

Insurance Carrier Quarterly Meeting

November 29, 2022

2 to 3:30 p.m.

Agenda Items

- Welcome
- DWC Staffing Changes
- Compliance and Investigations Update
- Legislative Update
- Designated Doctor Rules Update
- Hearings Update
- EDI Update
- Q&A
- Closing

Welcome

Jeff Nelson, Commissioner
Division of Workers' Compensation

DWC Staffing Changes

Claims and Customer Services

Deputy Commissioner, Erica De La Cruz

- Subsequent Injury Fund
- Self-Insurance Regulation
- Customer Service
- Injured Employee Outreach & Claims Services
- Program Services

Health and Safety

Deputy Commissioner, Mary Landrum

- Office of the Medical Advisor
- Designated Doctor Program
- Health Care Business Management
- Return to Work
- Medical Fee Dispute Resolution
- Workplace Safety

Operations and External Relations

Deputy Commissioner, Kimberly Donovan

- DWC Communications
- Research and Evaluation Group
- External and Media Relations

Business Process

Deputy Commissioner, Tammy Campion

- Business Operations
- Information Management Services
- Enterprise Automation Services
- Business Process Services

Compliance and Investigations Update

Debra Knight, Deputy Commissioner
Compliance and Investigations

CY2022 Complaints

CY2022 - Complaints

1,839 Complaints Received

28	Attendance
579	Communications
0	Fraud
550	Indemnity Benefit Delivery
502	Medical Benefit Delivery
128	Other
52	Quality of Care

1,307 Complaints Closed

291	Confirmed
431	DWC Education Complaint
585	Not Confirmed

Based on complaint data as of 11/14/2022

CY2022 – Complaints By Respondent Type

Type of complaint	Injured employee	Insurance carrier	Health care provider	Employer	Attorney	Other
Attendance	7	12	5	0	4	0
Communications	3	327	128	68	53	0
Indemnity Benefits	3	528	14	2	3	0
Medical Benefits	0	413	86	0	0	3
Quality of Care	N/A	N/A	51	N/A	N/A	1
Other	2	60	10	51	3	2

Based on complaint data as of 11/14/2022

FY 2023 Compliance Audits

FY2023 - Compliance Audits

Death Benefits/Lifetime Income Benefits

- 24 initiated
 - 1 completed
 - 23 in progress

Common Mistakes Document:

- <https://www.tdi.texas.gov/wc/ci/ai.html>
- <https://www.tdi.texas.gov/wc/carrier/index.html>

Initial Payment of TIBs

- 20 planned

Medical Bill Processing

- 20 planned

Based on audit data as of 11/14/2022

Insurance Carrier Performance Based Oversight (PBO)

2022 Insurance Carrier PBO Results

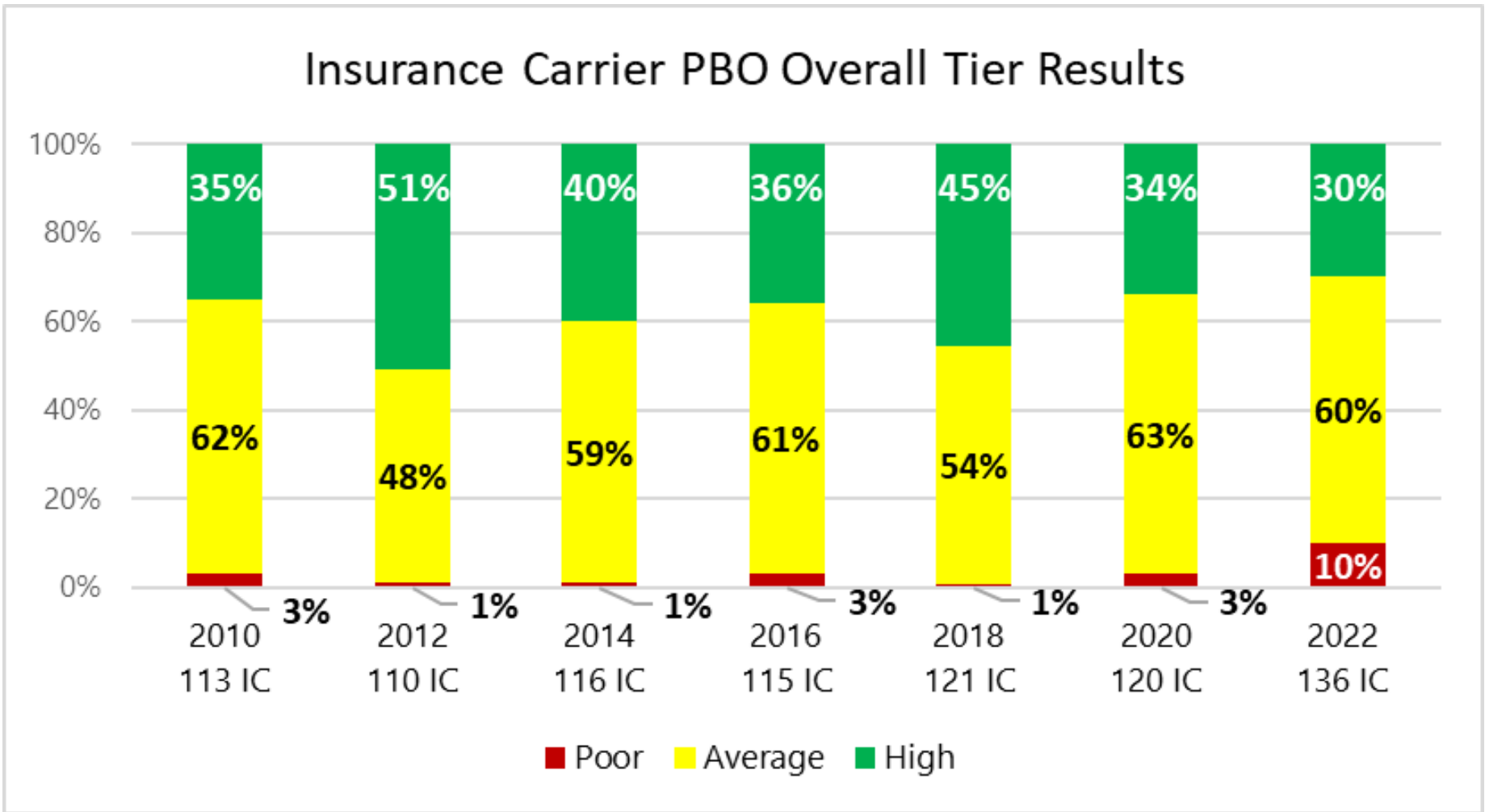
136 insurance carriers assessed

41 High tier

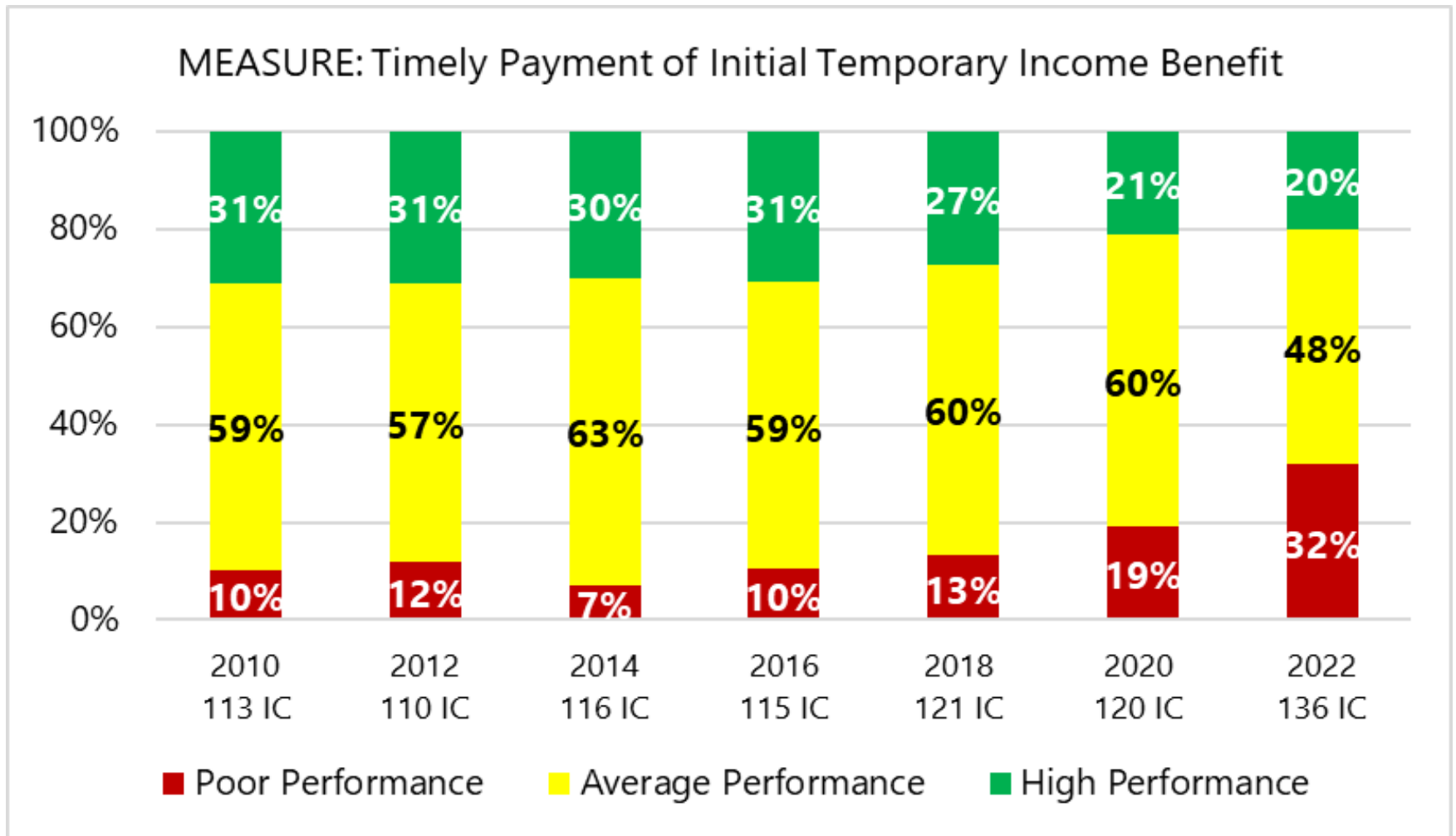
82 Average tier

13 Poor tier

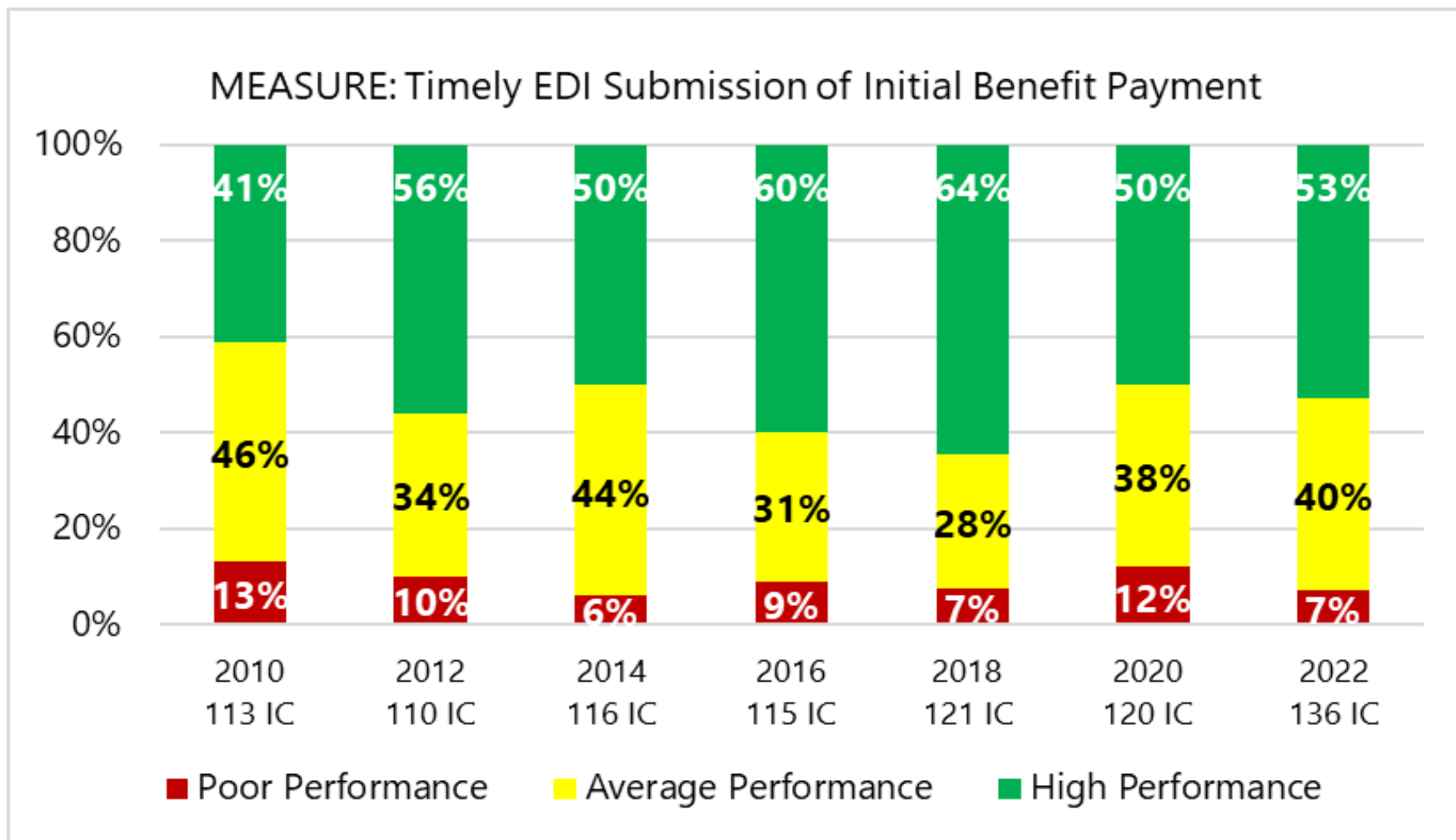
Insurance Carrier PBO Assessments



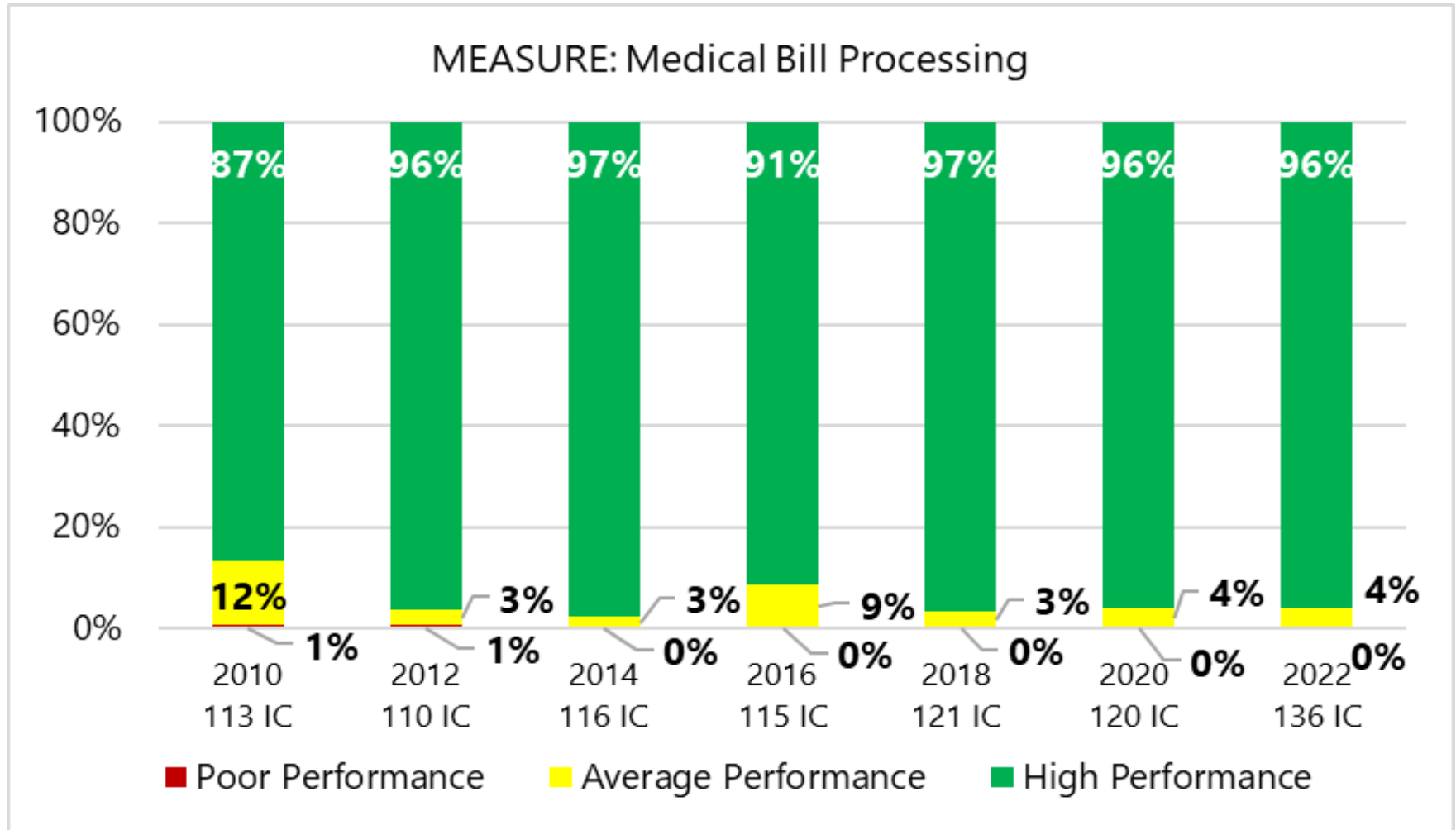
Initial TIBs Payment Measure



Reporting of Initial Payment Measure

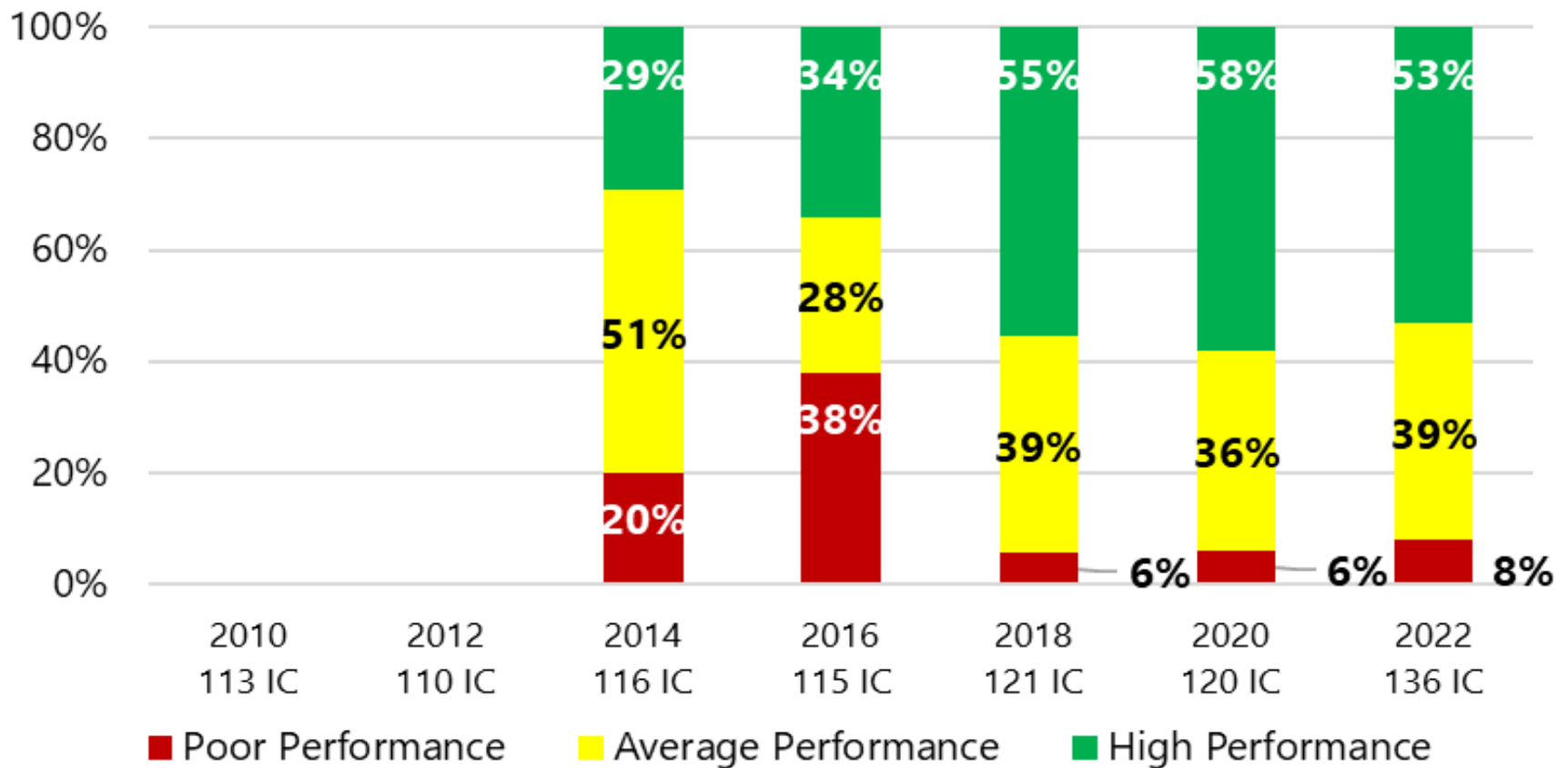


Medical Bill Processing Measure

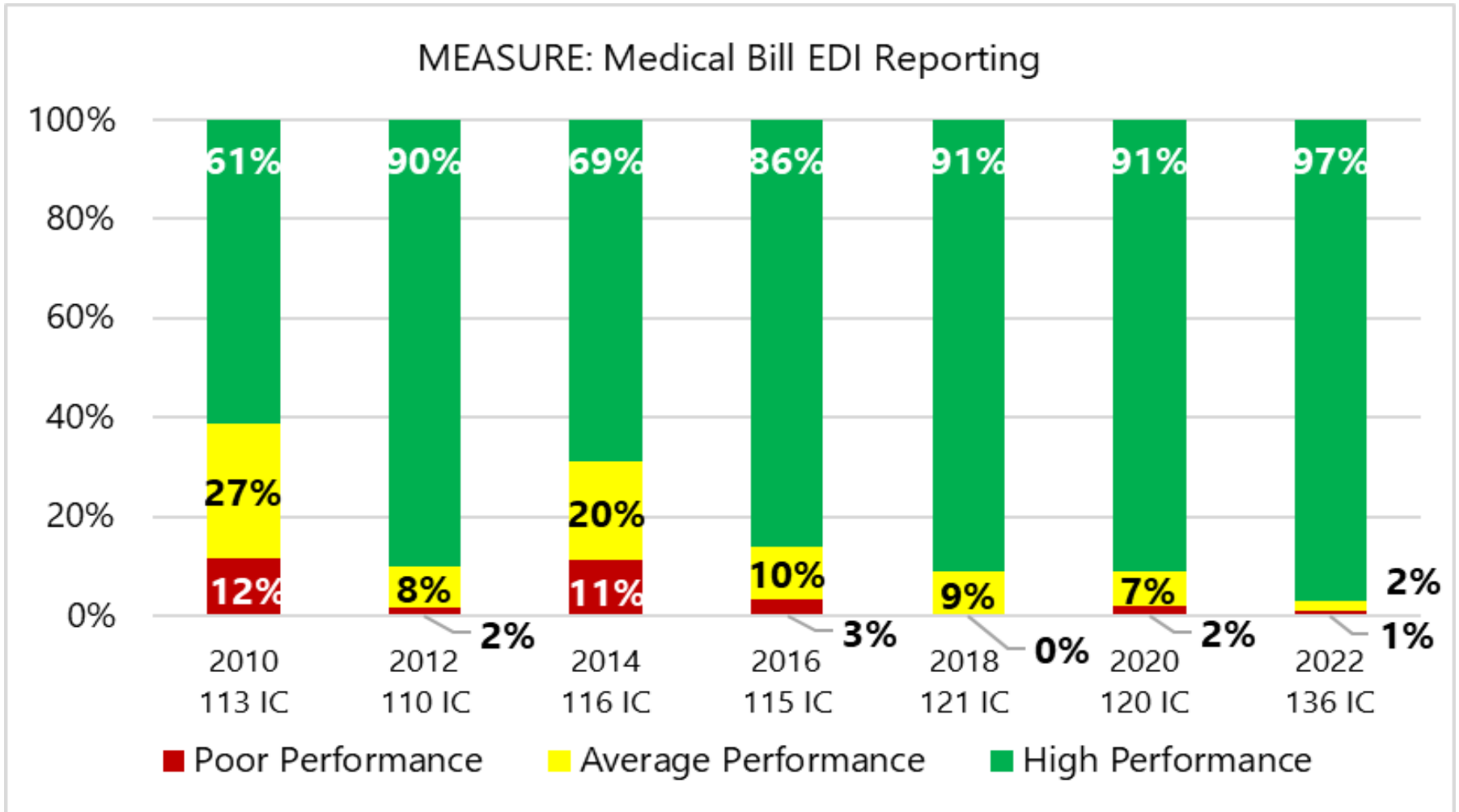


Reconsideration Measure

MEASURE: Reconsideration Medical Bill Processing



Reporting of Medical Bill Measure



Performance Based Oversight

Coming up next:

- 2024/2025 PBO biennial planning begins in 2023
 - If you have any recommendations related to 2024 insurance carrier or 2025 health care provider assessments, please send to PBO@tdi.texas.gov.

Email PBO@tdi.texas.gov if you have questions.

DWC Fraud & Prosecution

FY23 – DWC Fraud Unit

358 fraud referrals received

55 fraud cases open*

13 fraud cases closed

2 fraud referrals for prosecution

**Based on data received as of 11/10/2022*

FY23 – DWC Fraud & Prosecution Units

3 Convictions

1 health care provider

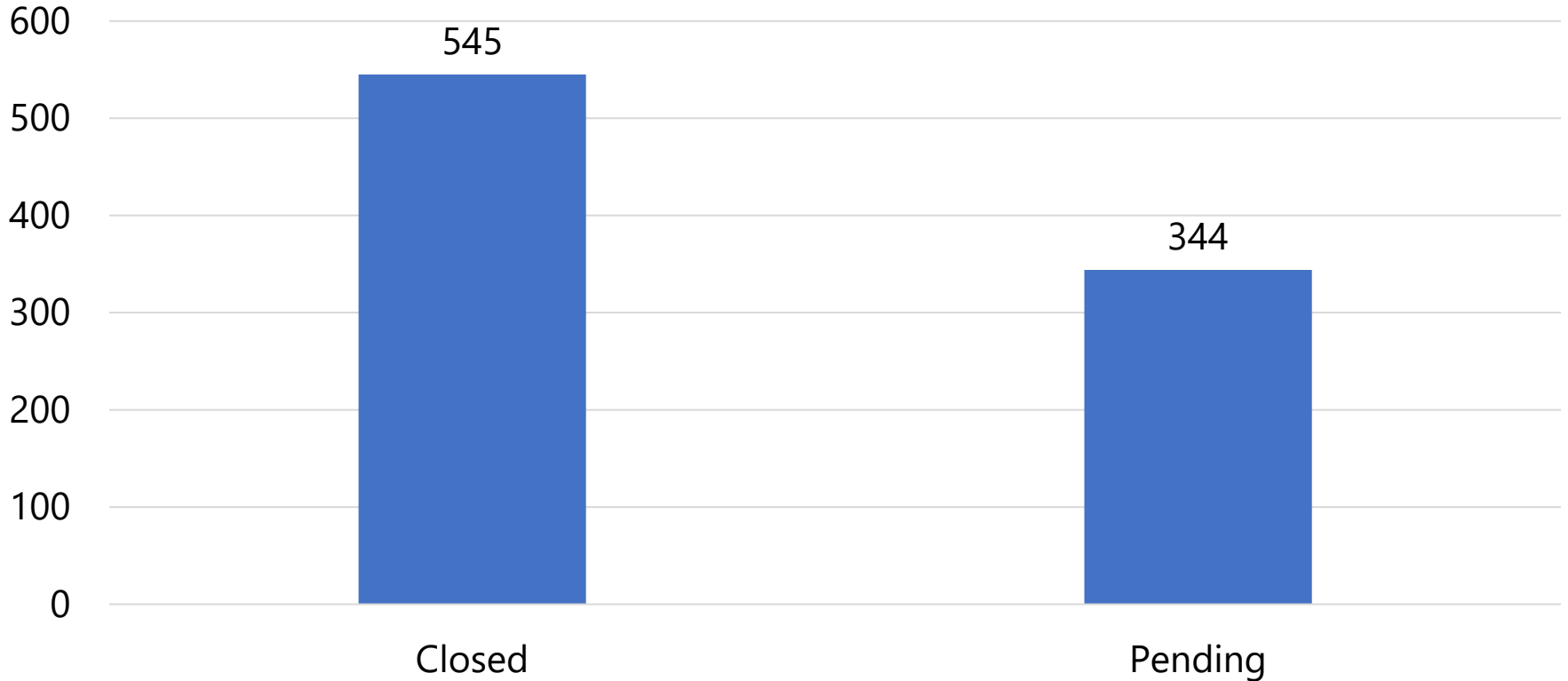
1 injured employee

1 employer

Enforcement Update

CY2022 Enforcement Case Status

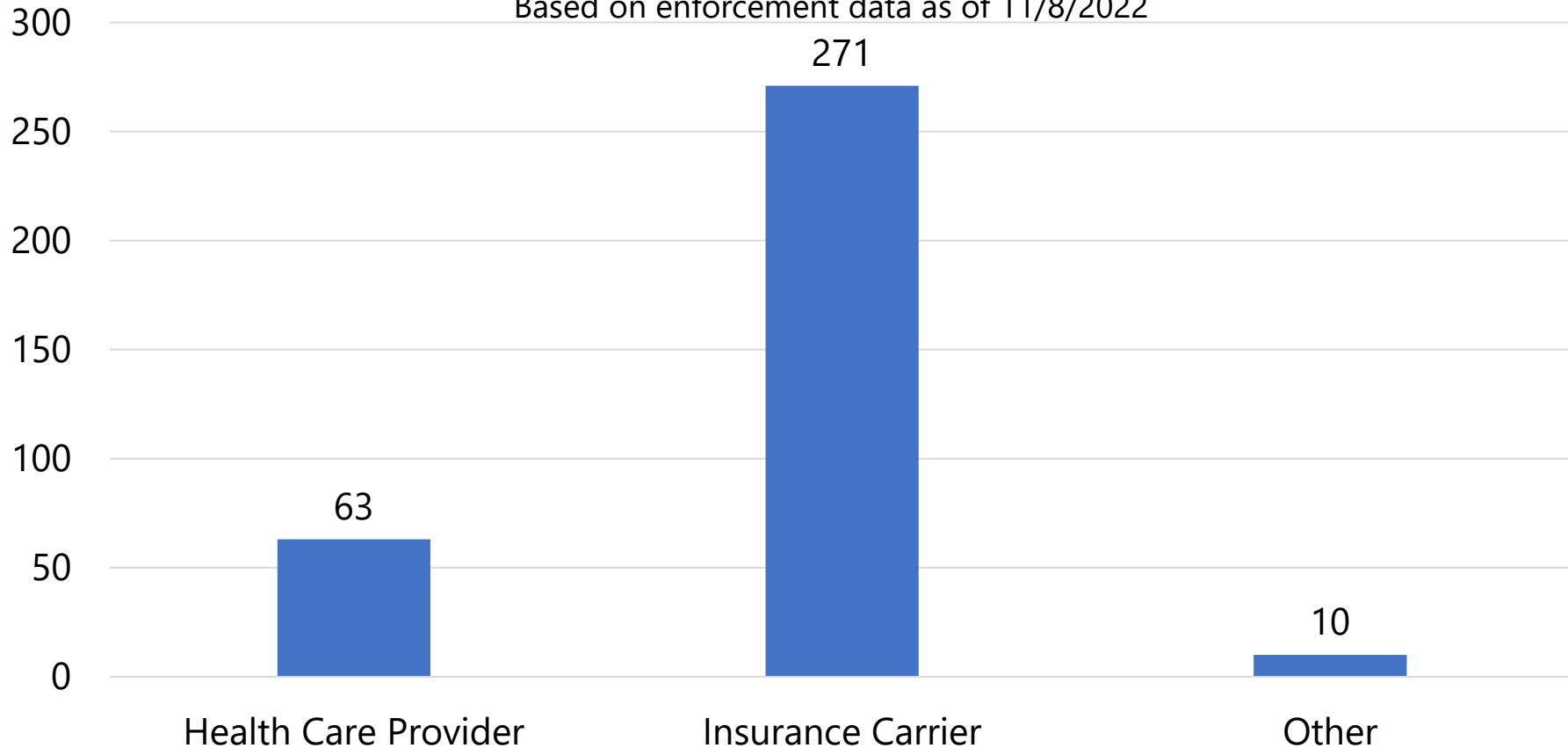
Based on enforcement data as of 11/8/2022



2022	Closed Cases	Pending Cases
Cases	545	344

CY2022 Cases Pending by Subject Type

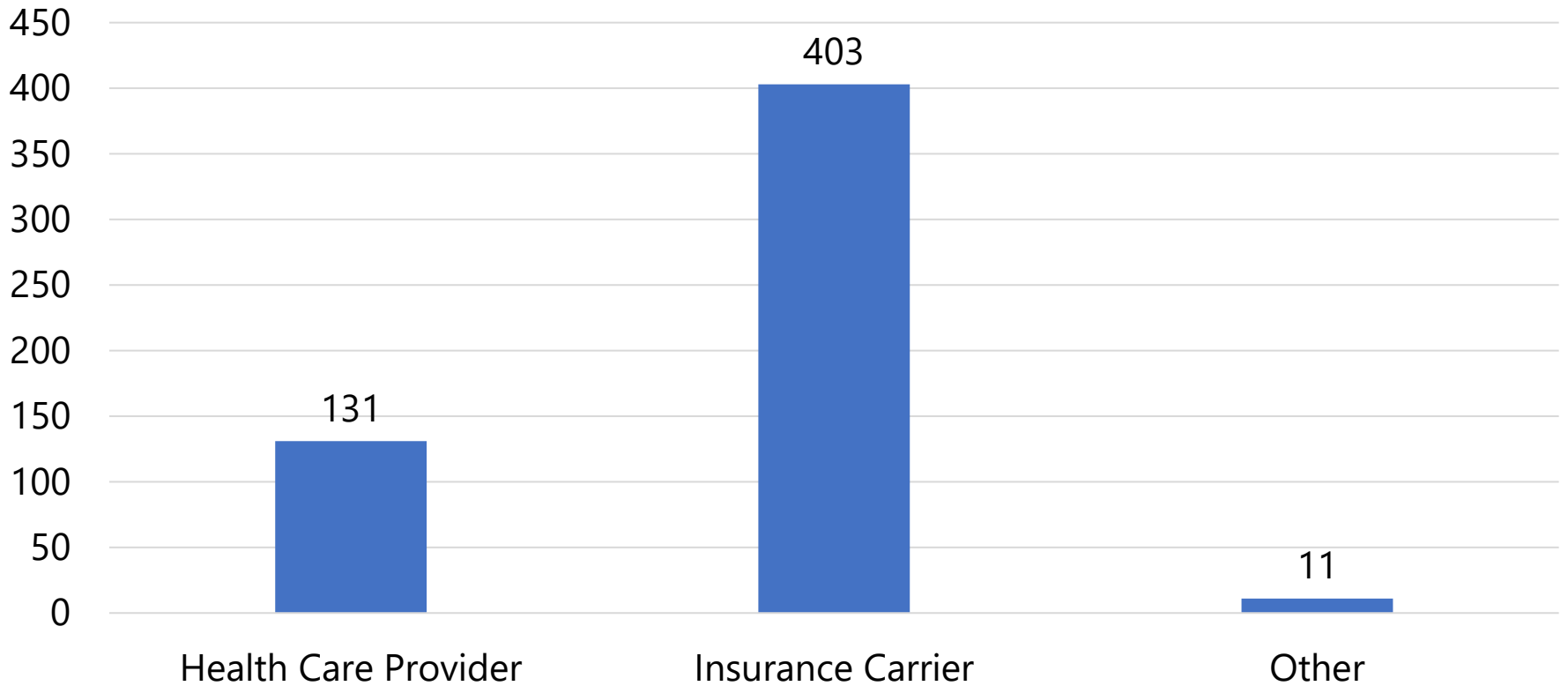
Based on enforcement data as of 11/8/2022



2022	Health Care Provider	Insurance Carrier	Other
Cases	63	271	10

CY2022 Cases Closed by Subject Type

Based on enforcement data as of 11/8/2022

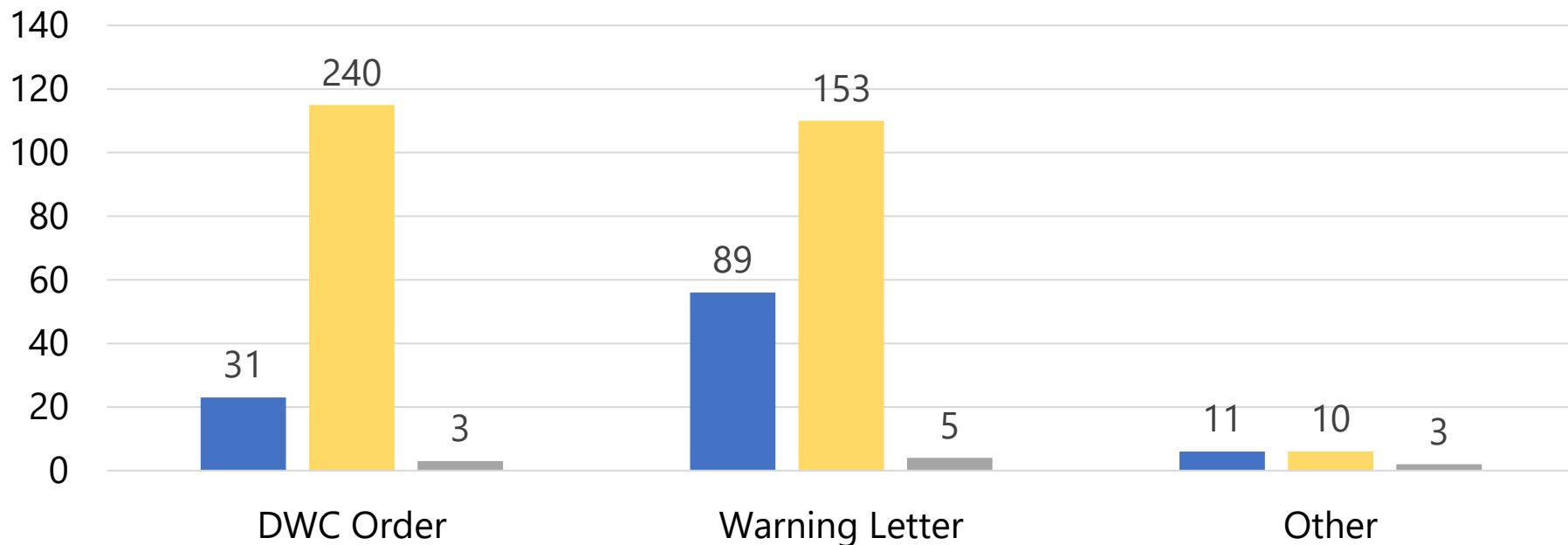


2022	Health Care Provider	Insurance Carrier	Other
Cases	131	403	11

CY2022 Cases Closed by Disposition Type

Based on enforcement data as of 11/8/2022

■ Health Care Provider ■ Insurance Carrier ■ Other



2022	Health Care Provider	Insurance Carrier	Other
DWC Order	31	240	3
Warning Letter	89	153	5
Other	11	10	3

DWC Enforcement Disciplinary Orders Link

- www.tdi.texas.gov/wc/orders/index.html

Questions?

Legislative Update

Kimberly Donovan, Deputy Commissioner
Operations and External Relations

Dates of Interest

- November 14, 2022
 - First day of bill filing
- January 10, 2023
 - First day of 88th Legislative Session
- March 10, 2023
 - 60-day deadline for bill filing
- May 29, 2023
 - Sine die – end of regular session.

DWC Biennial Report

- Due December 1, 2022
- Two legislative recommendations

Amend Texas Tax Code Section 151.0039(b)

- Exempt any medical examination or service performed to determine the appropriate level of benefits under the Texas Workers' Compensation Act from sales and use tax.
- On October 20, 2022, the Texas Comptroller of Public Accounts issued Private Letter Ruling No. PLR20220516113922.
- November 10, 2022, comptroller issued memo delaying implementation of the ruling after legislative session.

Amend Texas Labor Code Chapter 410

- Add limited public information exception for working papers and electronic communications for ALJs and Appeals Panel judges.
- Government Code §552.144 provides this protection to SOAH ALJs but no other agency ALJs.

Topics to Watch

- First responders – expanding eligibility of certain benefits, expanding presumption laws, or broadening the definition of a first responder.
- Extending COVID-19 presumption past expiration date of September 1, 2023.
- Studies or changes to medical treatment guidelines.
- 24-hour coverage policies for work and non-work-related injuries.
- State work comp benefits to active duty National Guard serving on the border.

Questions?

Designated Doctor Rules

Joseph McElrath, Deputy Commissioner
Business Process

Questions?

Hearings Update

Allen Craddock, Deputy Commissioner
Hearings

Brown Bag Series

Updates

- Field offices
 - Removal of the plexiglass in hearings
 - New Austin field office
- BRCs moving to ZoomGov – December 19
- Elimination of MCCH pre-hearing conferences
 - Average of 20 MCCH pre-hearings each year (12 in FY2022)
 - Past practices
 - New procedures

Attendance Requirements

- Who must attend hearings?
 - Texas Labor Code §410.156(a) – Each party shall attend a contested case hearing
 - Who is a party?
 - Subclaimants – Yes
 - Carriers in an attorney fee dispute between a claimant and their attorney - ???
- Who may attend by telephone? (Motion required)
 - Parties who reside out-of-state
 - Witnesses
 - Non-subclaimant cases – All parties and representatives if the claimant is “not likely” to attend – *the hearing will be reset if the claimant attends*
 - Subclaimant cases – All parties if there will be no testimony and the claimant is “not likely” to attend – *the hearing will be reset if the claimant attends*

Communication

- No emails to presiding officers
 - Ex parte
 - Multiple copies of the same documents
 - Inappropriate conversations
 - Unsecured confidential information
- Channels
 - TXComp - New
 - SFTP
 - Fax
 - Special email addresses

Electronic Documents

- Procedures
 - File early
 - File exhibits 3 days prior to the hearing
- Preparation
 - Document name
 - Bookmarks
 - OCR
 - Lower right – Exhibit ID
 - Lower left – Sequential numbering

Practices & Procedures

- Clerical errors
 - Parties can request at anytime
 - DWC will make corrections on its own
 - If the error is in a FOF, COL, or the Order, and the error changes outcome
 - If there is an error in the registered agent's information
 - If there is information about another claim found in the decision
- Exhibit errors
 - Parties stipulate to the number of pages in the document
 - Blank or unreadable pages are the party's responsibility

New Designated Doctor Rules

- New process – BRO-I
 - Identify EOI/MMI/IR cases when disputes are filed
 - Work with the parties to identify EOI issues – claimed, accepted, & disputed
 - Create and issue a POD for multiple certifications
 - Work with the parties and the designated doctor's office to expedite certifications
- Create additional efficiencies
 - Promote consistent & even docketing
 - Evaluate if 2nd BRCs are needed in EOI/MMI/IR disputes
 - Grant continuances on a case-by-case basis
 - Open Friday dockets
 - Create "Rocket Docket"

Questions?

EDI and Carrier Forms Updates

Martha Luévano, Director
Enterprise Automation Services (EAS)

Claims EDI R3.1

- Met with EDI Technical Group November 10th
 - Testing Begins January 12th
 - Video posted at txdwcedi.info/
- Trading Partner registrations must be complete before testing
- Claim EDI R3.1 Orientation
 - Available EDI staff conduct the orientation
 - General information about the new standard and online resources
 - Customized to the attendees' needs
 - Email martha.luevano@tdi.texas.gov to request

Carrier Forms Update

- Claim Administrative Contact Information DWC Form-121
 - Thank you for your cooperation.
 - Please report changes promptly.
- EDI 03 Claim EDI Compliance Coordinator
 - Due now, staff will contact carriers.
 - Must be an employee of the carrier, cannot be a TPA or vendor.
 - Need information before testing begins on January 12th

Questions?

Martha Luévano
Director for Enterprise Automation
Services (EAS)
WC coverage | Open Records | eBill | EDI
Reporting | Informal Networks
martha.luevano@tdi.texas.gov
512-804-4858

Closing

Jeff Nelson, Commissioner
Division of Workers' Compensation