- 224: Medical benefit delivery.
- 41: Other.
- 50: Quality of care.

969 complaints closed

- 365: Confirmed.
- 181: DWC education letter (low risk).
- 423: Not confirmed.

Based on enforcement data as of 5/31/2023.

CY2023 – Complaints received by respondent type

Type of complaint	Injured employee	Insurance carrier	Health care provider	Employer	Attorney	Other
Attendance	4	4	1	0	5	0
Communications	0	113	65	52	59	1
Indemnity benefits	3	225	3	7	1	0
Medical benefits	0	187	36	0	0	1
Quality of care	N/A	1	49	N/A	N/A	0
Other	0	17	3	19	0	2

Based on enforcement data as of 5/31/2023.

Health care provider performance based oversight (PBO)

2023 Health care provider PBO

August 2023 – Preliminary findings will be provided for both DWC Form-073 and DWC Form-069 categories.

September 2023 – Response to findings are due.

December 2023 – Results will be published.

2023 Health care provider PBO

Measure details can be found in the health care provider PBO methodology document:

www.tdi.texas.gov/wc/pbo/documents/pbo2023hcp.pdf

Contact PBO@tdi.texas.gov if you have questions about the assessment.

DWC Fraud & Prosecution

FY2023 DWC Fraud unit

- **1077** fraud referrals received.
- **45** fraud cases open.
- **52** fraud cases closed.
- **3** fraud referrals for prosecution.

Based on enforcement data as of 5/31/2023.

FY2023 DWC Fraud & Prosecution units

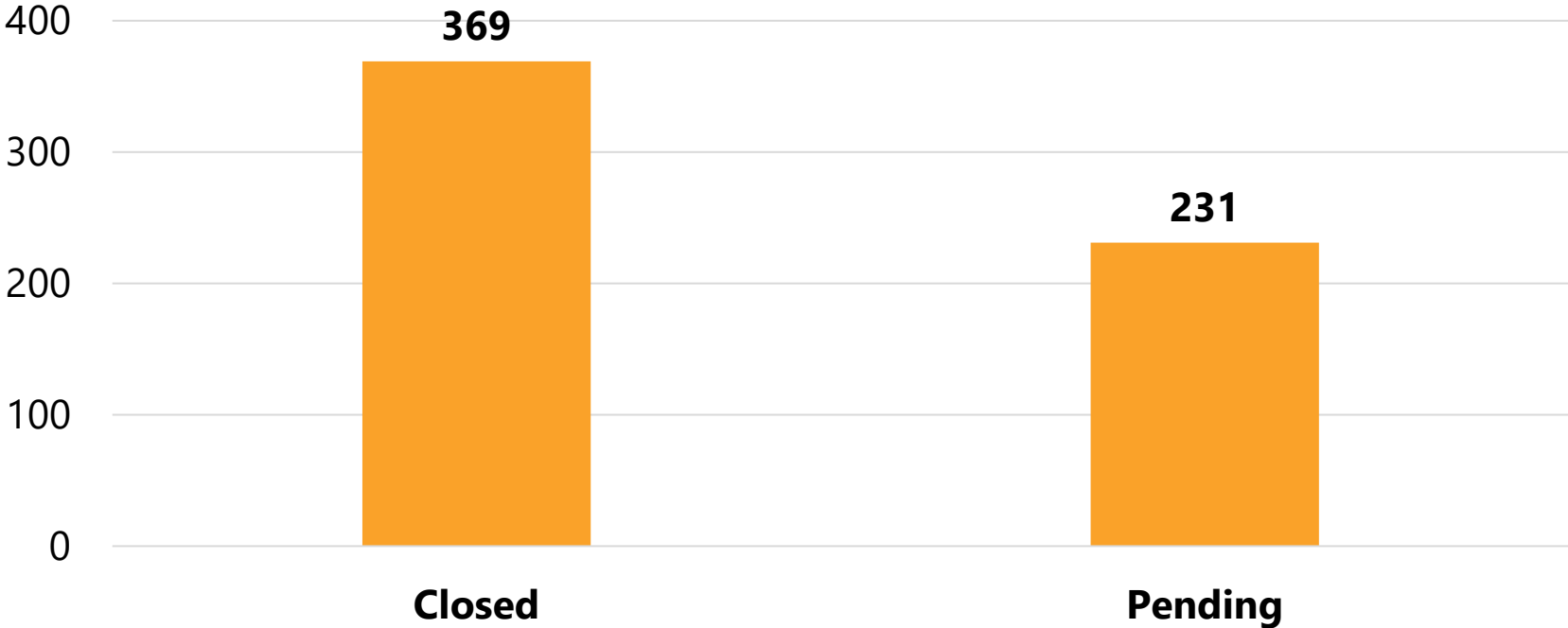
6 convictions:

- **2** employers.
- **2** injured employees.
- **1** health care provider.
- **1** attorney.

Based on enforcement data as of 5/31/2023.

Enforcement update

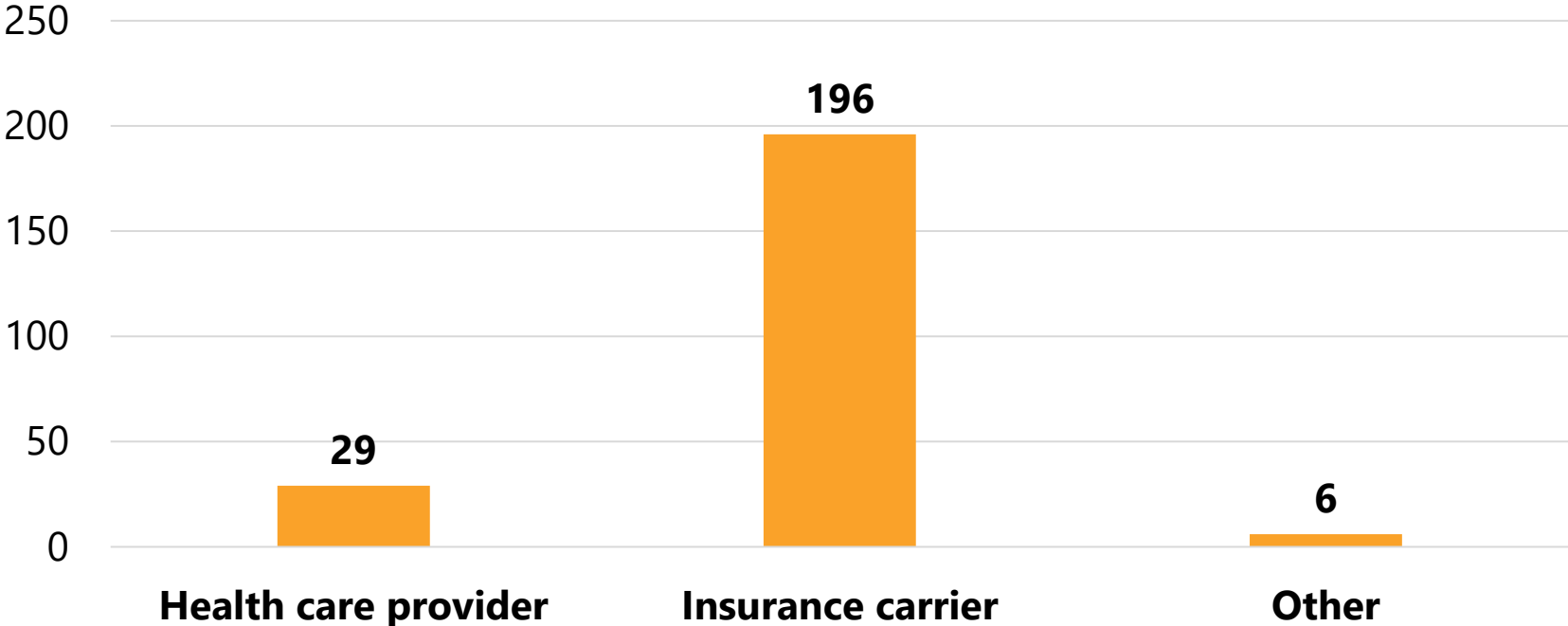
CY2023 Enforcement case status



2023	Closed cases	Pending cases
Cases	369	231

Based on enforcement data as of 5/31/2023.

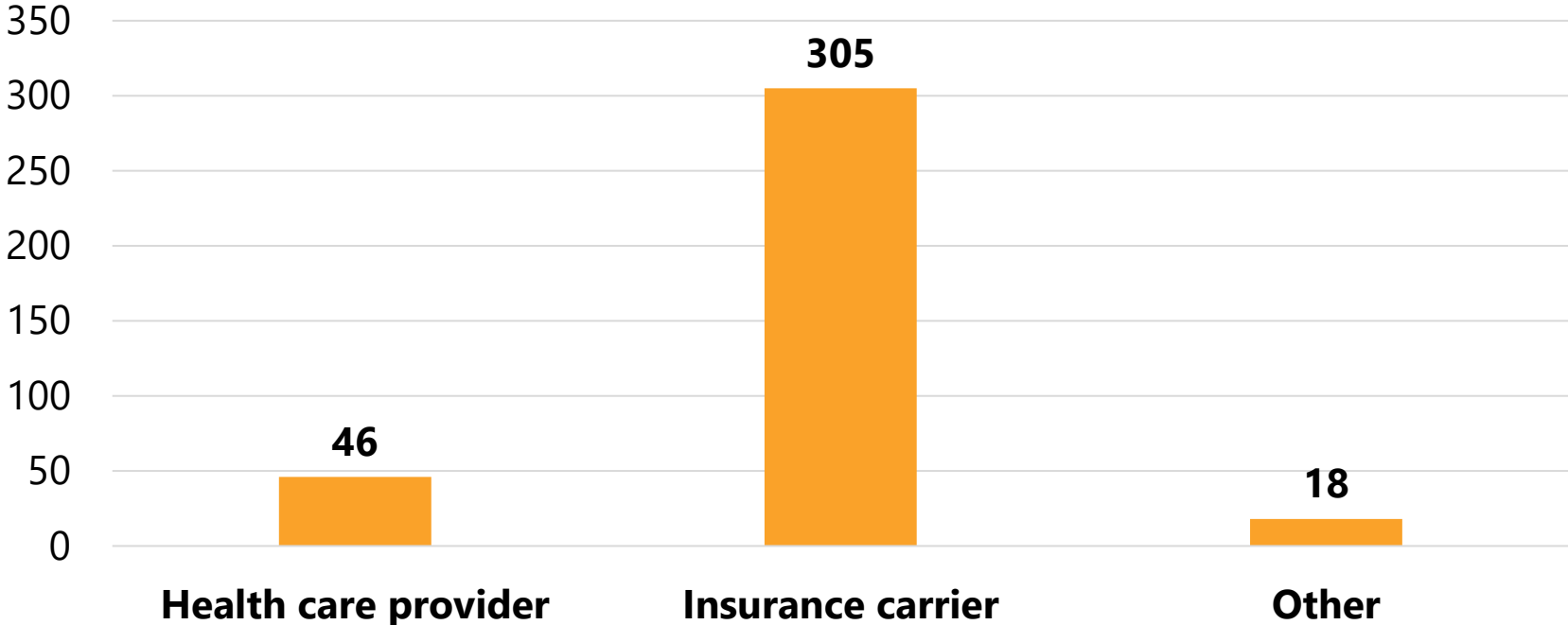
CY2023 cases pending by subject type



2023	Health care provider	Insurance carrier	Other
Cases	29	196	6

Based on enforcement data as of 5/31/2023.

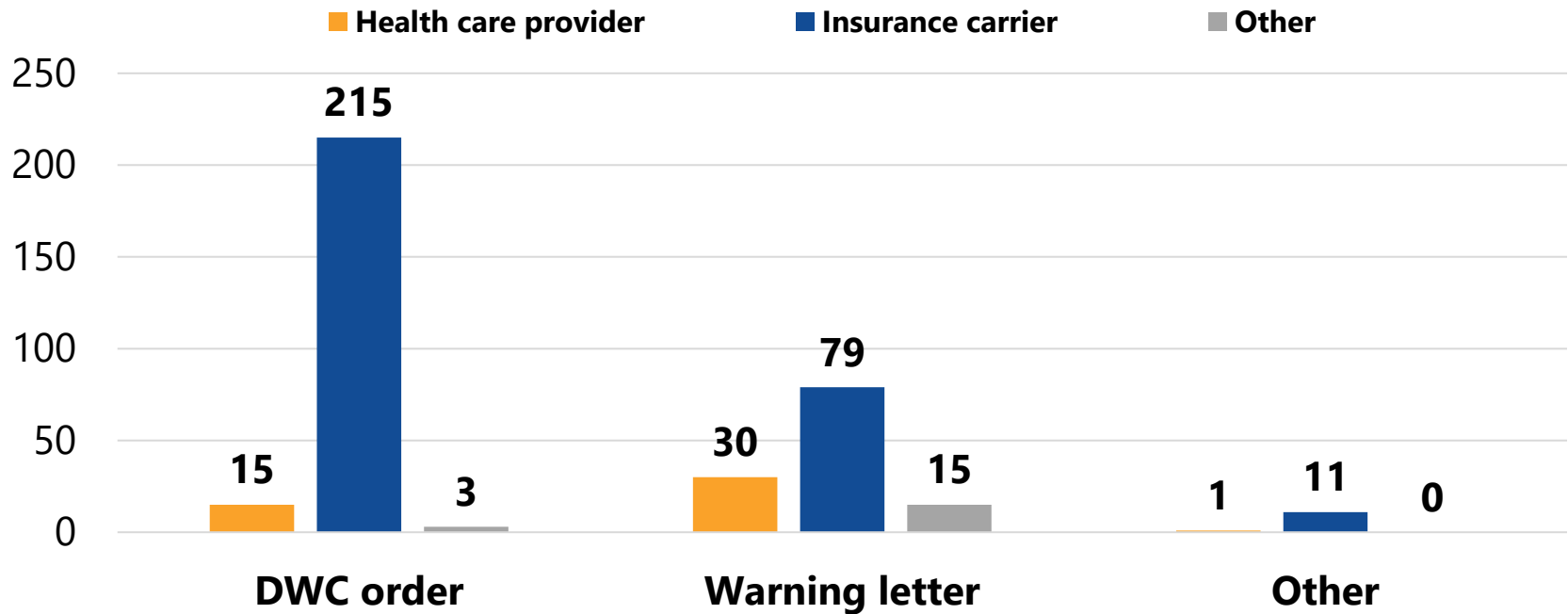
CY2023 cases closed by subject type



2023	Health care provider	Insurance carrier	Other
Cases	46	305	18

Based on enforcement data as of 5/31/2023.

CY2023 cases closed by disposition type



2023	Health care provider	Insurance carrier	Other
DWC order	15	215	3
Warning letter	30	79	15
Other	1	11	0

Based on enforcement data as of 5/31/2023.

Violations to watch

Action on medical bills for designated doctor (DD) exams.

- **Texas Labor Code §408.027** and **28 Texas Administrative Code (TAC) §133.240**, an insurance carrier is required to timely process and take final action on a completed medical bill within 45 days of receiving the bill.
- **Labor Code §408.0041** requires insurance carriers to reimburse DDs for examinations ordered by DWC.
- DD examinations do not require preauthorization and are essential to the Texas workers' compensation system.
- Failure to pay DD bills discourages DDs from practicing in the system.
- Enforcement is including findings in its final actions when the violation involves a DD medical bill in order to call attention to this issue.



DWC Enforcement disciplinary orders

<https://www.tdi.texas.gov/wc/orders/index.html>

The screenshot shows the TDI Texas Department of Insurance website. The main navigation bar includes 'Insurance', 'State Fire Marshal', and 'Workers' Compensation' (highlighted in orange). Below this is a secondary navigation bar with 'Home', 'Injured Employees', 'Empleados Lesionados', 'Employers', 'Health Care Providers', and 'Carriers'. The 'Workers' Compensation' section is active, displaying a 'Disciplinary orders' page. The page includes a search bar, a link to 'Workers' compensation disciplinary orders prior to 2019', and a table of orders. The table has columns for 'Order Number', 'Date Issued', and 'Subject'. The table shows 10 entries, with the first entry being Order Number 20238013 issued on 6/8/2023 to Rhema Medical, an affiliate of Rotech Healthcare, Inc.

Order Number	Date Issued	Subject
20238013	6/8/2023	Rhema Medical, an affiliate of Rotech Healthcare, Inc.
20238012	6/8/2023	Service Lloyds Insurance Company
20237995	5/25/2023	Everest Premier Insurance Company
20237994	5/25/2023	Liberty Mutual Fire Insurance Company
20237993	5/25/2023	Liberty Insurance Corporation
20237991	5/25/2023	Intrepid Insurance Company
20237987	5/25/2023	Ohio Security Insurance Company
20237985	5/25/2023	Utica Lloyd's of Texas
20237984	5/23/2023	Standard Fire Insurance Company
20237981	5/23/2023	American Casualty Company of Reading PA
20237980	5/23/2023	City of McAllen
20237975	5/17/2023	Indemnity Insurance Company of North America
20237973	5/17/2023	American Zurich Insurance Company

Health and Safety update

Mary Landrum, Deputy Commissioner for Health and Safety

Office of Medical Advisor (OMA) update

Chichi Onoriobe, Director of Health Care Business Management

Quality of care complaints

CY2023

- **65** complaints forwarded to OMA (includes external complaints and internal referrals).
- **48** complaints investigated by OMA.
 - **48%** closed with no action.
 - **23%** issued letters of education.
 - **8%** initiated a medical quality review.
 - **21%** referred to enforcement.

Source: Texas Department of Insurance, Division of Workers' Compensation, data as of 06/12/23.

Medical quality reviews

CY2023

- **10** reviews initiated.
 - Includes complaint, audit, or monitoring based reviews.
 - Assigned to MQRP members to review.
- **22** reviews concluded.
 - **23%** referred to Enforcement.
 - **77%** recommended other actions (includes letters of education, referrals to medical licensing boards, and closures with no action).

Source: Texas Department of Insurance, Division of Workers' Compensation, data as of 06/02/23.

Medical quality reviews – PBO assessments

CY2023

- **584** assessments received.
- **0** assessments initiated.
- **0** assessments concluded.

Source: Texas Department of Insurance, Division of Workers' Compensation, data as of 06/02/23.

OMA enforcement cases

CY2023

- **10** OMA referrals received in Enforcement.
- **1** OMA case concluded by Enforcement.
 - **1** consent order/final order.
 - **0** warning letters.
 - **0** other action(s).
- **29** OMA cases pending in Enforcement.
- **3** OMA cases pending at SOAH.

Source: Texas Department of Insurance, Division of Workers' Compensation, data as of 06/02/23.

DD program update

Santiago Calderon, Director of Designated Doctor Operations

DD rule update – resources and videos

For more resources on the adoption of 28 TAC Chapter 127 and §180.23: www.tdi.texas.gov//wc/dd/index.html

[Recent changes to the DD program and DWC Form-32](#)

[Completing the DWC Form-032, *Request for Designated Doctor Examination*](#)



DD rule update

Amendments to 28 TAC Chapter 127 and §180.23

- Testing – as of April 30, 2023, any doctor who passed the test no longer required to take test, must still take certification training every two years.
- DD qualifications – additional physician specialties now qualified to examine TBI.
- Multiple certifications of MMI/IR by DDs – DDs will only complete multiple certifications of MMI/IR when DWC request it through a Presiding Officer's Directive (POD).

DD rule update – billing examples

With billing info:

Insurance carrier medical bill processing contact information:

Business name: Injured employee LLC

Mailing address: 123 Injured at work lane

Phone number: 1-800-###-####

Fax number: 512-###-####

Email address: _____@____.com

Without billing info:

Insurance carrier medical bill processing contact information:

There's no medical billing contact information on file. Call DWC at 1-800-252-7031, Monday to Friday, 8 a.m. to 5 p.m., Central time.

DD rule update – revised forms

- DWC Form-032, *Request for Designated Doctor Examination* (effective June 5, 2023).
- DWC Form-068, *Designated Doctor Examination Data Report* (effective June 5, 2023).
- DWC Form-067, *Designated Doctor Certification Application* (April 30, 2023).

Hearings update

Gerri Lynn Thomas, Director of Northwestern Regions Hearings

DD rules update

Restrict multiple certifications to only when ordered by DWC.

The new DWC-032 no longer has the boxes with:

- “List all injuries accepted as compensable by the insurance carrier.” (Box 37)
- “List all injuries determined to be compensable by an approved DWC Form-024, DWC decision & order, DWC Appeals Panel decision, or final court order, if applicable.” (Box 38)

Changes to procedures in hearings

- For DD exams after **June 5, 2023**, the DD may provide multiple certifications ***only when directed by the division.***
- Prior to the dispute resolution process, most disputes will not have multiple certifications based on disputed conditions.

New process in hearings

Dispute received in hearings with the following issues:

- Extent of injury.
- Maximum medical improvement.
- Impairment rating.

New process in hearings

BRO-I (new position).

Contact parties for a list of accepted and disputed conditions.

- Calls to parties.
- Written request for information to parties.

Considerations:

- Parties must know accepted and disputed conditions.
- Single point-of-contact.

New process in hearings

Issue a POD to the DD.

Types:

- Request for clarification.
- Request for exam and multiple certifications.

Specific instructions in the directive.

Follow up with the DD's office or parties.

Other updates

Continue to improve timeliness of dispute resolution.

- Reduce continuances.
- Reduce last minute motions.

“Brown Bag” seminars.

- Discuss new ideas.
- Get input from participants.

Operations and External Relations update

Kimberly Donovan, Deputy Commissioner for Operations and External Relations

REG update

Research and Evaluation Group (REG)

Employer Participation Report



Private-sector employers that are subscribers:

75%



Private-sector employees working for subscribers:

83%



Non-subscription rates among small employers (1-4 employees):

31%



Industry with largest subscription rates:

**Mining/Utilities/
Construction**



Employees working for non-subscribers with alternate benefit plans:


73%

Research and Evaluation Group (REG)

COVID-19 Fact Sheet

Upcoming: Return-to-Work Report

COVID-19 in the Texas Workers' Compensation System, June 2023



COVID-19 IN THE TEXAS WORKERS' COMPENSATION SYSTEM

Introduction
The Texas Department of Insurance, Division of Workers' Compensation (DWC) prepared this factsheet¹ to offer information on the impact of COVID-19 on the state's workers' compensation system. This factsheet provides information on COVID-19 claims, including the percentage of claims that insurance carriers accepted or denied, as well as indemnity benefits or medical costs paid on claims. DWC's COVID-19 data call will not be extended because of the low number of new claims. DWC anticipates that current trends will remain consistent moving forward. Accordingly, this will be the last update.

Data sources for this factsheet:

- **Administrative claim data that insurance carriers** reported to DWC from March 13, 2020, through April 30, 2023, on COVID-19 claims. Specific information on indemnity and medical benefits paid for COVID-19 claims is limited to benefits paid as of May 5, 2023, on claims reported to insurance carriers as of March 31, 2023.
- **A data call** with 74 selected insurance carriers to gather more detailed information on how many workers' compensation claims resulted in a positive test or diagnosis as of March 31, 2023, and the disposition of those claims (accepted, denied, or under investigation).²

Key Findings

COVID-19 claims: As of April 30, 2023, insurance carriers reported nearly 100,000 COVID-19 claims and 472 fatalities to DWC. A little more than half of these claims (51%) and fatalities (55%) involve first responders and correctional officers.

Claims with positive test or diagnosis: More than two-thirds of all COVID-19 claims (72%) involved injured employees who tested positive or were diagnosed with COVID-19.

Denials and disputes: Insurance carriers denied less than half (39%) of COVID-19 positive test claims. Despite more than 27,000 denials of COVID-19 claims with positive tests or diagnoses, there were only 258 disputes filed with DWC as of April 30, 2023.

COVID-19 claims with benefits: During the COVID-19 pandemic slightly more than one-third (34%) of COVID-19 claims filed had medical or indemnity benefit payments associated with them. Most of the benefits paid on COVID-19 claims were indemnity benefits.

Claims with post-COVID conditions: Nearly a quarter of claims (23%) that received professional or hospital/facility services received these services beyond one month post-injury.

¹ Statistics in the factsheet will change over time as claims mature and more data becomes available.
² Selected insurance carriers are those that had 50% of reportable claims and 90% of occupational diseases in 2017, 2018, 2019, and 2020 in Texas. DWC's data call includes 12 separate quarterly submissions from selected insurance carriers: (i) data as of June 30, 2020; (ii) data as of September 30, 2020; (iii) data as of December 31, 2020; (iv) data as of March 31, 2021; (v) data as of June 30, 2021; (vi) data as of September 30, 2021; (vii) data as of December 31, 2021; (viii) data as of March 31, 2022; (ix) data as of June 30, 2022; (x) data as of September 30, 2022; (xi) data as of December 31, 2022; and (xii) data as of March 31, 2023. DWC added several large school districts and one intergovernmental risk pool to the list of selected insurance carriers for the data call as of December 2022 and onward. See www.tdi.texas.gov/reg/opaandfsls for more information about the data call, including the list of selected insurance carriers and data call instructions.

Texas Department of Insurance, Division of Workers' Compensation www.tdi.texas.gov/wc

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Workers' Compensation Research & Evaluation Group

2023

Return to Work

TDI Division of Workers' Compensation

Legislative update

Key workers' compensation bills

DWC legislative recommendation:

- **Senate Bill 1122** – relating to the exclusion of certain medical services performed to determine an appropriate level of workers' compensation benefits from sales and use taxes.

Bills related to first responders and Texas military forces:

- **House Bill 90** – Texas military forces.
- **House Bill 2468** – lifetime income benefits eligibility.
- **House Bill 3335** – course and scope.
- **House Bill 471** – employer benefits.

Other key bills affecting workers' compensation

- **House Bill 679** – changes to experience modifiers.
- **House Bill 2314** – death benefit filing to both carriers and DWC.
- **Senate Bill 1659** – sunset review dates for DWC, OIEC, TDI, and OPIC.

Communications update

2023 Workers' Compensation Conference



Learn more:

<http://www.tdi.texas.gov/wc/events/wcconference.html>

Questions?

Closing Remarks

Jeff Nelson, Commissioner of the Division of Workers' Compensation