CHAPTER 124. CARRIERS: REQUIRED NOTICES AND MODE OF PAYMENT
SUBCHAPTER A. INSURANCE CARRIERS: REQUIRED NOTICES AND MODES OF PAYMENT
28 TAC §124.2

SUBCHAPTER B. INSURANCE CARRIER CLAIM ELECTRONIC DATA INTERCHANGE REPORTING TO THE DIVISION
28 TAC §§124.100-124.108

INTRODUCTION. The Texas Department of Insurance, Division of Workers' Compensation (DWC) adopts amendments to 28 TAC §124.2, concerning insurance carrier reporting and notification requirements, and new Subchapter B in 28 TAC §§124.100-124.108, concerning insurance carrier claim electronic data interchange (EDI) reporting to DWC. The amendments and new sections are adopted without changes to the proposed text published in the December 24, 2021, issue of the *Texas Register* (46 TexReg 8967). DWC made nonsubstantive clarifying changes to the Event Table and Edit Matrix incorporated by reference in §124.103(b)(2) and (3) in response to public comments. The purpose of the adoption is to update the outdated workers' compensation claim EDI reporting standard from the currently required International Association of Industrial Accident Boards and Commissions (IAIABC) Release 1.0 to IAIABC Release 3.1.4.

The adoption also creates new Subchapter A, concerning Insurance Carriers: Required Notices and Modes of Payment for 28 TAC §§124.1-124.7. The claim EDI reporting standard is proposed in Chapter 124, new Subchapter B, concerning Insurance Carrier Claim EDI Reporting to the Division. The amendments also update the name of the chapter to conform with the agency's current style. The rule does not make any changes that affect when notices, such as plain language notices, are due to the injured employee or DWC in §124.2.

REASONED JUSTIFICATION. Amending §124.2 is necessary to relocate and update current claim EDI reporting requirements to Chapter 124, new Subchapter B, concerning Insurance Carrier Claim EDI Reporting to the Division, and to implement the new claim EDI IAIABC Release 3.1.4 reporting standard. The amendments are also necessary to clarify and update existing reporting and notification requirements. The amendments also correct typographical, grammar, and punctuation errors in the current rule text and update rule language to conform the sections to the agency's current style. Some examples of these amendments include changing "shall" to "must" and "facsimile" to "fax," adding "insurance" before "carrier," and updating "Commission" to "division."

New §§124.100-124.108 are necessary to update current claim EDI reporting requirements to the claim EDI IAIABC Release 3.1.4 reporting standard. The amendments also clarify and update existing reporting and notification requirements. In 1995, the 74th Texas Legislature amended the Texas Workers' Compensation Act requiring insurance carriers to submit employers' first reports of injury (FROI) electronically to the Texas Workers' Compensation Commission (TWCC). TWCC adopted rules for EDI processing later that year. TWCC adopted the IAIABC national standards for claim EDI Release 1.0 for claim EDI data. TWCC made changes to claim EDI reporting in 2004 to enable the data to pass to TXCOMP, DWC's web-based claims system. DWC has not made changes to the claim EDI reporting standard since then. Using the updated national data reporting standard for claim EDI will improve the quality of data reported, allowing DWC to better perform its administrative and regulatory duties. Insurance carriers that operate in other states that already report claim EDI data using the IAIABC Release 3.1.4 reporting standard will also benefit by not having to maintain an outdated reporting standard for Texas claims.

The adopted amendments revise the title of Chapter 124, Carriers: Required Notices and Mode of Payment to Insurance Carriers: Notices, Payments, and Reporting.

This more accurately describes the content of the chapter, since §§124.1-124.7 are grouped under a new subchapter titled Subchapter A. Insurance Carriers: Required Notices and Modes of Payment. Chapter 124, new Subchapter B titled Subchapter B. Insurance Carrier Claim EDI Reporting to the Division contains claim reporting requirements moved from Subchapter A §124.2. The amendment to the title of Chapter 124 also updates the rule language to conform the sections to the agency's current style by adding "insurance" before "carrier."

Subchapter A, Section 124.2. Section 124.2 concerns Insurance Carrier Reporting and Notification Requirements.

Adopted §124.2 removes "Reporting" from the title.

The adoption removes the text of former §124.2(b) because requirements related to the form, format, and matter of claim EDI transmissions are included in Chapter 124, new Subchapter B.

The adoption relabels the subsections, and adopted §124.2(b) adds a reference to Chapter 124, new Subchapter B and instructs insurance carriers to report according to the requirements of new Subchapter B.

Adopted §124.2(b)(1)(A) clarifies that insurance carriers must file electronically with DWC information about a fatality as described in §124.2(b)(1).

New §124.2(b)(2) requires insurance carriers to report information about an acquired claim electronically to DWC no later than the 37th day after the acquiring claim administrator has knowledge of claim-specific information from the previous claim administrator. This timeframe is designed to allow the acquiring claim administrator 30 days to get the minimal information required to report the claim electronically to DWC. The timeframe also includes an additional seven days for the insurance carrier, aligning with the filing timeframe requirement for other claims as detailed in §124.2(b)(1).

Adopted §124.2(b)(3) removes "(Correction)" from the text. The term refers to the maintenance type code description in the claim EDI reporting standard used to report corrections electronically.

Adopted §124.2(b)(4) removes "(Compensable Death No Beneficiaries/Payees)" from the text. The term refers to the maintenance type code description in the claim EDI reporting standard used to electronically report the compensable death of an injured employee without beneficiaries or payees.

Adopted §124.2(b)(5) removes "(Change)" from the text. The term refers to the maintenance type code description in the claim EDI reporting standard used to report corrections electronically.

Adopted §124.2(c) removes "(Denial)" from the text. The term refers to the maintenance type code description in the claim EDI reporting standard used to report a claim denial electronically.

Adopted §124.2(d)(1) removes "(Initial Payment)" from the text. The term refers to the maintenance type code description in the claim EDI reporting standard used to report electronically the first payment of indemnity benefits on a claim.

New §124.2(d)(2) requires insurance carriers to report the first payment of indemnity benefits on an acquired claim within 10 days of making the first payment. This timeframe aligns with the timeframe for reporting the first payment of an indemnity benefit on a claim as detailed in §124.2(d)(1). Insurance carriers must use a new plain language notice that specifically notifies an injured employee or beneficiary about the first payment of income benefits on an acquired claim.

The adoption removes the text of former §124.2(d)(3), which removes a reference to the change in the net benefit payment amount that was not caused by a change in the employee's post-injury earnings. Adopted 124.2(d)(3) now includes reporting all changes in the net benefit payment amounts, including, but not limited to, changes resulting from

subrogation, attorney fees, advances, and contribution. This change aligns rule language with the updated methodology for reporting reduced earnings in the claim EDI Release 3.1.4 standard.

Adopted §124.2(d)(3) clarifies that reporting a change in the net benefit payment amount without a change to the benefit type is the same as reporting caused by a change in the employee's post-injury earnings. This amendment aligns rule language with the updated methodology for reporting reduced earnings in the claim EDI Release 3.1.4 standard.

Adopted §124.2(d)(4)-(6) remove "(Change in Benefit Type)," "(Reinstatement of Benefits)," and "(Suspension)," from the text. The terms refer to the maintenance type code description in the claim EDI reporting standard used to report electronic changes in benefit types, reinstatement of benefits, and suspensions of indemnity benefits.

Adopted §124.2(d)(7) adds a reference to §129.1(1) that specifies the meaning of employer continuation of salary. Section 124.2(d)(7) removes "(Full Salary)" from the text. The term refers to the maintenance type code description in the claim EDI reporting standard used to report electronically when an injured employee is receiving full salary instead of indemnity benefits.

Adopted §124.2(d)(7)(A) removes "Employer's First Report of Injury or a Supplemental Report of Injury (if the report included" because an insurance carrier may receive information about salary continuation for an injured employee through sources other than a first or supplemental report of injury. Section 124.2(d)(7)(A) clarifies that salary continuation should be reported when the insurance carrier is not initiating temporary income benefits.

Adopted §124.2(d)(7)(B) changes "of full salary" to "salary" to align rule language with the updated methodology for reporting reduced earnings in the claim EDI Release 3.1.4 standard.

New §124.2(d)(7)(C) clarifies that an insurance carrier must electronically notify DWC of employer continuation of salary equal to or exceeding the employee's average weekly wage within 10 days of resuming payment of the employer's salary continuation. The addition aligns rule language with the updated methodology for reporting salary continuation in the claim EDI Release 3.1.4 standard.

New §124.2(d)(8) specifies that the insurance carrier must notify DWC and the claimant of lump sum payments of income or death benefits within 10 days of making the payment. The new claim EDI Release 3.1.4 reporting standard now allows the insurance carrier to provide DWC with information identifying the type or reason for the lump sum payment. Insurance carriers will also be required to use a new plain language notice that specifically notifies an injured employee or beneficiaries about the lump sum payment of income or death benefits.

New §124.2(d)(9) specifies that the insurance carrier must notify DWC and the claimant of the insurance carrier's refusal to pay accrued income benefits due to dispute of disability. The new claim EDI Release 3.1.4 reporting standard will require the insurance carrier to notify DWC that accrued temporary income benefits are not being paid due to a dispute of disability.

Adopted 124.2(j)(1) adds "or dispute of disability" requiring the insurance carrier to provide DWC with a written copy of the notice provided to the claimant, in addition to the electronic filing requirement, when the insurance carrier disputes disability.

Former §124.2(m) was removed because requirements related to transmission of acknowledgements and the correction of errors by the insurance carrier are included in new Subchapter B.

Former §124.2(o) and (p), concerning the ability of an insurance carrier to request a waiver of the electronic filing requirement for the employer's FROI, were removed. Insurance carriers have reported claim information electronically since 1994, and DWC will

not be waiving the claim EDI Release 3.1.4 filing requirements or accepting claim reporting in hard copy or paper format. Insurance carriers with a low annual volume of claim transactions will have access to the designated data collection agent's web portal to manually enter claim EDI reporting.

Adopted §124.2(n)(1) clarifies that §124.2(n)(1)(A)-(F) are claim service administration functions with contact information that must be reported to DWC. Adopted §124.2(n)(1)(F) adds workers' compensation health care network contact information as claims service information that must be reported to DWC. The contact information for an insurance carrier's claims service administration functions is provided to the public through DWC's Workers' Compensation Coverage Verification portal and DWC's claims system, TXCOMP. Adding workers' compensation health care network contact information allows system participants and DWC staff to more easily verify whether an injured employee receives health care through a workers' compensation certified network or whether the claim involves medical benefits provided through a political subdivision that contracts directly with a health care provider or through a health benefits pool under Labor Code §504.053.

New §124.2(p) clarifies that the section is effective July 26, 2023, to align with the effective date of the claim EDI requirements in adopted Chapter 124, Subchapter B.

Subchapter B, Section 124.100. New §124.100 concerns applicability of the insurance carrier claim EDI reporting and notification requirements. Section 124.100 clarifies that the subchapter applies to all insurance carriers as defined in Labor Code §401.011(27) and requires all insurance carriers to report information prescribed by the commissioner for each workers' compensation claim. Labor Code §401.011(27) defines the term insurance carrier, and it means insurance companies, certified self-insurers, certified self-insured groups, and governmental entities that self-insure. The new section also provides the

effective date for the new reporting requirements and requires insurance carriers to submit claim EDI records to DWC under the current IAIABC Release 1.0 before the effective date.

DWC received 15 comments on the second informal draft from insurance carriers, claim administrators, and EDI vendors about the time needed to prepare to report data in the claim EDI Release 3.1.4 format. Eleven commenters said they would need one year or less to modify their systems, three commenters said they would need one and half to two years, and one commenter said they would need more than two years. DWC considered these comments, as well as feedback from DWC's data collection agent, when determining the effective date of the reporting requirements.

Section 124.101. New §124.101 concerns the purpose of the insurance carrier claim EDI reporting and notification requirements. Section 124.101 clarifies that the purpose of the subchapter is to prescribe the reporting requirements for the information and claim EDI data to be submitted to DWC. This section is important for the relationship among the provisions of Labor Code §402.82, which require DWC to maintain information on every compensable injury; the provisions of Labor Code §411.012, which require DWC to maintain a repository for statistical information on workers' health and safety; the provisions of Labor Code §411.032, which allow DWC to require the submission of this type of data; and Labor Code §414.003, which requires DWC to compile, maintain, and use statistical and other information as necessary to detect practices or patterns of misconduct by system participants.

Section 124.102. New §124.102 concerns definitions associated with the insurance carrier claim EDI reporting and notification requirements. Section 124.102 defines specific terms used in this subchapter. The term "division" means the Texas Department of Insurance,

Division of Workers' Compensation or its data collection agent. This is significant because DWC has designated a data collection agent, which means that an insurance carrier fulfills its requirement to report claim EDI data to DWC when it reports to DWC's designated data collection agent. The term "trading partner" also recognizes that an insurance carrier may send the data to DWC directly or may contract with an external entity to fulfill its data reporting requirements.

Section 124.103. New §124.103 concerns IAIABC reporting standards adopted by reference necessary for successful claim EDI reporting and transaction processing. Section 124.103(a) specifically adopts the IAIABC Claim EDI Implementation Guide for Claims, Release 3.1.4, dated January 1, 2021, published by the IAIABC. The IAIABC Claim EDI Implementation Guide for Claims allows individual jurisdictions to tailor certain data usage descriptions to their regulatory requirements.

Section 124.103(b)(1) specifically adopts the Texas Claim EDI Release 3.1.4 Implementation Guide, Version 1.0, published by DWC. The Texas implementation guide provides a history of claim EDI reporting in Texas, relevant statutory authority, and detailed information about the role of the claim EDI compliance coordinator, including reports available to help them monitor reporting compliance. The Texas implementation guide also contains details about the technology requirements for sending and receiving transactions from the designated data collection agent and the testing process that an insurance carrier or trading partner must complete before submitting claim EDI in production.

Section 124.103(b) also specifically adopts by reference three different tables published by DWC that must be used in conjunction with the IAIABC Claim EDI Release 3.1.4 Implementation Guide to successfully transmit claim EDI records to DWC. Section 124.103(b)(2) specifically adopts the Texas Claim EDI Release 3.1.4 Element Requirement

Table, Version 1.0, published by DWC. This table contains data elements used in Texas' FROI and subsequent report of injury (SROI) record layouts, defines required and conditional data elements and how data edits apply to the elements, and details the requirements for reporting those data elements by maintenance type code with migration and match data considerations.

Section 124.103(b)(3) specifically adopts the Texas Claim EDI Release 3.1.4 Edit Matrix, Version 1.0, dated June 30, 2022, published by DWC. The table contains the edits applied to Texas' FROI and SROI record data elements, including error messages, which notify the sender the nature of the error associated with the data element and whether the error is required to be fixed before submitting other transactions. The table also defines valid data element values, which define what code values are valid for the data element. The edit matrix also details match data information, which defines the data elements that must be used as primary or secondary match data elements to identify a transaction as a new claim to create or match to an existing claim for duplicate checking, updating, and processing. The table also contains population restrictions, which define the limitation values or conditions for the match data and sequencing requirements, which define the order the sender must send transactions for the claim events described with a maintenance type code. Claim EDI records that do not meet these edits may result in the rejection of specific transactions. DWC will publish a finalized edit matrix on June 30, 2023, which is after the end of the testing period. This will allow DWC and the Insurance Services Office, Inc. (ISO) to make minor corrections to the edit process discovered during trading partner testing.

Section 124.103(b)(4) specifically adopts the Texas Claim EDI Release 3.1.4 Event Table, Version 1.0, published by DWC. The table contains the reportable claim events for Texas' FROI and SROI records and timeframes for reporting the information. Specifically, the table relates EDI information and the circumstances under which a report should be

initiated. The table also indicates what communication must be sent to the injured employee as detailed in §124.2, concerning Insurance Carrier Notification Requirements.

Section 124.103(c) provides the location of the adopted tables on DWC's website. Section 124.103(d) provides that the provisions of the Labor Code and DWC rules prevail in the event of any conflict with the contents of the IAIABC EDI Implementation Guide.

Section 124.104. New §124.104 concerns reporting requirements for insurance carrier claim EDI reporting. Section 124.104(a)(1)-(3) require insurance carriers to timely and accurately submit claim EDI records and list the conditions necessary for a record to be considered accurate. Section 124.104(b) sets the requirement for correcting and resubmitting claim EDI records accepted with errors, including the requirement to use the same insurance carrier claim number as the previously accepted claim EDI record. The current 90-day timeframe for correcting and resubmitting previously submitted claim EDI records under 28 TAC §102.5(e)(2) is revised to 30 days, which aligns the timeframe for correcting claim EDI records with the timeframe for correcting medical EDI records submitted under §134.804(c). The insurance carrier must correct the records within 30 days of receiving the EDI acknowledgement of the acceptance with errors or receiving other notice or communication from DWC requiring the correction. Section 124.104(c) specifies that receipt of a rejection does not change the date a transaction must be reported to DWC and details the requirement to use the same insurance carrier claim number as the previously rejected claim EDI record.

Section 124.105. New §124.105 concerns records required to be reported through claim EDI. Section 124.105(a) identifies the events that require an insurance carrier to submit a claim EDI record. Section 124.105(b) outlines additional conditions that must be met for a claim EDI record to be accurately and timely received. This subsection informs insurance

carriers about the accuracy requirements and addresses certain data elements that cannot be validated through technical edits and may result in an accepted record during incoming transaction processing. This section clarifies that the data required to be submitted to DWC must reflect the actual data contained on the claim, not derived or modified data. Section 124.105(c) clarifies that claim EDI records submitted in the test environment are not considered received, regardless of whether the records were accepted or rejected. Section 124.105(c) provides that claims with a date of injury on or after January 1, 1991, must be reported according to the requirements of Chapter 124, concerning Insurance Carriers: Notices, Payments, and Reporting.

Section 124.106. New §124.106 concerns records excluded from reporting through claim EDI. Section 124.106 identifies the types of records that are not required to be reported under the subchapter. Section 124.106(b) specifically excludes claims that do not meet the requirements of §124.2(b), and this provision mirrors the requirement in §124.105(a)(1). Section 124.106(d) specifically excludes claims with dates of injury before January 1, 1991, and this provision mirrors the requirement in §124.105(d) to report claims with dates of injury on or after that date.

Section 124.107. New §124.107 concerns state specific requirements for claim EDI reporting. Section 124.107(a)(1)-(5) specify that Texas state specific reporting requirements are allowed and contained in the implementation guides and tables adopted by reference in §124.103(a) and (b), concerning reporting standards. The IAIABC Claim EDI Implementation Guide allows individual jurisdictions to tailor certain data usage descriptions to their regulatory requirements.

Section 124.107(b) clarifies the claim EDI reporting requirement when the injured employee's Social Security number is unknown. This subsection requires reporting of an

unknown Social Security number in accordance with Texas EDI Claim Release 3.1.4 Element Requirement Table, Version 1.0 as required by §124.103. Specifically, the reporting requirement provides that, when a Social Security number is unknown, one of the following is required: employment visa number, green card number, passport number, individual taxpayer identification number, or the employee ID assigned by the jurisdiction.

Section 124.108. New §124.108 concerns insurance carrier EDI compliance coordinators and trading partners. Section 124.108(a) provides that insurance carriers may contract with trading partners to submit required claim EDI records to DWC. Section 124.108(b) requires each insurance carrier to designate an EDI compliance coordinator to serve as the central compliance control contact for data reporting. DWC will modify an existing form for this purpose. The insurance carrier's EDI compliance coordinator must be an employee of the insurance carrier with knowledge and experience in EDI reporting, who is responsible for EDI reporting. This requirement mirrors a similar requirement in 28 TAC §134.808 for an insurance carrier to designate an EDI compliance coordinator for medical EDI submissions. Section 124.108(b) provides flexibility to allow an insurance carrier to use the same EDI compliance coordinator for both claim and medical EDI. The insurance carrier may not delegate this responsibility to an external entity, such as a trading partner. Section 124.108(c) outlines the process for notifying DWC who will send data on behalf of an insurance carrier, whether it is the insurance carrier or a trading partner. This subsection outlines the requirements to be contained in the notice, including the signature of the insurance carrier's EDI compliance coordinator. The subsection also describes the potential consequence of rejection of claim EDI records for not reporting updated information timely.

Section 124.108(d) outlines the process for notifying DWC about an insurance carrier's or trading partner's EDI profile. This information is used by DWC and the

designated data collection agent to set up the technical infrastructure to allow an entity to submit claim EDI transmissions. Section 124.108(e) outlines the requirements related to testing before an insurance carrier or trading partner will be approved for production submissions. Section 124.108(e) clarifies that DWC will not approve an insurance carrier or trading partner for production submissions until the insurance carrier or trading partner has met the requirements for testing as described in the Texas Claim EDI Release 3.1.4 Implementation Guide. Section 124.108(f) also clarifies that, once an insurance carrier or trading partner has met the testing requirements in the Texas Claim EDI Release 3.1.4 Implementation Guide, they are approved to report claim EDI. Only approved insurance carriers or trading partners may report claim EDI data.

Section 124.108(g) specifies that DWC may suspend the ability for an insurance carrier or trading partner to report claim EDI if it does not meet the requirements for an approved trading partner as described in the Texas Claim EDI Release 3.1.4 Implementation Guide. Section 124.108(h) specifies that loss of approval to report claim EDI does not relieve an insurance carrier of the duty to report claim information or notices to DWC under §124.2, concerning Insurance Carrier Reporting and Notification Requirements. These two provisions stress the importance of insurance carriers and trading partners filing timely and accurate information. Insurance carriers and trading partners must promptly address technology and system issues that affect their ability to remain in compliance with the claim EDI reporting and notices requirements.

Section 124.108(i) specifies that insurance carriers are responsible for the acts or omissions of their trading partners, and an insurance carrier commits an administrative violation if its trading partner fails to timely or accurately submit claim EDI records. Section 124.108(j) specifies the date that an insurance carrier must provide the EDI compliance coordinator's contact information to DWC. The subsection also specifies that an insurance company that obtains a certificate of authority to write workers' compensation insurance

in Texas or an employer or group of employers who are authorized to self-insure by DWC or the Texas Department of Insurance (TDI) after the adoption date of the rule must provide the compliance coordinator's contact information no later than the 30th day after the insurance company's certificate of authority or authorization to self-insure becomes effective.

SUMMARY OF COMMENTS AND AGENCY RESPONSE.

Commenters: DWC received 31 comments from five commenters, with four submitting them in written form and one submitting orally at the public hearing. The commenters were the AFC Urgent Care in Temple, TX, Sentry.com, Office of Injured Employee Counsel, Summit, and Sentinel Government Affairs. All comments were in support of the proposal. DWC appreciates the comments in support of amendments to §124.2 and new Chapter 124, Subchapter B.

Comment on Chapter 124. One commenter recommended building a web portal integrated with EDI filings that automatically generates forms to be sent to the injured employee based on the EDI filings, since several other states use EDI transactions to generate forms directly to the injured employee.

Agency Response to Comment on Chapter 124. DWC disagrees. Workers' compensation system participants must provide forms and notices to injured employees according to requirements of the Labor Code and DWC rules.

Comment on §124.2(d). One commenter remarked that the proposed rule changes are insufficient. They asked DWC to revise the circumstances under which the insurance carrier is required to provide information to the health care provider. The commenter stated when the insurance carrier is disputing compensability of the injury, the health care

provider should also be informed by the insurance carrier copying the health care provider on the relevant plain language notices sent to the injured employee and DWC.

Agency Response to Comment on §124.2(d). DWC disagrees. Changes to rule language in §124.2(d) is limited to changes necessary for the implementation of the claim EDI Release 3.1.4 standard. This recommended change is outside the scope of the rule project.

Comment on §124.2(d)(8). One commenter asked whether the requirement to file a PLN-10B, *Notice of Lump Sum Payment of Income or Death Benefits* (PLN-10B) applies when an insurance carrier is paying lump sum death benefits to the Subsequent Injury Fund under 28 TAC §132.10(f). The commenter also asked whether the requirement to file a PLN-10B applies when an insurance carrier pays a lump sum of death benefits to a spouse upon remarriage under DWC 28 TAC §132.16(d)(4).

Agency Response to Comment on §124.2(d)(8). The insurance carrier should not issue the PLN-10B when paying a lump sum death benefit to the Subsequent Injury Fund, since there are no eligible beneficiaries to receive the PLN. DWC made a change to the Texas Claim EDI 3.1.4 Event Table, Version 1.0, TXDWC SROI Event Table tab removing the PLN-10B from the "Paper Forms" column, Row 27 for consistency with this notice requirement. The insurance carrier must report payments of lump sum death benefits to a spouse upon remarriage as required under 28 TAC §124.2(d)(8) and under 28 TAC §124.2(h), which is the plain language notice requirement to the beneficiary (PLN-10B).

Comment on §124.2(d)(5). One commenter remarked that the language in the rule is inconsistent with the corresponding claim EDI event language reinstatement of benefits. The commenter said the language is unclear and may cause confusion and recommends changing rule language to "within 10 days of making the first resumed payment."

Agency Response to Comment on §124.2(d)(5). DWC disagrees. The requirement to report a first payment of income benefits is referenced in §124.2(d)(1), and the requirement to report resumed payments must be read in the context of all reporting requirements in §124.2(d).

Comment on §124.2(m). One commenter remarked the acknowledgement process, timeframe, and service standard was struck from the rule. They recommend the acknowledgment reporting standard be defined in the rule by reinstating paragraph (m) and specifying the service standards for DWC's acknowledgement EDI processing.

Agency Response to Comment on §124.2(m). DWC disagrees. The previous §124.2(m) did not include the service standards for DWC EDI acknowledgement processing. DWC is not required to promulgate the timeframe for the jurisdiction to return acknowledgements, but DWC and ISO will provide more information about processing schedules and timeframes after rule adoption.

Comment on §124.100(a). One commenter remarked that Chapter 124, Subchapter B requirements are effective on July 26, 2023, and any claim transactions on or after that date must be in the new reporting format. They state that insurance carriers and trading partners will need at least 18 months from the adoption of the rule to fully implement and complete testing. They requested an effective date of October or November 2023. The commenter also recommended accommodating insurance companies and vendors ready to submit claim data using Release 3.1.4 by allowing them to submit claim data using the Release 3.1.4 standard before the effective date of the rule.

Agency Response to Comment on §124.100(a). DWC disagrees. The effective date for claim EDI Release 3.1.4 reporting avoids overlap with other jurisdictions implementing claims EDI Release 3.1 reporting at the same time. No other commenters expressed

concern with the proposed implementation date. DWC published two informal proposals of the rule amendments and asked for feedback from stakeholders about the time needed for implementation. Only three stakeholders indicated that they needed more than 15 months to implement the changes. DWC disagrees with concurrent reporting of claims EDI using the claims EDI Release 1.0 and 3.1.4 standards. A single implementation date for claim EDI Release 3.1.4 reporting also avoids overlap with other jurisdictions implementing claims EDI Release 3.1 reporting at the same time. A single implementation date will better facilitate the successful implementation of the reporting standard.

Comment on §124.103(a),(b)(1)-(4), and (c). One commenter was concerned that the Texas claim EDI Release 3.1.4 reporting requirements specifically reference the IAIABC guide by date and version and create an issue where the documents cannot be revised or corrected without rulemaking authority. The commenter also expressed concern that issues arise and corrections may be needed during testing and after implementation that could necessitate revisions to the reporting requirement documents. They recommend either generally referencing the most updated published IAIABC version of claim EDI Release 3.1 requirements and remove language for specific version references with the effective dates or add language to allow DWC and IAIABC to make corrections to EDI documents and additional versions.

Agency Response to Comment on §124.103(a),(b)(1)-(4), and (c). DWC disagrees. The Texas Administrative Procedures Act (APA) requires DWC to allow the public an opportunity to review and comment on changes to agency rules before adoption. Specific dated versions of DWC reporting requirements ensure that no changes will be made to claim EDI reporting requirements without the opportunity for public comment. DWC recognizes that some issues may arise during insurance carrier and trading partner testing. The rule provides an effective date of June 30, 2023, before the effective date for

new reporting requirements, for the Texas Claims EDI Release 3.1.4 Edit Matrix to allow for minor corrections and adjustments identified during the insurance carrier and trading partner testing and onboarding process.

Comment on §124.103(a). One commenter stated that the Texas Claim EDI Release 3.1.4 Implementation Guide, Version 1.0 references an invalid version of the IAIABC Release 3.1 guide. Version 3.1.4 is no longer valid as of January 2022 and has been replaced with version 3.1.5. The IAIABC regularly updates the claim EDI Release 3.1 guide and filing requirements, and DWC should not specifically reference version 3.1.4. The commenter also asked DWC to publish the service standard for which DWC and ISO will provide returned acknowledgements on EDI filing.

Agency Response to Comment on §124.103(a). DWC disagrees. The Texas APA requires DWC to allow the public an opportunity to review and comment on changes to agency rules before adoption. Specific dated versions of DWC reporting requirements ensure that no changes will be made to claim EDI reporting requirements without following the Texas APA. The IAIABC will make a copy of the IAIABC Claim EDI Release 3.1.4 Implementation Guide available on request for IAIABC members or purchase by non-members. DWC is not required to promulgate the timeframe for the jurisdiction to return acknowledgements, but DWC and ISO will provide more information about processing schedules and timeframes after rule adoption.

Comment on §124.103(b)(1). One commenter asked several questions about reports for the EDI compliance coordinator mentioned in the Texas Claim EDI Release 3.1.4 Implementation Guide. The commenter asked if the reports would be new for claim EDI Release 3.1 reporting or if they are available now, and if so, how they could get them. The commenter also asked if insurance carriers are required to respond to DWC about the

reports, and if so, what the deadline is for responses. The commenter also asked whether they should report defects or issues with claim EDI Release 3.1 reporting to DWC, ISO, or both, and how reports for rejected records, rejected records resubmitted, records accepted with errors, and accepted with errors corrected will be provided by ISO.

Agency Response to Comment on §124.103(b)(1). Insurance carriers are not required to respond to the EDI monitoring reports but must notify DWC of any issues they have in complying with EDI filing requirements. DWC encourages insurance carriers and trading partners to use these reports to monitor claim and medical EDI reporting compliance. DWC and ISO will provide more information about the data submission process, including error and rejection reports, after rule adoption. Monitoring reports are already available for claim EDI Release 1.0 reporting. Authorized parties can request the reports from DWC using DWC Form-029, *Request for Standard Detailed Data Reports*.

Comment on §124.103(b)(2)-(4). One commenter asked DWC to reconsider accepting certain partial denial codes (B, C, D, F, and G) in addition to denial codes A and E when "denying indemnity payments in part" (DN0294). The commenter recommended that DWC require insurance carriers to submit PLN-11, *Notice of Disputed Issue(s) and Refusal to Pay Benefits* (PLN-11) to DWC for partial denial codes.

Agency Response to Comment on §124.103(b)(2)-(4). DWC disagrees. The Texas Claim EDI Release 3.1.4 Event Table, Version 1.0, on the TXDWC SROI Event tab requires insurance carriers to report partial denials codes when the insurance carrier disputes accrued income benefits due to a dispute of disability on a compensable claim. Denial codes B, C, D, F, and G are not included in the listing of valid codes because they do not apply to a whole indemnity denial. Insurance carriers must continue to send PLN-11) when: the insurance carrier does not agree that the work-related injury stops the injured employee from getting or keeping a job that pays what was earned before the injury

(existence, duration, or extent of disability); some of the medical conditions were caused by the work-related injury (extent of injury); or the rules for getting death benefits were met.

Comment on §124.103(b)(2)-(4). One commenter asked if reporting the "payment reason code" (DN0222) for "total employee interest" (321) was valid on a "lump sum payment" report (PY) with "lump sum payment/settlement code" (LS/NS) for a "non-specified lump sum payment" (NS) or whether it could also be used for SROI "initial payments" (IP), "acquired payments" (AP), or "reinstatement of benefits" (RB) events.

Agency Response to Comment on §124.103(b)(2)-(4). The Texas Claim EDI Release 3.1.4 Edit Matrix, Version 1.0 allows reporting of "total employee interest" (321) in the payment segment for any payment event where interest is paid to the injured employee, including, but not limited to, "initial payments" (IP) and "lump sum payments" (PY).

Comment on §124.103(b)(2)-(4). One commenter detailed various claim-specific reporting scenarios about which "lump sum settlement code" (DN0293) is required under certain conditions.

Agency Response to Comment on §124.103(b)(2)-(4). The Texas Claim EDI Release 3.1.4 Event Table Version 1.0 details the reporting triggers for lump sum payments. DWC and ISO will provide guidance to insurance carriers and trading partners about claim-specific reporting scenarios during testing and on an ongoing basis after the effective date of the claim EDI Release 3.1.4 reporting standards.

Comment on §124.103(b)(2)-(4). One commenter asked if "other benefit type" (OBT) for "total interest on a claim" (320) is expected to be reported under "total employee

interest" (321) in claim EDI Release 3.1.4 legacy claims since "other benefit type code" (DN0216) for "total interest on a claim" (320) is not accepted in Release 3.1.4.

Agency Response to Comment on §124.103(b)(2)-(4). The Texas Claim EDI Release 3.1.4 Element Requirement Table, Version 1.0 allows "total interest on a claim" (320) or "total employee interest" (321) to be reported with "other benefit type" codes (DN216) on legacy claims. See the "TXDWC Legacy Claim Definition" in the element requirement table.

Comment on §124.103(b)(2)-(4). One commenter requested that DWC update the population restriction edit for "payment reason code" (DN0222) to accommodate when a "lump sum payment" report (PY) is filed for "payment reason code" (DN0222) of "total employee interest" (321) without reporting a "benefit type code" (BTC).

Agency Response to Comment on §124.103(b)(2)-(4). DWC disagrees. The population restriction for "payment reason code" (DN0222) is in the Texas Claim EDI Release 3.1.4 Edit Matrix, Version 1.0, TXDWC Population Restrictions tab. The restriction does not apply to the "other benefit type" (OBT) code as detailed in ISO reference number EM_POP_REST_DN0222_03.

Comment on §124.103(b)(2)-(4). One commenter detailed various claim-specific scenarios that, when reporting "lump sum payments" (PY) reports with "benefit type code" (0xx), require "gross weekly amount" (DN0174) and "net weekly amount" (DN0087) to be populated. The commenter asked if DWC expects to receive the "gross weekly amount" (DN0174) and the "net weekly amount" (DN0087) for these types of payments.

Agency Response to Comment on §124.103(b)(2)-(4). The Texas Claim EDI Release 3.1.4 Element Requirement Table, Version 1.0 requires the "gross weekly amount" (DN0174) and "net weekly amount" (DN0087) to be reported for "lump sum payments"

(PY) because it will be an event benefit segment. DWC and ISO will provide guidance to insurance carriers and trading partners about claim-specific reporting scenarios during testing and on an ongoing basis after the effective date of the claim EDI Release 3.1.4 reporting standards.

Comment on §124.103(b)(2)-(4). One commenter inquired that, since payment segments are not required on the SROI update report (UR), can they be reported to help carriers internally determine new payment or EDI events from legacy events?

Agency Response to Comment on §124.103(b)(2)-(4). The Texas Claim EDI Release 3.1.4 Element Requirement Table, Version 1.0 legacy claim definition tab does not require legacy SROI "Update Reports" (UR) to be filed when there is no new payment or event to report after the implementation date. DWC and ISO will provide guidance to insurance carriers and trading partners about claim-specific reporting scenarios during testing and on an ongoing basis after the effective date of the claim EDI Release 3.1.4 reporting standards.

Comment on §124.103(b)(2)-(4). One commenter asked if DWC would allow removal of previously reported "other benefit types" (DN216) without reporting the corresponding "recovery code" (DN0226) using the "voided other benefit check recovery" (890) code.

Agency Response to Comment on §124.103(b)(2)-(4). The Texas Claim EDI Release 3.1.4 Element Requirement Table, Version 1.0 allows insurance carriers to remove previously reported "other benefit types" (DN216) using an SROI change (02) report.

Comment on §124.103(b)(2)-(4). One commenter detailed various claim-specific reporting scenarios on the population restriction edit for "number of payments" (DN0283) and asked how the insurance carrier should correct the "payment reason code" (DN0222)

on the most recent EDI payment "maintenance type code" event if the payment reason code and benefit type code were reported incorrectly.

Agency Response to Comment on §124.103(b)(2)-(4). DWC and ISO will provide guidance to insurance carriers and trading partners about claim-specific reporting scenarios during testing and on an ongoing basis after the effective date of the Texas Claim EDI Release 3.1.4 reporting standards.

Comment on §124.103(b)(2)-(4). One commenter asked DWC to clarify whether an insurance carrier is responsible for all applicable changes reported on all claims whether active or inactive in the claim administrator system. Specifically, they asked if an insurance carrier will be responsible for reporting an FROI or SROI "change" (02) report until all benefits are exhausted, including medical benefits.

Agency Response to Comment on §124.103(b)(2)-(4). Texas Claim EDI Release 3.1.4 Event Table, Version 1.0 details the FROI "change" (02) report and the SROI "change" (02) report triggers where an insurance carrier is required to report claim updates. These triggers apply without regard to the date of injury of the claim or status of the claim in the insurance carrier's system.

Comment on §124.103(b)(2)-(4). One commenter remarked that descriptive language on "initial payment" (IP) events on rows 18 and 21 in the Texas Claim EDI Release 3.1.4 Event Table, Version 1.0, TXDWC SROI Event Table tab is missing from the other "initial payment" (IP) events (rows 17, 19, and 20). The commenter asked DWC to update the other "initial payment" (IP) events (rows 17, 19, and 20) with the language "and a previous SROI for any indemnity benefits has not been received."

Agency Response to Comment on §124.103(b)(2)-(4). DWC agrees that the language in the Texas Claim EDI Release 3.1.4 Event Table, Version 1.0 on rows 18 and 21 of the

TXDWC SROI Event Table tab may cause confusion. DWC removed the language "and a previous SROI for any indemnity benefits has not been received" from rows 18 and 21 because "initial payment" (IP) always means the first payment of indemnity benefits made by the insurance carrier regardless of the benefit type.

Comment on §124.103(d). One commenter remarked that DWC's claim EDI reporting standards will create industry hardship and increased financial impact to accommodate reporting differences between the claim EDI IAIABC Release 3.1 standard and DWC's adopted version. The commenter recommends amending the rule so DWC will follow the IAIABC issue resolution request (IRR) process in the event of conflict between DWC rules.

Agency Response to Comment on §124.103(d). 28 TAC §124.103(d) states that, in the event of a conflict between the IAIABC EDI Implementation Guide for Claims and the Labor Code or division rules, the Labor Code or division rules will prevail. Allowing changes to DWC's reporting standard through the IAIABC's IRR process would not provide for DWC to keep its sole authority to change Texas claim EDI reporting requirements in a manner consistent with the Texas APA.

Comment on §124.105(b)(1) and (2). One commenter remarked that the IAIABC's R3.1 acknowledgement code definitions and rules conflict with DWC's use of acknowledgment code "accepted" (TA) or "accepted with error" (TE) if the data contained in the transaction is invalid or incomplete. The commenter recommends amending the rule to require DWC to refuse invalid or incomplete data with a transaction code "rejected" (TR) rather than accepting invalid or incomplete data with transaction code "accepted" (TA).

Agency Response to Comment on §124.105(b)(1) and (2). DWC disagrees. DWC decided to accept claim EDI records with certain errors and requires insurance carriers to correct those reporting errors within 30 days. Accepting transactions with invalid or

incomplete data with the "accepted with error" (TE) acknowledgment code allows DWC to receive critical claim data while the insurance carrier corrects other information in the record.

Comment on §124.107(a)(1)-(5) and (b). One commenter recommended that DWC amend the rule to either generally reference the most updated published IAIABC and DWC claim EDI Release 3.1 requirements and remove specific version references with the effective dates, or allow DWC and the IAIABC to make corrections to EDI documents and version requirements. The commenter stated that they are concerned that DWC documents cannot be revised if needed should a testing or production issue arise after the rule is adopted.

Agency Response to Comment on §124.107(a)(1)-(5) and (b). DWC disagrees. The Texas APA requires DWC to allow the public an opportunity to review and comment on changes to agency rules before adoption. Specific dated versions of DWC reporting requirements ensure that no changes will be made to claim EDI reporting requirements without the opportunity for public comment. DWC recognizes that some issues may arise during insurance carrier and trading partner testing. The rule provides an effective date of June 30, 2023, before the effective date for new reporting requirements for the Texas Claims EDI Release 3.1.4 Edit Matrix to allow for minor corrections and adjustments identified during the insurance carrier and trading partner testing and onboarding process.

Comment on §124.108(e). One commenter asked if DWC will require a new EDI trading partner profile to the claim EDI Release 3.1 implementation. The commenter recommended that DWC allow ISO to manage trading partner agreements.

Agency Response to Comment on §124.108(e). 28 TAC §124.108(e) requires the insurance carrier or trading partner to file an EDI trading partner profile at least five working days before sending its first test transaction. DWC will provide more information about the process for submitting trading partner profiles after rule adoption. DWC agrees with the recommendation for ISO to manage trading partner agreements for claim EDI Release 3.1 reporting. No change in rule text is needed.

Comment on §124.108(f). One commenter requested DWC add a provision for new EDI trading partners to participate in the testing process or be allowed to test their ability to report claims data in the claim EDI Release 3.1.4 format when they enter the Texas workers' compensation system. Two commenters also asked several questions about the claim EDI testing and onboarding process, including questions about the testing schedule for insurance carriers and trading partners, the review of test plan information at txdwcedi.info, and whether DWC will be conducting training or webinars on the amended and new EDI rules and the draft forms before the effective date of the rule.

Agency Response to Comment on §124.108(f). DWC disagrees with adding a provision for new EDI trading partners to test when they enter the Texas workers' compensation system. 28 TAC §124.8(f) requires insurance carriers and trading partners to successfully complete claim EDI Release 3.1 testing before transmitting any production claim EDI Release 3.1.4 data to DWC. This applies to existing or new insurance carriers or trading partners entering the Texas workers' compensation system. DWC does not approve trading partners before they submit test data on behalf of an insurance carrier. DWC and ISO will provide more information, training opportunities, testing schedules and plans, and data processing schedules and timeframes after rule adoption.

CHAPTER 124. CARRIERS: REQUIRED NOTICES AND MODE OF PAYMENT

SUBCHAPTER A. INSURANCE CARRIERS: REQUIRED NOTICES AND MODES OF PAYMENT
28 TAC §124.2

STATUTORY AUTHORITY. The commissioner of workers' compensation adopts the amendments to 28 TAC §124.2 under Labor Code §§401.024, 402.00111, 402.00116, 402.021, 402.061, 402.082, 411.012, 411.031, 411.032, 411.033, and 414.003.

Labor Code §401.024 allows the commissioner of workers' compensation to require the use of an electronic transmission; prescribe the form, manner, and procedure for transmitting any authorized or required electronic transmission, including requirements related to security, confidentiality, accuracy, and accountability; and designate and contract with one or more data collection agents to fulfill claim data collection requirements. The section also provides that a data collection agent may collect from a reporting insurance carrier, other than a governmental entity, any fees necessary for the agent to recover the necessary and reasonable costs of collecting data from that reporting insurance carrier. The section also provides that the commissioner of workers' compensation may adopt rules necessary to implement the section.

Labor Code §402.00111 provides that the commissioner of workers' compensation must 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 must 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 §402.021 provides the basic goals of the workers' compensation system and specifically directs that the system take maximum advantage of technological advances to provide the highest levels of service possible to system participants and to promote communication among system participants.

Labor Code §402.061 provides that the commissioner of workers' compensation must adopt rules as necessary to implement the powers and duties of DWC under the Labor Code and other laws of this state.

Labor Code §402.082 provides that DWC must maintain information on every compensable injury as to the race, ethnicity, and sex of the injured employee; the classification of the injury; identification of whether the injured employee is receiving medical care through a workers' compensation health care network certified under Insurance Code Chapter 1305; the amount of wages earned by the injured employee before the injury; and the amount of compensation received by the injured employee.

Labor Code §411.012 provides that DWC must collect and serve as a repository for statistical information on workers' health and safety. The section requires DWC to analyze and use that information to identify and assign priorities to safety needs and better coordinate the safety services provided by public or private organizations, including insurance carriers. The section also provides that DWC must coordinate or supervise the collection by state or federal entities information relating to job safety, including information collected for the supplementary data system and the annual survey of the Bureau of Labor Statistics of the United States Department of Labor.

Labor Code §411.031 provides that DWC must maintain a job safety information system and obtain from any appropriate state agency, including the Texas Workforce Commission, the Department of State Health Services, and the Department of Assistive and Rehabilitative Services, data and statistics, including data and statistics compiled for rate-making purposes.

Labor Code §411.032 provides that an employer must file with DWC a report of each on-the-job injury that results in the employee's absence from work for more than one day, or an occupational disease of which the employer has knowledge. The section also requires the commissioner of workers' compensation to adopt rules and prescribe

the form and manner of reports filed under the section. The section also provides that an employer commits an administrative violation if it fails to report to DWC as required unless the commissioner determines good cause exists for the failure.

Labor Code §411.033 provides that the job safety information system required in §411.031 must include a comprehensive database that incorporates all pertinent information relating to each injury reported under §411.032, including the age, sex, wage level, occupation, and insurance company payroll classification code of the injured employee; the nature, source, severity, and cause of the injury and any equipment involved; the part of the body affected; the number of prior workers' compensation claims by the employee; the prior loss history of the employer; the standard industrial classification code of the employer; the classification code of the employer; and any other information considered useful for statistical analysis.

Labor Code §414.003 provides that DWC must compile and maintain statistical and other information as necessary to detect practices or patterns of conduct by persons that violate Subtitle A of the Labor Code, commissioner rules, or a commissioner order or decision; or otherwise adversely affect the workers' compensation system. DWC must use the information compiled to impose appropriate penalties and other sanctions.

TEXT.

CHAPTER 124. INSURANCE CARRIERS: NOTICES, PAYMENTS, AND REPORTING

SUBCHAPTER A. INSURANCE CARRIERS: REQUIRED NOTICES AND MODES OF PAYMENT

§124.2. Insurance Carrier Notification Requirements.

(a) An insurance carrier must notify the division and the claimant of actions taken on or events occurring in a claim as required by this title.

(b) The insurance carrier must electronically file, as that term is used in §102.5(e) of this title (concerning General Rules for Written Communications to and from the Division) with the division, according to the requirements in Subchapter B of this title (concerning Insurance Carrier Claim Electronic Data Interchange Reporting to the Division):

(1) the information from the original Employer's First Report of Injury; the insurance carrier's Federal Employer Identification Number (FEIN); and the policy number, policy effective date, and policy expiration date reported under §110.1 of this title (concerning Insurance Carrier Requirements for Notifying the Division of Insurance Coverage) for the employer associated with the claim, not later than the seventh day after the later of:

(A) receipt of a required report where there is lost time from work, an occupational disease, or a fatality; or

(B) notification of lost time if the employer made the Employer's First Report of Injury before the employee experienced absence from work as a result of the injury;

(2) information about an acquired claim no later than the 37th day after the acquiring claim administrator has knowledge of claim-specific information from the previous claim administrator;

(3) any correction of an electronic record accepted with errors, as provided in §102.5(e) of this title (concerning General Rules for Written Communications to and from the Division), within 30 days of the notification from the division detailed in §124.104(b) of this title (concerning Reporting Requirements);

(4) information about a compensable death with no beneficiary no later than the 10th day after determining that an employee whose injury resulted in death had no legal beneficiary; and

(5) a change in an electronic record initiated by the insurance carrier, the coverage information required by paragraph (1) of this subsection if not available when the First Report of Injury was submitted to the division, and any change in a claimant or employer mailing address within seven days of receiving the new address.

(c) The insurance carrier must notify the division and the claimant of its denial of a claim based on noncompensability or lack of coverage in accordance with this section and as otherwise provided by this title.

(d) The insurance carrier must notify the division and the claimant of the following:

(1) first payment of indemnity benefits on a claim within 10 days of making the first payment;

(2) first payment of indemnity benefits on an acquired claim within 10 days of making the first payment;

(3) a change in the net benefit payment amount without a change to the benefit type within 10 days of making the first payment reflecting the change;

(4) a change from one income benefit type to another or to death benefits within 10 days of making the first payment reflecting the change;

(5) resumption of payment of income or death benefits within 10 days of making the first payment;

(6) termination or suspension of income or death benefits within 10 days of making the last payment for the benefits;

(7) employer continuation of salary, as defined in §129.1(1) (concerning Definitions for Temporary Income Benefits) of this title, equal to or exceeding the employee's average weekly wage as defined by this title within:

(A) seven days of receiving the information that salary would be continued in lieu of the insurance carrier initiating temporary income benefits;

(B) ten days of making the last payment of temporary income benefits due to the employer's salary continuation; or

(C) ten days of resuming payment of the employer's salary continuation;

(8) lump sum payment of income or death benefits within 10 days of making the payment; or

(9) refusal to pay accrued income benefits due to dispute of disability.

(e) If an insurance carrier receives a written notice of injury for a disease or illness identified by Texas Government Code, Chapter 607, Subchapter B (relating to Diseases or Illnesses Suffered by Firefighters, Peace Officers, and Emergency Medical Technicians), the insurance carrier must take one of the following actions no later than the 15th day after receiving the notice of injury:

(1) initiate benefits as required by the Texas Workers' Compensation Act and the division's rules;

(2) file a notice of denial as described in this section; or

(3) provide the claimant and the division with notice as required under Labor Code §409.021(a-3) (Notice of Continuing Investigation) for a claim for benefits received on or after June 10, 2019.

(f) When applying subsection (e) of this section and Government Code, Chapter 607, Subchapter B, a "claim for benefits" means the first written notice of injury as provided in §124.1 of this title (concerning Notice of Injury).

(g) The insurance carrier must issue a Notice of Continuing Investigation as a plain language notice in the form and manner prescribed by the division. The notification requirements of this section are not considered complete until a copy of the notice provided to the claimant is received by the division.

(1) A Notice of Continuing Investigation must include the following:

(A) a statement describing all steps taken by the insurance carrier to investigate the disease or illness before the notice was given;

(B) a list of any claim-specific evidence, releases, or documentation the insurance carrier reasonably believes is both relevant and necessary to complete its investigation; and

(C) contact information for the adjuster, including the adjuster's email address, fax number, and telephone number.

(2) An insurance carrier must provide a reasonable amount of time for a claimant to respond to the notice.

(3) The notice may not include a request for additional diagnostic testing, mental health records, generic requests (such as "the claimant's medical records"), or requests for records that are not directly related to either the disease or illness or eligibility for application of a statutory presumption.

(4) Notwithstanding the issuance of a Notice of Continuing Investigation, an insurance carrier must continue taking reasonable steps to acquire claim-specific information necessary to complete its investigation of the claim.

(h) Notification to the claimant as required by subsections (c)-(e) of this section requires the insurance carrier to use plain language notices in the form and manner prescribed by the division. These notices must provide a full and complete statement describing the insurance carrier's action and rationale. The statement must contain sufficient claim-specific substantive information to enable the claimant to understand the insurance carrier's position or action taken on the claim. A generic statement that simply states the insurance carrier's position with phrases such as "employee returned to work," "adjusted for light duty," "liability is in question," "compensability in dispute," "under investigation," or other similar phrases with no further description of the factual basis for the action taken does not satisfy the requirements of this section.

(i) In addition to the denial notice requirements in subsection (h), if the insurance carrier receives a written notice of injury for a disease or illness identified by Texas Government Code, Chapter 607, Subchapter B (relating to Diseases or Illnesses Suffered by Firefighters, Peace Officers, and Emergency Medical Technicians), the denial must also include the following:

(1) if the insurance carrier asserts that a statutory presumption does not apply, a statement explaining why and describing the claim-specific information that the insurance carrier reviewed;

(2) alternatively, based on its investigation, if the insurance carrier concludes that a statutory presumption applies, but a notice of denial will be issued, a statement explaining why and describing the claim-specific information reviewed before issuing the notice that supports a reasonable belief that risk factors, accidents, hazards, or other causes not associated with their employment were a substantial factor in bringing about the injured employee's disease or illness, without which the disease or illness would not have occurred; and

(3) if the insurance carrier provided a timely Notice of Continuing Investigation as permitted by law, the denial notice must also include a statement describing whether the claimant provided a timely response to the notice.

(j) Notification to the division as required by subsections (b)-(e) of this section requires the insurance carrier to use electronic filing, as that term is used in §102.5(e) of this title (concerning General Rules for Written Communications to and from the Division) with the division, according to the requirements in Subchapter B of this title (concerning Insurance Carrier Claim Electronic Data Interchange Reporting to the Division).

(1) In addition to the electronic filing requirements of this subsection, when an insurance carrier notifies the division of a denial, Notice of Continuing Investigation, or dispute of disability as required by this section, it must provide the division a written

copy of the notice provided to the claimant as described under subsections (g)-(i) and (k) of this section, as applicable.

(2) The notification requirements of this section are not considered completed until the copy of the notice provided to the claimant is received by the division.

(k) Notification to the division and the claimant of a dispute of disability, extent of injury, or eligibility of a claimant to receive death benefits must be made as otherwise prescribed by this title and requires the insurance carrier to use plain language notices in the form and manner prescribed by the division. These notices must provide a full and complete statement describing the insurance carrier's action and its reasons for such action. The statement must contain sufficient claim-specific substantive information to enable the claimant to understand the insurance carrier's position or action taken on the claim. A generic statement that simply states the insurance carrier's position with phrases such as "no medical evidence to support disability," "not part of compensable injury," "liability is in question," "under investigation," "eligibility questioned," or other similar phrases with no further description of the factual basis for the action taken does not satisfy the requirements of this section.

(l) Except as otherwise provided by this title, insurance carriers must not provide notices to the division that explain that:

(1) benefits will be paid as they accrue;

(2) a wage statement has been requested;

(3) temporary income benefits are not due because there is no lost time;

(4) the insurance carrier is disputing some or all medical treatment as not reasonable or necessary;

(5) compensability is not denied, but the insurance carrier disputes the existence of disability (if there are no indications of lost time or disability and the employee is not claiming disability); or

(6) future medical benefits are disputed (notices of which must not be provided to anyone in the system).

(m) Notifications to the claimant and the claimant's representative must be filed by fax or electronic transmission unless the recipient does not have the means to receive such a transmission, in which case, the notifications must be personally delivered or sent by mail.

(n) Each insurance carrier must provide to the division, through its Austin representative in the form and manner prescribed by the division, the contact information for all workers' compensation claim service administration functions performed by the insurance carrier either directly or through third parties.

(1) The contact information for each function must include mailing address, telephone number, fax number, and email address, as appropriate. This contact information may be provided either in the form of a single Uniform Resource Locator (URL) for a web page created and maintained by the insurance carrier that contains the required information or through an online submission to the division. The claim service administration functions requiring contact information to be reported are:

(A) coverage verification (policy issuance and effective dates of the policy);

(B) claim adjustment;

(C) medical billing;

(D) pharmacy billing (if different from medical billing);

(E) preauthorization; and

(F) workers' compensation health care network.

(2) If the web page option is used, the page must contain the date it was last updated and an email address or other contact information a user may report problems or inaccuracies to.

(3) The insurance carrier must update the contact information or URL within 10 working days after any such change is made.

(o) All notices to a claimant required under this section must be stated in plain language and in no less than 12-point font. This subsection applies to notices sent on or after April 1, 2020.

(p) The section is effective July 26, 2023.

CHAPTER 124. CARRIERS: REQUIRED NOTICES AND MODE OF PAYMENT
SUBCHAPTER B. INSURANCE CARRIER CLAIM ELECTRONIC DATA INTERCHANGE REPORTING TO THE DIVISION
28 TAC §§124.100-124.108

STATUTORY AUTHORITY. The commissioner of workers' compensation adopts new §§124.100-124.108 under Labor Code §§401.024, 402.00111, 402.00116, 402.021, 402.061, 402.082, 411.012, 411.031, 411.032, 411.033, and 414.003.

Labor Code §401.024 allows the commissioner of workers' compensation to require the use of an electronic transmission; prescribe the form, manner, and procedure for transmitting any authorized or required electronic transmission, including requirements related to security, confidentiality, accuracy, and accountability; and designate and contract with one or more data collection agents to fulfill claim data collection requirements. The section also provides that a data collection agent may collect from a reporting insurance carrier, other than a governmental entity, any fees necessary for the agent to recover the necessary and reasonable costs of collecting data from that reporting insurance carrier. The section also provides that the commissioner of workers' compensation may adopt rules necessary to implement the section.

Labor Code §402.00111 provides that the commissioner of workers' compensation must 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 must 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 §402.021 provides the basic goals of the workers' compensation system and specifically directs that the system take maximum advantage of technological advances to provide the highest levels of service possible to system participants and to promote communication among system participants.

Labor Code §402.061 provides that the commissioner of workers' compensation must adopt rules as necessary to implement the powers and duties of DWC under the Labor Code and other laws of this state.

Labor Code §402.082 provides that DWC must maintain information on every compensable injury as to the race, ethnicity, and sex of the injured employee; the classification of the injury; identification of whether the injured employee is receiving medical care through a workers' compensation health care network certified under Insurance Code Chapter 1305; the amount of wages earned by the injured employee before the injury; and the amount of compensation received by the injured employee.

Labor Code §411.012 provides that DWC must collect and serve as a repository for statistical information on workers' health and safety. The section requires DWC to analyze and use that information to identify and assign priorities to safety needs and better coordinate the safety services provided by public or private organizations, including insurance carriers. The section also provides that DWC must coordinate or supervise the collection by state or federal entities information relating to job safety, including

information collected for the supplementary data system and the annual survey of the Bureau of Labor Statistics of the United States Department of Labor.

Labor Code §411.031 provides that DWC must maintain a job safety information system and obtain from any appropriate state agency, including the Texas Workforce Commission, the Department of State Health Services, and the Department of Assistive and Rehabilitative Services, data and statistics, including data and statistics compiled for rate-making purposes.

Labor Code §411.032 provides that an employer must file with DWC a report of each on-the-job injury that results in the employee's absence from work for more than one day, or an occupational disease of which the employer has knowledge. The section also requires the commissioner of workers' compensation to adopt rules and prescribe the form and manner of reports filed under the section. The section also provides that an employer commits an administrative violation if it fails to report to DWC as required unless the commissioner determines good cause exists for the failure.

Labor Code §411.033 provides that the job safety information system required in §411.031 must include a comprehensive database that incorporates all pertinent information relating to each injury reported under §411.032, including the age, sex, wage level, occupation, and insurance company payroll classification code of the injured employee; the nature, source, severity, and cause of the injury and any equipment involved; the part of the body affected; the number of prior workers' compensation claims by the employee; the prior loss history of the employer; the standard industrial classification code of the employer; the classification code of the employer; and any other information considered useful for statistical analysis.

Labor Code §414.003 provides that DWC must compile and maintain statistical and other information as necessary to detect practices or patterns of conduct by persons that violate Subtitle A of the Labor Code, commissioner rules, or a commissioner order or

decision; or otherwise adversely affect the workers' compensation system. DWC must use the information compiled to impose appropriate penalties and other sanctions.

TEXT.

CHAPTER 124. INSURANCE CARRIERS: NOTICES, PAYMENTS, AND REPORTING

SUBCHAPTER B. INSURANCE CARRIER CLAIM ELECTRONIC DATA INTERCHANGE REPORTING TO THE DIVISION

§124.100. Applicability.

(a) This subchapter applies to any claim transactions required to be reported to the division under §124.105 on or after July 26, 2023.

(b) This subchapter applies to all insurance carriers as defined in Labor Code §401.011(27). All insurance carriers are required to report information prescribed by the commissioner under Labor Code §§401.024, 402.082, 411.012, 411.031, 411.032, and 411.033 for each workers' compensation claim. All insurance carriers are required to notify injured employees and the division about claim actions as provided in §124.2 of this title (concerning Insurance Carrier Notification Requirements).

(c) This subchapter is effective July 26, 2023. Insurance carriers and trading partners must continue to submit claim EDI records to the division in the International Association of Industrial Accident Boards and Commissions (IAIABC) Claims Electronic Data Interchange (EDI) Release 1.0 standard before this effective date.

§124.101. Purpose. The purpose of this subchapter is to prescribe the reporting requirements for information and data submitted to the division and adopt by reference the implementation guide and specifications necessary for successful EDI transaction processing. The reporting of information and data is necessary to maintain information

on every compensable injury; maintain a repository for statistical information on workers' health and safety; and compile, maintain, and use statistical data to detect practices or patterns of misconduct by system participants as required by Labor Code §§402.082, 411.033, and 414.003.

§124.102. Definitions. The following words and terms when used in this subchapter will have the following meanings, unless the context clearly indicates otherwise:

(1) Application acknowledgment code--A code used to identify the accepted or rejected status of the transaction being acknowledged.

(2) Claim EDI record--The accurate data associated with a single claim reported in a claim EDI transaction (first report of injury or subsequent report of injury) obtained from all sources, including the report of incident or injury and the insurance carrier's claim file.

(3) Claim EDI transmission--The data that is contained within the interchange envelope.

(4) Division--The Texas Department of Insurance, Division of Workers' Compensation or its data collection agent.

(5) EDI--Electronic data interchange.

(6) Edit Matrix--A table containing the edits applied to Texas' first report of injury and subsequent report of injury records.

(7) Element requirement table--A table containing data elements used in Texas' first report of injury and subsequent report of injury record layouts defining required and conditional data elements and how data edits apply to the elements.

(8) Event table--A table containing the reportable claim events for Texas' first report of injury and subsequent report of injury records and timeframes for reporting the information.

(9) Insurance carrier claim number--An identifier that distinguishes a specific claim within an insurance carrier's claim processing system and is used throughout the life of the claim.

(10) IAIABC--The International Association of Industrial Accident Boards and Commissions.

(11) Person--A person, partnership, corporation, hospital district, insurance carrier, organization, business trust, estate trust, association, limited liability company, limited liability partnership, or other entity. This term does not include an injured employee.

(12) Trading partner--A person entering into an agreement with the insurance carrier to format electronic data for transmission to the division, transmit electronic data to the division, and respond to any technical issues related to the contents or structure of an EDI file.

§124.103. Reporting Standards.

(a) Except as provided in this subchapter, the commissioner adopts by reference the IAIABC EDI Implementation Guide for Claims, Release 3.1.4, dated January 1, 2021, published by the IAIABC.

(b) The commissioner adopts by reference the:

(1) Texas Claim EDI Release 3.1.4 Implementation Guide, Version 1.0;

(2) Texas Claim EDI Release 3.1.4 Element Requirement Table, Version 1.0;

(3) Texas Claim EDI Release 3.1.4 Edit Matrix, Version 1.0, dated June 30, 2023; and

(4) Texas Claim EDI Release 3.1.4 Event Table, Version 1.0. The Texas Claim EDI Release 3.1.4 Implementation Guide, tables, and the matrix are published by the division.

(c) The adopted division tables are on the division's website at www.tdi.texas.gov/wc/edi/index.html.

(d) In the event of a conflict between the IAIABC EDI Implementation Guide for Claims and the Labor Code or division rules, the Labor Code or division rules will prevail.

§124.104. Reporting Requirements.

(a) Insurance carriers must submit timely and accurate claim EDI records to the division. For the purpose of this section, a claim EDI record is considered accurately submitted when the record:

(1) receives an accepted application acknowledgment code;

(2) contains accurate claim EDI data, which may be obtained from all sources, including the report of incident or injury and the insurance carrier's claim file; and

(3) to the extent supported by the format, contains all data elements necessary to identify activity on a claim.

(b) Insurance carriers are responsible for correcting and resubmitting claim EDI records accepted with errors within 30 days of the acknowledgement or other action that required reporting. The resubmitted claim EDI record must contain the same insurance carrier claim number as the previously accepted claim EDI record.

(c) The insurance carrier's receipt of a rejection does not modify, extend, or otherwise change the date the transaction is required to be reported to the division. The resubmitted rejected claim EDI record must contain the same insurance carrier claim number as the previously rejected claim EDI record.

§124.105. Records Required to be Reported.

(a) Insurance carriers must submit claim EDI records when the insurance carrier:

(1) takes action on or events occur in a claim as described in §124.2 of this title (concerning Insurance Carrier Notification Requirements);

(2) corrects division-identified errors in a previously accepted electronic record as provided in §124.104(b) of this title (concerning Reporting Requirements);

(3) corrects insurance carrier-identified errors in a previously accepted electronic record as provided in §124.2(b)(4) of this title;

(4) discovers that a claim EDI record should not have been submitted to the division, and the division had previously accepted the claim EDI record; or

(5) receives a request from the division for claim EDI records.

(b) Regardless of the application acknowledgment code returned in an acknowledgment, claim EDI records are not considered received by the division if the claim EDI record:

(1) contains data, which does not accurately reflect the code value or actions taken when the insurance carrier processed information or acted on the claim; or

(2) fails to contain a conditional data element and the mandatory trigger condition existed at the time the insurance carrier acted on the claim.

(c) Claim EDI records submitted in the test environment are not considered received and do not comply with the reporting requirements of this section.

(d) Claims with a date of injury on or after January 1, 1991, must be reported in accordance with the requirements of this chapter (concerning Insurance Carriers: Notices, Payments, and Reporting).

§124.106. Records Excluded from Reporting. Insurance carriers must not report claim EDI records for:

(1) claims where the jurisdiction state is not Texas;

(2) claims that do not meet the requirements of §124.2(b);

(3) claims involving benefits payable under federal workers' compensation laws; and

(4) claims with dates of injury before January 1, 1991.

§124.107. State Specific Requirements.

(a) Insurance carriers must submit claim EDI transactions according to the:

(1) IAIABC EDI Implementation Guide for Claims, Release 3.1.4;

(2) Texas Claim EDI Release 3.1.4 Implementation Guide, Version 1.0;

(3) Texas Claim EDI Release 3.1.4 Element Requirement Table, Version 1.0;

(4) Texas Claim EDI Release 3.1.4 Edit Matrix, Version 1.0, dated June 30, 2023; and

(5) Texas Claim EDI Release 3.1.4 Event Table, Version 1.0.

(b) In addition to the requirements adopted under §124.103 of this title (concerning Reporting Standards), when the injured employee's Social Security number is unknown for reporting claim EDI transactions, it must be reported in accordance with Texas Claim EDI Release 3.1.4 Element Requirement Table, Version 1.0, as adopted in §124.103 of this title.

§124.108. Insurance Carrier EDI Compliance Coordinator and Trading Partners.

(a) Insurance carriers may submit claim EDI records directly to the division or contract with an external trading partner to submit the records on the insurance carrier's behalf.

(b) Each insurance carrier, including those using external trading partners, must designate one person to the division as the EDI compliance coordinator and provide the person's name, working title, mailing address, email address, and telephone number in the form and manner prescribed by the division. The EDI compliance coordinator must:

(1) be an employee of the insurance carrier with knowledge and experience in EDI reporting, who is responsible for EDI reporting;

(2) receive and appropriately disperse data reporting information received from the division; and

(3) serve as the central compliance control for data reporting under this subchapter.

(c) At least five working days before sending its first transaction to the division under this subchapter, the insurance carrier must send a notice to the division. The notice must be in the form and manner prescribed by the division. The notice must include the name of the insurance carrier, the insurance carrier's FEIN, the insurance carrier's TXCOMP customer number, the name of the trading partners authorized to conduct claim EDI transactions on behalf of the insurance carrier, the FEIN of the trading partners, and the EDI compliance coordinator's signature.

(d) The insurance carrier must report changes required under subsections (b) and (c) within five working days of any amendment to data sharing agreements, including adding or removing any trading partners or changing the EDI compliance coordinator. Failure to timely submit updated information may result in the rejection of claim EDI records.

(e) At least five working days before sending its first test transaction to the division under this subchapter, the insurance carrier or trading partner sending the claim EDI transmission must send a notice to the division. The notice must be in the form and manner prescribed by the division. The notice must include the entity's name; FEIN; nine-digit postal code; address; and the technical contact's name, address, phone number, and email address. The insurance carrier or trading partner must report changes within five working days of any amendment to the information required to be reported.

(f) Insurance carriers and trading partners must successfully complete claim EDI Release 3.1.4 testing before transmitting any production claim EDI Release 3.1.4 data to the division. Trading partners must receive approval to submit data for at least one insurance carrier before initiating the testing process. Insurance carriers and trading partners must submit each transaction type during the testing process to ensure that it can be successfully processed by the division. The division will not approve an insurance carrier or trading partner for production submissions until the insurance carrier or trading partner has met the requirements for testing as described in the Texas Claim EDI Release 3.1.4 Implementation Guide.

(g) Once an insurance carrier or trading partner has met the requirements of subsection (f), the insurance carrier or trading partner is approved to report claim EDI data to the division. Only approved insurance carriers or trading partners may report claim EDI data to the division.

(h) The division may suspend the ability for an insurance carrier or trading partner to report claim EDI if it does not meet the requirements for an approved trading partner as described in the Texas Claim EDI Release 3.1.4 Implementation Guide. The division will notify the insurance carrier's claim EDI compliance coordinator in writing in advance of the suspension.

(i) Loss of approval to report claim EDI does not relieve an insurance carrier of the duty to report claim information or notices to the division under §124.2 of this title (concerning Insurance Carrier Notification Requirements).

(j) Insurance carriers are responsible for the acts or omissions of their trading partners. The insurance carrier commits an administrative violation if the insurance carrier or its trading partner fails to timely or accurately submit claim EDI records.

(k) An insurance carrier must provide to the division the EDI compliance coordinator's contact information required by this subsection no later than 90 days after

the adoption of this subchapter. Except as otherwise provided by this subsection, an insurance company that obtains a certificate of authority to write workers' compensation insurance in Texas after the adoption of this subchapter, or an employer or group of employers who are authorized to self-insure by DWC or TDI after the adoption date of this subchapter, must provide the EDI compliance coordinator's contact information required by subsection (b) to the division no later than the 30th day after the insurance company's certificate of authority or authorization to self-insure becomes effective.

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 17, 2022.

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

The commissioner adopts amendments to 28 TAC §§124.2 and new 124.100-124.108.

DocuSigned by:
Dan Paschal
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Dan Paschal
Deputy Commissioner for Policy &
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Texas Government Code §601.002
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Commissioner's Order No. 2022-7230