

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

INTRODUCTION. The Texas Department of Insurance, Division of Workers' Compensation (DWC) proposes to amend 28 Texas Administrative Code §102.11(b), concerning Electronic Formats for Electronic Claim Data Request and Report. Section 102.11 implements a process for electronic exchange of data between DWC and insurance carriers as defined in Texas Labor Code §402.084.

EXPLANATION. The amendments correct a reference and make updates for plain language and agency style. Amending §102.11(b) 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. It directs the public to www.tdi.state.tx.us/wc to find the specific data requirements, data set transactions, data mapping, data edits, and fees per record. DWC's website has changed since it adopted §102.11(b). The proposed amendment updates the website address to DWC's current website, www.tdi.texas.gov/wc, to find the specific data requirements, data set transactions, data mapping, data edits, and fees per record.

FISCAL NOTE AND LOCAL EMPLOYMENT IMPACT STATEMENT. Deputy Commissioner of Business Process Joseph McElrath has determined that during each year of the first five years the proposed amendments are in effect, there will be no measurable

fiscal impact on state and local governments as a result of enforcing or administering the section, other than that imposed by the statute. This determination was made because the proposed amendments do not add to or decrease state revenues or expenditures, and because local governments are not involved in enforcing or complying with the proposed amendments.

Mr. McElrath does not anticipate any measurable effect on local employment or the local economy as a result of this proposal.

PUBLIC BENEFIT AND COST NOTE. For each year of the first five years the proposed amendments are in effect, Mr. McElrath expects that enforcing and administering the proposed amendments will have the public benefits of ensuring that DWC's rules conform to Labor Code §§401.024 and 402.084 and are current and accurate, which promotes transparent and efficient regulation.

Mr. McElrath expects that the proposed amendments will not increase the cost to comply with Labor Code §402.084 and 28 TAC §102.11 because they do not impose requirements beyond those in the statute and do not create obligations beyond those in the current rule. Labor Code §402.084 requires DWC 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 insurance carrier to identify potential subclaims and pursue recovery allowed under Labor Code §409.009.

Currently, §102.11(b)(1) directs the public to www.tdi.state.tx.us/wc to find the specific data requirements, data set transactions, data mapping, data edits, and fees per record. A proposed amendment corrects the obsolete website reference and will direct the public to the current website at www.tdi.texas.gov/wc. The proposed amendment does not affect any cost associated with providing the specific data requirements, data

set transactions, data mapping, data edits, and fees per record. As a result, any cost does not result from the enforcement or administration of the proposed amendment.

ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS. DWC has determined that the proposed amendments will not have an adverse economic effect or a disproportionate economic impact on small or micro businesses, or on rural communities because the proposed amendments only make changes to update obsolete references and make updates for plain language and agency style. The proposed amendments do not change the people the rule affects or impose additional costs. As a result, and in accordance with Government Code §2006.002(c), DWC is not required to prepare a regulatory flexibility analysis.

EXAMINATION OF COSTS UNDER GOVERNMENT CODE §2001.0045. DWC has determined that this proposal does not impose a possible cost on regulated persons. As a result, no additional rule amendments are required under Government Code §2001.0045.

GOVERNMENT GROWTH IMPACT STATEMENT. DWC has determined that for each year of the first five years that the proposed amendments are in effect, the proposed rule:

- will not create or eliminate a government program;
- will not require the creation of new employee positions or the elimination of existing employee positions;
- will not require an increase or decrease in future legislative appropriations to the agency;
- will not require an increase or decrease in fees paid to the agency;
- will not create a new regulation;

- will not expand, limit, or repeal an existing regulation;
- will not increase or decrease the number of individuals subject to the rule's applicability; and
- will not positively or adversely affect the Texas economy.

DWC made these determinations because the proposed amendments only make changes to update obsolete references and make updates for plain language and agency style. They do not change the people the rule affects or impose additional costs.

TAKINGS IMPACT ASSESSMENT. DWC has determined that no private real property interests are affected by this proposal, and this proposal does not restrict or limit an owner's right to property that would otherwise exist in the absence of government action. As a result, this proposal does not constitute a taking or require a takings impact assessment under Government Code §2007.043.

REQUEST FOR PUBLIC COMMENT. DWC will consider any written comments on the proposal that DWC receives no later than 5 p.m., Central time, on October 24, 2022. Send your comments to RuleComments@tdi.texas.gov; or to Texas Department of Insurance, Division of Workers' Compensation, Legal Services, MC-LS, P.O. Box 12050, Austin, TX 78711-2050.

To request a public hearing on the proposal, submit a request before the end of the comment period, and separate from any comments, to RuleComments@tdi.texas.gov; or to Texas Department of Insurance, Division of Workers' Compensation, Legal Services, MC-LS, P.O. Box 12050, Austin, TX 78711-2050. The request for public hearing must be separate from any comments and received by DWC no later than 5 p.m., Central time, on October 24, 2022. If DWC holds a public hearing, it will consider written and oral comments presented at the hearing.

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28 TAC §102.11(b).

STATUTORY AUTHORITY. DWC proposes §102.11(b) under Labor Code §§402.084, 401.024, 402.00111, 402.00116, and 402.061.

Labor Code 402.084 provides that DWC shall 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 provides that DWC shall 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.

CROSS-REFERENCE TO STATUTE. Section 102.11 implements Labor Code §402.084, enacted by HB 1562, 77th Legislature, Regular Session (2001), amended by HB 251, 79th Legislature, Regular Session (2005).

TEXT.

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

(a) (No change.)

(b) ~~[The following words and terms, when used in]~~ In this section, ~~[shall have]~~ the following definitions ~~[meanings]~~ apply:

(1) Claim Data Request and Report Implementation Guide (Guide)--The division ~~[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. ~~[www.tdi.state.tx.us/wc]~~


(2)-(5) (No change.)

(c)-(l) (No change.)

CERTIFICATION. This agency certifies that legal counsel has reviewed the proposal and found it to be within the agency's authority to adopt.

Issued in Austin, Texas, on September 8, 2022.

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