

**CHAPTER 102. PRACTICES AND PROCEDURES--GENERAL PROVISIONS**  
**28 TAC §102.11(b)**

**INTRODUCTION.** The Texas Department of Insurance, Division of Workers' Compensation (DWC) adopts amendments to 28 TAC §102.11, concerning Electronic Formats for Electronic Claim Data Request and Report. DWC adopts §102.11 without changes to the proposed text published in the September 23, 2022, issue of the *Texas Register* (47 TexReg 6156). The rule will not be republished.

**REASONED JUSTIFICATION.** The amendments correct a reference and make updates for plain language and agency style. Amending §102.11 is necessary to ensure that the rule provides DWC's current website address.

Section 102.11 implements a process for electronic exchange of data between DWC and insurance carriers as defined in Labor Code §402.084 for the purpose of determining if workers' compensation claims exist for individuals listed in a request for claim data. The rule sets requirements for requests and reports, confidentiality requirements, workers' compensation claim match criteria, and the process to request claim information. The adopted amendments update the website address to DWC's current website, [www.tdi.texas.gov/wc](http://www.tdi.texas.gov/wc), to find the specific data requirements, data set transactions, data mapping, data edits, and fees per record.

**SUMMARY OF COMMENTS AND AGENCY RESPONSE.**

**Commenters:** DWC received one written comment, and zero oral comments. The Office of Injured Employee Counsel (OIEC) commented in support of the proposal.

**Comment on §102.11(b):** OIEC supports DWC's amendments to clarify, modernize, update, and correct rule language throughout the Texas Administrative Code.

**Agency Response to Comment on §102.11(b):** DWC thanks OIEC for its comment.

## **CHAPTER 102. PRACTICES AND PROCEDURES--GENERAL PROVISIONS.**

### **28 TAC §102.11(b).**

**STATUTORY AUTHORITY.** The commissioner of workers' compensation adopts the amendments to 28 TAC §102.11(b) under Labor Code §§402.084, 401.024, 402.00111, 402.00116, and 402.061.

Labor Code 402.084 allows the commissioner to set rules establishing a reasonable fee for information requested in an electronic data form by subclaimants or their representatives to control insurance fraud. The section also requires DWC to release to an insurance carrier certain data that will allow the carrier to identify potential subclaims and pursue recovery allowed under Labor Code §409.009. Section 409.009 provides requirements for filing a written claim with DWC as a subclaimant.

Labor Code §401.024 allows the commissioner to prescribe the form, manner, and procedure for transmitting any authorized or required electronic transmission, including requirements related to security, confidentiality, accuracy, and accountability.

Labor Code §402.00111 provides that the commissioner of workers' compensation shall exercise all executive authority, including rulemaking authority, under Title 5 of the Labor Code.

Labor Code §402.00116 provides that the commissioner of workers' compensation shall administer and enforce this title, other workers' compensation laws of this state, and other laws granting jurisdiction to or applicable to DWC or the commissioner.

Labor Code §402.061 provides that the commissioner of workers' compensation shall adopt rules as necessary to implement and enforce the Texas Workers' Compensation Act.

**TEXT.**

**§102.11. Electronic Formats for Electronic Claim Data Request and Report.**

(a) The Division prescribes standard electronic formats by utilizing implementation guides for data requests and data reports for the purpose of exchanging data between the Division and insurance carriers, as defined in Labor Code §402.084.

(b) In this section, the following definitions apply:

(1) Claim Data Request and Report Implementation Guide (Guide)--The division specification document for the Claim Data Request and the Claim Data Report that defines specific data requirements, data set transactions, data mapping, data edits, and fees per record available at [www.tdi.texas.gov/wc](http://www.tdi.texas.gov/wc).

(2) Claim Data Report--The electronic report generated by the Division in the format specified by the Guide. The report contains data for claims meeting confidence match criteria defined in the Guide.

(3) Claim Data Request--The electronic request submitted by a requester in the format specified by the Division in the Guide.

(4) Record--An electronic representation of one insured person containing a set of unique identifiers including the full name, date of birth, gender, and social security number, if available. Each set of individual identifiers included in a Claim Data Request represents a separate record.

(5) Requester--An insurance carrier that has adopted an antifraud plan under Labor Code §402.084(b)(8) and qualifies as an insurance carrier under Labor Code §402.084(c-1) or its authorized representative.

(c) A Claim Data Request must contain the following elements:

(1) all fields required in the applicable Guide as defined in subsection (b) of this section;

(2) complete, current and correct values as described in the applicable Guide; and

(3) records of persons who are or were valid members of the requesters' benefit programs and whose claims may be related to a workers' compensation claim.

(d) A Claim Data Report must contain:

(1) all fields required in the applicable Guide; and

(2) complete, current and correct values as described in the applicable Guide.

(e) A Claim Data Request may be submitted by a requester.

(f) The Division will match the records submitted by a requester against the Division's claim data using a matching methodology published in the Guide. The search will include all claims on record with the Division relating to injuries sustained on or after September 1, 2002. For each record submitted, the Division will report:

(1) the existence of a positive match with one or more workers' compensation claims; or

(2) the failure to match the record to any recorded workers' compensation claim.

(g) File transfers between requesters and the Division shall be sent using secured file transfer protocol (SFTP) with access controlled by a unique username and password.

(h) The data shall not be shared or disclosed to any other person or entity, except as necessary to document and pursue reimbursement with the appropriate workers' compensation carrier or claims administrator or through Division dispute resolution procedures. Requesters shall destroy all electronic or paper records related to Claim Data Requests that are not needed to pursue subclaimant status or recovery of reimbursement by an insurance carrier as defined by Labor Code §402.084(c-1).

(i) A requester may submit a Claim Data Request once every 30 days for each covered individual.

(j) Unless waived by the Division, the requester shall pay to the Division a fee for each record included in a request. The fee will be established in the Guide, but shall be no more than \$.05 for each record included in the Claim Data Request. Claim Data Requests that include previously submitted requests for records would also be charged a fee of up to \$.05 for each record.

(k) Prior to submitting a Claim Data Request, the requester shall execute a trading partner agreement with the Division in the form and manner prescribed by the Division. The trading partner agreement shall contain:

(1) a statement that the requester agrees to abide by all applicable federal and state laws and regulations;

(2) an agreement to submit only names and identifying information related to bona fide beneficiaries of the requester's benefit plans;

(3) an agreement to comply with Division standards for secure transfer and storage of workers' compensation claim information;

(4) an agreement to comply with Division standards regarding the confidentiality of workers' compensation claim information and the approved uses of that information; and

(5) an agreement to pay applicable fees.

(l) After a match of a record has been determined, the information may be used by the requester as the basis for identification and filing of a subclaim under Labor Code §409.009. When a match has been determined and a subclaim filed, the requester shall contact the injured employee who received the health care and is the subject of the subclaim. The requester shall provide the injured employee written notice, which includes the following:

(1) the name of the subclaimant;

(2) the dates of service;

(3) the name of the injured employee;

(4) a statement declaring, "As the injured employee in this matter, you will receive notice of all proceedings related to this matter and may participate in those proceedings. To determine whether to take any action in this matter, you may wish to consult with an attorney. You can also contact the Office of Injured Employee Counsel (OIEC) for ombudsman assistance."; and

(5) the phone number and website address of OIEC.

**CERTIFICATION.** This agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

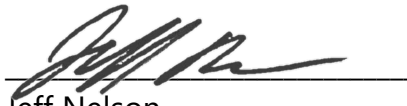
Issued at Austin, Texas, on February 22, 2023.



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Kara Mace  
Deputy Commissioner for Legal Services  
TDI, Division of Workers' Compensation

The commissioner adopts amendments to 28 TAC §102.11.



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Jeff Nelson  
Commissioner  
TDI, Division of Workers' Compensation

Commissioner's Order No. 2023-7816