

Texas Department of Insurance, Division of Workers' Compensation Health Care Provider Performance Based Oversight 2023 Assessment

Texas Labor Code Section 402.075 requires the Texas Department of Insurance, Division of Workers' Compensation (DWC) to assess system participants' performance in meeting the key regulatory goals established by the commissioner of workers' compensation.

DWC monitors workers' compensation system participants' compliance with the Texas Labor Code and DWC rules. DWC achieves its compliance objectives through data monitoring, complaint handling, audits, enforcement actions, and the performance based oversight (PBO) assessment.

As part of the PBO assessment, DWC places health care providers into regulatory tiers: poor, average, and high performers. DWC focuses its regulatory oversight on the poor performers. The Texas Labor Code also provides incentives for system participants:

- Limited audit exemption: Health care providers who are high and average performers may benefit from limited audits. DWC focuses its annual audit plan on poor performers. If we identify a compliance problem, such as an increase in complaints, we may also audit average and high performers.
- Modified penalties: DWC considers high-performer designation as a factor when determining appropriate enforcement action for compliance issues outside of the PBO process. We may assess lower penalties for high performers.
- Public recognition of high performers: We publish PBO results on our website.
- High performer logo: High performing health care providers may use a highperformer logo as a marketing tool.
- Reduced penalties: DWC may assess reduced penalties for self-disclosure of noncompliance.

No administrative penalties will result directly from negative findings in the PBO assessment.

The 2023 PBO assessment will evaluate health care providers on these categories:

- DWC Form-073, *Work Status Report* (DWC Form-073); and
- DWC Form-069, *Report of Medical Evaluation* (DWC Form-069).

2023 Measures, Data Sources, Time Frames, and Health Care Provider Selection Criteria

DWC will assess health care providers for the DWC Form-073 category on the following measures:¹

Measures	DWC will evaluate health care practitioners on two measures: <ul style="list-style-type: none"> • Documentation of off-work status—70% weight: documentation supporting how the injured employee’s medical condition prevents them from returning to any work as reported on the DWC Form-073. • Completeness—30% weight.
Data sources and time frames	DWC will identify work status report services through medical bill and payment data that insurance carriers submit between: <ul style="list-style-type: none"> • June 1, 2022, and February 28, 2023, with a date of service of 30 or more days after the date of injury; and • for dates of injury on or after June 1, 2022, where the injured employee’s initiation of temporary income benefits occurred between June 1, 2022, and September 30, 2022.
Selection criteria	DWC will determine the minimum volume of forms based on the overall volume of the assessment data and DWC resources, but the volume will not be less than 20 forms per health care practitioner.
Data call submission	DWC will ask the health care practitioner to provide copies of the requested DWC Form-073s. If the work status report indicates the injured employee was taken off work, the health care practitioner must include supporting medical documentation.

DWC will assess designated doctors for the DWC Form-069 category on the following measure:¹

Measure	DWC will evaluate designated doctors’ DWC Form-069s for timeliness of filing the form and narrative report with DWC—100% weight.
Data sources and time frames	DWC will identify DWC Form-069s from designated doctors that DWC receives on or before May 31, 2023, for examinations conducted between January 1, 2023, and April 30, 2023.
Selection criteria	DWC will determine the minimum volume of forms based on the overall volume of the assessment data and DWC resources, but the volume will not be less than 20 forms per designated doctor.

¹ See Attachments A-C for how DWC will assess each measure.

Tier Structure and Placement

Regulatory tiers are used to make a distinction between poor, average, and high performers in the workers' compensation system. The overall performance standard is defined below.

- High Tier:** 95.00 or greater
- Average Tier:** 80.00 through 94.99
- Poor Tier:** 79.99 or less

To calculate each health care provider's overall score for regulatory tier placement, DWC will:

- Calculate the performance percentage for each measure.
- Multiply the performance percentage by the assigned weight value rounded to the second decimal place.
- Multiply the weighted performance score by 100 to get a weighted value rounded to the second decimal place.
 - For measures with a weight of 100%, the weighted value is the overall score for the measure.
 - For multiple measures, the weighted score values of each measure are added to calculate the overall score. No rounding is used in this calculation.

The overall score identifies the regulatory tier for the health care provider.

Example of Scoring and Tier Placement

Health Care Provider XYZ	Step 1 Calculate measure performance	Step 2 Weight of individual measure	Step 3 Multiply performance by 100 to get the weighted score	Step 4 Overall score	Step 5 Overall tier placement
Measure 1. Documentation supporting how the injured employee's medical condition prevents them from returning to any work	95.00%	70.00%	66.50		
Measure 2. Completeness of the DWC Form-073	81.40%	30.00%	24.42		
				90.92	Average

Assessment Process and Anticipated Timeline of Events

DWC will provide health care providers that are selected for the DWC Form-073 assessment a list of forms in April 2023. Health care providers must submit an electronic copy of the original DWC Form-073 for DWC staff to review. Designated doctors who are selected for DWC Form-069 assessment will not be asked to submit electronic images of forms since DWC already maintains those records.

DWC will distribute preliminary assessment findings to health care providers during the summer of 2023. Health care providers will have an opportunity to review the preliminary assessment findings and submit a response and documentation to support their objections to negative findings. DWC will review the responses to the preliminary assessment findings, inform the health care providers if their responses changed the initial findings, and explain why.

DWC will publish the final results of the 2023 PBO health care provider assessment on its website after sharing individual results with each health care provider. We anticipate publishing the final results in December 2023.

Attachment A

DWC Form-073, Work Status Report

Measure 1. Documentation supporting how the injured employee's medical condition prevents them from returning to any work as reported on the DWC Form-073

To assess this measure, DWC reviews all DWC Form-073s received through the health care provider's data call submission. If the DWC Form-073 indicates that the injured employee has an off-work status, a Medical Quality Review Panel (MQRP) doctor will review the form to determine if the medical rationale for an off-work status is acceptable.

MQRP Review

DWC assigns an MQRP doctor to review whether the off-work status is supported by the disability duration tables in the MDGuidelines, which is DWC's adopted return-to-work guideline. The MQRP doctor may also review:

- DWC Form-074, *Description of Injured Employee's Employment*;
- medical records indicating the injured employee's job classification; and
- medical records indicating the MDGuidelines calculation.

If the medical documentation does not have an assessment of the injured employee's off-work status using the disability duration tables, the MQRP doctor will evaluate the rationale based on other evidence-based medical literature, such as American College of Occupational and Environmental Medicine or other sources. The MQRP doctor may consider in their determination of an off-work status:

- a restriction based on personal protective measures required to prevent recurrence, additional injury, or foster recovery;
- required attendance at a place of care, such as a hospital, physician's office, or physical therapy; or
- recovery or quarantine that requires confinement to the bed or home.

The following is a list of some examples that, without a written explanation or documentation in the medical records, DWC will **not** accept as a reason for preventing an injured employee from returning to work:

- Work (restricted or not) was not available by the employer.
- Pending further tests, rehabilitation, physical therapy, surgery, etc.
- Pain.
- Rest, no mobility, no activity, immobility.
- Injuries—severe, multiple.
- Per another or different physician's assessment or recommendation.

If the DWC Form-073 does not take the injured employee off work, DWC considers the finding acceptable. If the DWC Form-073 takes the injured employee off work, the MQRP doctor will determine whether the medical rationale for an off-work status finding is acceptable.

To calculate the performance of this measure, DWC:

1. Uses the total number of DWC Form-073s identified for the health care provider as the denominator.
2. Counts the number of forms where the health care provider selected box "c" from Part Two of the DWC Form-073s and subtracts this number from the total number of DWC Form-073s from each health care provider. This number is the numerator.
3. Adds to the numerator the number of DWC Form-073s where the MQRP doctor accepted the health care provider's medical rationale for an off-work status.
4. Divides the numerator by the denominator, and rounds to the second decimal place for a percentage score.

Example of Calculation

Item	Description	Example	Steps
A.	Total number of DWC Form-073s from the health care provider (denominator)	47	1. Number used as the denominator
B.	Number of forms where the health care provider selected box "c" from Part Two (numerator)	41	2. Difference from the denominator added to the numerator
C.	MQRP doctor accepts box "c" justification	38	3. Number added to the difference between the denominator and the numerator

Sample Calculation:

$$47 - 41 = 6 \qquad 6 + 38 = 42 \qquad \frac{42}{47} = 89\%$$

Attachment B

DWC Form-073, Work Status Report

Measure 2. Completeness of the DWC Form-073

To assess this measure, DWC:

1. Reviews all DWC Form-073s received through the data call for completeness, including:
 - injured employee's work status;
 - effective dates and estimated expiration dates of current work status, if applicable;
 - identification of any activity restrictions, if applicable;
 - an explanation of how the injured employee's workers' compensation injury prevents the injured employee from returning to work, if applicable; and
 - the health care practitioner's signature.

2. Considers the form complete if the fields described in Step 1 are populated on the form. If all the fields are not populated, the form is incomplete.

Although the PBO assessment for this measure reviews only certain fields of information for completeness, health care providers must complete the DWC Form-073 in compliance with the requirements in [28 Texas Administrative Code \(TAC\) Section 129.5](#).

To calculate the performance of this measure, DWC:

1. uses the total number of DWC Form-073s identified for the health care provider as the denominator;

2. counts the number of DWC Form-073s that are considered complete as the numerator; and

3. divides the numerator by the denominator, and rounds to the second decimal place for a percentage score.

Attachment C
DWC Form-069, Report of Medical Evaluation

Measure 1. Timeliness of filing the DWC Form-069 and Narrative Report

To assess this measure, DWC:

1. Reviews copies of DWC Form-069s in our system for timely receipt. Designated doctors complete these forms. Timely receipt means DWC received the form and narrative report no later than the seventh working day after the later of the date of the certifying examination or the receipt of all required medical information. [28 TAC Section 130.1](#). When determining whether DWC received the form and narrative report timely, we will also consider the time required for any additional testing or referral examination necessary to complete the designated doctor's report, and any approval from DWC for additional time to complete the report. [28 TAC Section 127.10\(c\)](#).²
2. Considers the form timely if DWC received the form according to the requirements of DWC rules. If the form does not meet the timeliness requirement, the form is late.

To calculate the performance of this measure, DWC:

1. uses the total number of DWC Form-069s identified for the health care provider as the denominator;
2. counts the number of DWC Form-069s that are considered timely as the numerator; and
3. divides the numerator by the denominator, and rounds to the second decimal place for a percentage score.

² See [28 TAC Section 102.3](#) for whether business days, calendar days, or holidays apply to a specific deadline.