

Texas Workers' Compensation Update

A publication of the Texas Department of Insurance, Division of Workers' Compensation

Semiannual • October 2009

Workers' Comp Bills Enacted by the 81st Texas Legislature

Following is a summary of legislation enacted the the 81st Texas Legislature that directly impacts TDI's Division of Workers' Compensation (TDI-DWC) or the workers' compensation system overall. Summaries begin with the bill number and the primary author and sponsor. Full text of each bill, along with legislative histories, analysis and fiscal impacts is available at the Texas Legislature's website at: www.capitol.State.tx.us/.

Both House Bill (HB) 673, by Solomons and sponsored by Watson, and HB 1058, by Solomons and sponsored by Lucio, originated with legislative recommendations from the Office of Injured Employee Counsel (OIEC). Senate Bill (SB) 1814, by Van de Putte and sponsored by Deshotel, originated with a legislative recommendation from TDI-DWC.

HB 673 by Solomons; Sponsored by Watson (Effective Sept. 1, 2009)

HB 673 allows the OIEC to refuse to provide or to terminate services to injured workers who are abusive or violent or threaten an employee of OIEC. It also clarifies OIEC's authority to assist injured workers before the TDI-DWC or the State Office of Administrative Hearings (SOAH) in administrative dispute proceedings and in enforcement actions against injured employees. It authorizes the OIEC Public Counsel to adopt, with consultation with the Commissioner of Workers' Compensation, the injured workers' rights and responsibilities, which will continue to be distributed by TDI-DWC. Finally, HB 673 clarifies OIEC's access to confidential information for the performance of its statutory duties. *Cont. on pg. 3*

Sunset Review of Division Underway

TDI's Division of Workers' Compensation (TDI-DWC) is scheduled for Sunset Review by the 82nd Texas Legislature (2011). The Sunset process allows the Legislature to examine the mission and operations of a state agency to determine the future existence and any necessary management changes for the agency.

The basic steps and important timeframes in the Sunset Review process include:

- Submission of agency Self-Evaluation Reports (SERs): September 2009 (see link to SER below)
- Sunset Advisory Commission and staff evaluates agencies, publishes reports, holds public hearings and recommends action: September 2009 – January 2011
- Sunset Advisory Commission reports to 82nd Legislature: January 2011
- Legislature considers Sunset recommendations: January-March 2011

The TDI-DWC completed the first major step in the Sunset process by submitting

its SER to the Sunset Advisory Commission on September 4, 2009. The SER describes TDI-DWC's functions and identifies issues that may be considered during Sunset Review. The SER can be accessed on the agency website at: www.tdi.state.tx.us/wc/dwc/documents/2009dwcsr.pdf.

During the self-evaluation phase of the Sunset process, the Sunset Advisory Commission gathers information from a broad range of sources, including the SER and input from external stakeholders.

The TDI-DWC invites readers of *Texas Workers' Compensation Update* and other stakeholders to participate in the Sunset process by reviewing Sunset documents, testifying at public hearings, and/or taking part in the legislative session.

For additional information about TDI-DWC's Self-Evaluation Report and how to participate in the Sunset process, view TDI's Sunset Resource Page online at: www.tdi.state.tx.us/general/sunset.html.

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from the commissioner

AS COMMISSIONER of Workers' Compensation, I would like to take this opportunity to inform health care providers that your participation in the Texas workers' compensation system is welcomed and greatly appreciated. Our highest priorities include ensuring timely, appropriate and high-quality medical care to all the injured employees of Texas. We cannot reach this objective without the involvement of health care providers who are devoted to providing treatment and services to injured employees in this system.

We understand that health care providers who participate in the workers' compensation are presented with administrative challenges at times and we are committed to addressing issues and concerns through customer service, policy changes, complaint resolution and careful consideration during rulemaking. We have encouraged participation from your medical associations and keep them apprised of developments at the Division of Workers' Compensation that will affect you as a health care provider. You, as a health care provider and a Texas workers' compensation system participant, may provide input and ideas to the Division of Workers' Compensation by submitting rule comments or suggestions directly or through your medical associations.

Reimbursement to health care providers has increased partly in order to compensate for the time and efforts involved in providing quality health care to the injured employees of Texas. In addition, the Division is providing a newly formed customer service call center for health care providers who have questions or need guidance through the non-network Texas workers' compensation system (see page 7). The Division of Workers' Compensation will continue to address health care providers' issues and concerns and by listening and guiding health care providers through the system.

Rod Bordelon

Commissioner of Workers' Compensation

New DWC Form-074, Description of Injured Employee's Employment

Employers may use this form to provide a description of an injured employee's job functions and physical responsibilities in response to a request from a treating doctor. Use of the DWC Form-074 can help facilitate an injured employee's return to work as soon as it is considered safe and appropriate. The form is available for download from the TDI website at www.tdi.state.tx.us/forms/form20.html.

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Texas Workers' Compensation Update is published electronically to the agency website. The newsletter can be viewed and downloaded at:

www.tdi.state.tx.us/pubs/tdipubs8.html

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www.tdi.state.tx.us/alert/emailnews.html

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Texas Workers' Compensation Update via e-mail to PIO@tdi.state.tx.us or telephone to (512) 463-6425. Or write: **Texas Workers' Compensation Update**, MC 113-1A
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The staff that prepares this newsletter has no role in proposing, drafting, editing, or approving TDI rules or policies or interpreting statutes.

Texas Workers' Compensation Update should not be construed to represent the policy, endorsement or opinion of the Commissioner of Insurance, the Commissioner of Workers' Compensation or the Texas Department of Insurance. By necessity, summaries of proposed and adopted rules cannot explain their full complexity. Readers interested in complete information about administrative rules should consult the versions published in the Texas Register.

To the best of the staff's ability, information presented in this newsletter is correct as of the publication date, but scheduled dates and proposed rules and amendments may change as the adoption process goes forward.

Texas Workers' Compensation Update is available online at:
<http://www.tdi.state.tx.us/wc/publications.html> under "News and Publications."

Workers' Comp Bills Enacted by the 81st Texas Legislature

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HB 1058 by Solomons; Sponsored by Lucio (Effective Sept. 1, 2009)

HB 1058 extends death benefits to non-dependent parents who do not receive burial benefits and clarifies that a failure to file a claim for death benefits in the time required bars the claim unless good cause exists for the failure to file a claim under this section. Previously, the standard for failing to file for these benefits within the statutory timeframe required a "compelling reason."

HB 2547 by Giddings; Sponsored by Deuell (Effective Sept. 1, 2009)

HB 2547 allows a treating doctor to request job description information from an injured worker's employer and requires the Commissioner of Workers' Compensation to prescribe a form to be used to identify the scope and functions the worker performed prior to the injury as well as a contact person for the employer. The purpose of this legislation is to facilitate communication between employers and treating doctors regarding the availability of alternate duty or other return-to-work options for the injured worker. The legislation applies to employees of an employer with 10 or more employees.

HB 3625 by Elkins; Sponsored by Van de Putte (Effective Sept. 1, 2009)

HB 3625 changes the timeframe for an insurance carrier to respond to a request for preauthorization from three calendar days to three working days, which conforms the preauthorization timeframes for network and non-network claims.

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HB 4545 by Raymond; Sponsored by Van de Putte (Effective Sept. 1, 2009)

HB 4545 changes the timeframe for a party to dispute a decision by the TDI-DWC Appeals Panel to district court. The effect of the bill is to change the current 40 days to essentially 50 days from the date the decision was filed with the TDI-DWC. The actual language in the bill requires a request for judicial review to be filed not later than the 45th day after the date the decision was mailed by the TDI-DWC to the party; however, additional language was added that for the purposes of this section, the mailing date is considered to be the fifth day after the date the decision of the appeals panel was filed with the TDI-DWC, giving a party up to 50 days, rather than 40 days to seek judicial review.

SB 1814 by Van de Putte; Sponsored by Deshotel (Effective immediately – June 19, 2009)

SB 1814 extends a pilot program that was created by HB 7 in the 79th Legislative Session to allow small employers to be reimbursed for making workplace modifications to help return an injured employee to work. The bill increases those reimbursements to up to \$5,000 annually and allows the Commissioner of Workers' Compensation to extend these reimbursements to other categories of employers as needed. Additionally, this bill clarifies an insurance carrier's statutory responsibility to provide return-to-work coordination services on an ongoing basis when an employer's injured employee begins to lose time away from work and requires insurance carriers to notify their policyholders regarding the availability of the TDI-DWC employer return-to-work reimbursement program.

Division Offers Statistical Information on Reportable Injuries

The Workers' Compensation Claims Data Tool allows public access to non-confidential workers' compensation claim data. The tool was made available for public use in mid-September at: www.tdi.state.tx.us/wc/data.html#claims.

Based on user-selected categories, public users can run dynamic queries that provide data, tables and charts of injury and illness data. The data fields available for querying include: injury/month/day; county of employer; industry classification code; nature of injury/illness; body part; and cause/event.

The query tool displays only non-confidential claims data, ensuring that confidential claim information is not released.

The tool also contains other safeguards to ensure confidentiality. For example, query results of less than five claims are aggregated into an "other/unknown" category. This prevents users from identifying a particular injured employee if they are familiar with their claims or injuries.

Previously, statistical claims information was only available upon request from the TDI-DWC.

Number of Work-Related Fatalities Decreased in Texas in 2008

Texas recorded 457 work-related fatalities in 2008, a 13 percent decrease compared to 2007 when 528 fatalities occurred. Nationally, there were 5,071 fatal work injuries in 2008, a decrease of 20 percent from the revised total of 5,657 in 2007, according to the most recently available data released August 20, 2009, by the U.S. Department of Labor, Bureau of Labor Statistics (BLS), Census of Fatal Occupational Injuries (CFOI).

TDI's Division of Workers' Compensation (TDI-DWC) compiles detailed information on all work-related fatalities occurring in Texas for the CFOI, a program jointly administered with the BLS. Release of the annual fatality totals and descriptive data is intended to assist employers, safety professionals, and policymakers in identifying occupational safety and health issues in the state.

Causes of Fatalities

Transportation incidents continued to be the leading cause of fatalities (44 percent), with a 4 percent increase from 2007. After a consistent decline in fatalities from 2004 to 2007, aircraft incidents rose from 5 in 2007 to 16 in 2008. White, non-Hispanic workers accounted for 88 percent of the total aircraft incidents—an increase of 180 percent from 2007.

Following transportation incidents, assaults and violent acts accounted for the second highest cause of fatalities (17 percent). Unlike transportation incidents, assaults and violent acts experienced a decrease of 12 percent from 2007. Specifically, homicides declined 21 percent.

Despite the decrease in total fatalities in 2008, fatalities resulting from fires and

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Table 1. Annual Number of Fatal Occupational Injuries in Texas by Event, 1998-2008

Event or exposure	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008
Contact with objects and equipment	77	68	91	85	65	70	77	80	88	86	69
Struck by object	41	35	53	53	38	44	49	52	52	47	42
Falls	59	55	76	68	69	52	61	54	60	77	57
Fall to lower level	57	51	73	65	64	47	58	50	54	72	53
Exposure to harmful substances or environments	74	54	64	54	42	51	35	63	54	66	32
Contact with electrical current	42	35	34	34	26	36	21	38	35	39	14
Transportation incidents	213	204	216	209	158	201	194	200	202	193	200
Highway incidents	122	130	135	141	104	118	121	132	129	133	137
Aircraft incidents	15	9	25	12	7	29	28	7	6	5	16
Fires and explosions	21	16	21	22	19	27	18	31	23	17	23
Assaults and violent acts	79	71	101	96	63	90	54	67	59	86	76
Homicides	60	59	82	69	54	69	37	46	45	70	55
Other or not reported	-	-	3	-	-	-	-	-	3	-	-

Notes:

- 1 Data for 2008 are preliminary; data for previous years are final.
- 2 Totals for major categories may include subcategories not shown separately.
- 3 Dashes indicate no data reported or data that do not meet publication criteria.

Source: Texas Department of Insurance, Division of Workers' Compensation (TDI-DWC), Census of Fatal Occupational Injuries (CFOI) in cooperation with the Bureau of Labor Statistics, U.S. Department of Labor.

Work-Related Fatalities Decreased in Texas in 2008

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Table 2. Annual Number of Fatal Occupational Injuries in Texas, 1998-2008

Year	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008
Number	523	468	572	536	417	491	440	495	489	528	457

Note:

1 Data for 2008 are preliminary; data for previous years are final.

Source: Texas Department of Insurance, Division of Workers' Compensation (TDI-DWC), Census of Fatal Occupational Injuries (CFOI) in cooperation with the Bureau of Labor Statistics, U.S. Department of Labor.

explosions increased from 17 fatalities reported in 2007. The total of 23 fatalities in this category was the second highest total since 2003 (27 incidents). Almost one third (30 percent) of those fatalities occurred in the construction industry and involved production workers such as welders.

The number of fatalities resulting from exposure to harmful substances or environments decreased by 52 percent from 2007 and recorded the lowest number of fatalities (32 incidents) for this cause of fatalities since 2003. Electrocutions decreased by 64 percent and exposure to caustic, noxious, or allergenic substances decreased by 63 percent.

Occupations

Motor vehicle operators experienced the largest number of fatalities in Texas in 2008 (104 incidents) which was a 30 percent increase from 2007. Eighty-one percent of those fatalities were due to transportation incidents, and 72 percent involved White, non-Hispanic employees. The second leading occupational group was construction trades workers (83 incidents). Unlike motor vehicle operators, this group experienced a 19 percent decrease in fatalities from 2007 (103 incidents); 37 percent of those fatalities were due to falls. Sixty percent of these fatalities were Hispanic or Latino employees.

Worker Demographics

Women accounted for 6 percent of the total fatalities (26 incidents) in Texas in 2007. They were involved in fatal transportation incidents in 42 percent of the cases and were victims of assault and violent acts in 35 percent of the cases.

The leading cause of fatalities among men was transportation incidents, accounting for 44 percent, followed by contact with objects and equipment.

Twenty-eight percent of all fatalities involved employees between 35 to 44 years of age, regardless of gender. Forty-three percent of those fatalities were caused by transportation incidents. Employees between 35 to 44 years of age were the only age group that experienced an increase (18 percent) in 2008. Employees between 18 to 19 years of age experienced the highest decrease (79 percent) from 2007.

White, non-Hispanic employees accounted for 56 percent of the total fatalities, Hispanic or Latinos accounted for 32 percent, and Black non-Hispanics accounted for 8 percent. Of these three race groups, only White, non-Hispanic employees experienced a 6 percent increase in 2008.

TDI-DWC provides various safety and health services to assist employers in providing safe and healthy workplaces, including free safety and health consultations on Occupational Safety and Health Administration (OSHA) regulations; regional and onsite safety training; free safety training DVD/video loans; the Safety Violations Hotline; and free safety and health publications. For more information on these services, visit the TDI website at www.tdi.state.tx.us/wc/safety/index.html or call **800-687-7080**.

Texas Companies Receive Safety Award at Texas Safety Summit

Anthony Forest Products of Atlanta, Eastman Forge, Inc. of Beaumont, James Avery Craftsman, Inc. of Kerrville and Power Resources, Ltd. of Big Spring were recognized with the Peer Review Safety Award on May 14 at the 13th Annual Safety and Health Conference, the Texas Safety Summit, in Austin.

Anthony Forest Products is a forest products company, which operates a southern pine lumber producing mill in Atlanta, Texas. The company also has various facilities in Arkansas, Georgia, Louisiana, Texas and Canada. To encourage the following of safety rules, company management provides resources to maintain company safety policies, rewards employees for good safety and health behavior and addresses poor safety performances through counseling.

Eastham Forge, Inc. has 95 employees and forges metal blanks into valve bodies and other items. The company's safety program promotes employee involvement by allowing employee assistance with inspections, accident and incident investigations, hazard correction and employee safety training. The company also has a new employee mentor program where mentors participate in the safety training of their newly hired co-workers.

James Avery Craftsman, Inc. is a jewelry manufacturer with production facilities in Kerrville, Fredericksburg and Hondo and retail stores in Texas, Oklahoma, Georgia, Colorado and Louisiana. A three-time recipient of this award, James Avery Craftsman, Inc., has an active safety program, in which its 1,500 employees are encouraged to participate on safety committees and report hazards. The company also maintains commendable safety manuals and written policies.

Power Resources, Ltd., a 212-mega watt natural gas-fueled cogeneration project, has 19 employees. The plant's safety committee coordinates an action plan, which requires employees to inspect hazard controls as part of their daily work routine.

The plan empowers each employee to stop any and all operations if they identify an unsafe, hazardous or potentially hazardous situation. The plan also provides incentive programs and bonus pay for safe work practices and has a disciplinary process in place for noncompliance with company safety policies.

The Peer Review Safety Award Program recognizes Texas employers that have comprehensive safety programs and workplace and injury incidence rates below the national averages for their industries for at least three years. Any Texas employer with workers' compensation coverage or an employer without workers' compensation coverage with five or more employees is eligible to be nominated for the Peer Review Safety Recognition Award. An employer can self-nominate or be nominated by a workers' compensation insurance carrier; industrial trade organization, labor organization or similar entities, or TDI staff members.

For more information on the Peer Review Safety Program or to download an application visit the TDI website at www.tdi.state.tx.us/wc/safety/sethome.html#Peer%20Review%20Safety%20Program under "Peer Review Safety Award Program" or call TDI-DWC at **512-804-4631**.

New Comp Connection for Health Care Providers



TDI's Division of Workers' Compensation has established a telephone help line, Comp Connection for Health Care Providers, 1-800-372-7713 (in the Austin area dial 512-804-4000), to provide one-on-one assistance to the health care provider community that serves injured employees. Health care providers can obtain practical information and guidance on issues commonly encountered when treating injured employees, such as treatment guidelines; billing and reimbursement; workers' compensation forms; licensing and certification requirements,

and monitoring, compliance and enforcement.

This toll-free information line enhances TDI-DWC's ongoing health care provider assistance and education services.

One of TDI-DWC's goals is to recruit, retain and encourage health care provider participation in the workers' compensation system. Comp Connection for Health Care Providers will help the agency achieve this goal by assisting health care providers in the workers' compensation system.

Non-Subscriber and Subscriber Data Available Online

Pursuant to the Texas Labor Code §406.004 and §406.006, the Texas Department of Insurance, Division of Workers' Compensation (TDI-DWC) is required to maintain coverage data on employers who elect not to obtain workers' compensation coverage and employers, certified self-insurers and political subdivisions with workers' compensation coverage. In an effort to make coverage information more accessible to Texas workers' compensation system participants at no cost, non-subscriber and subscriber coverage data is now available for download on the agency website at www.tdi.state.tx.us/wc/data.html#coverage.

Non-subscriber data, collected by TDI-DWC, is refreshed monthly. Subscriber data collected by the National Council on Compensation, Inc. (NCCI), is refreshed annually. TDI-DWC designated NCCI as its single data collection agent for workers' compensation proof of coverage (Commissioner Bulletin B-0010-09, March 4, 2009). As of June 2, 2009 all insurance companies licensed to underwrite workers' compensation insurance in Texas are required to submit their proof of coverage information to NCCI.

Texas OSHCON Program Wins OSCAR

The Texas Occupational Safety and Health Consultation (OSHCON) program was awarded an On-site Consultation Achievement Recognition (OSCAR) from the Department of Labor's Occupational Safety and Health Administration (OSHA). The Texas program was recognized for their contribution to the new OSHA Information System (OIS) at the national OSHCON conference in San Diego in April 2009.

"OIS will provide OSHA with an application capable of serving all our consulta-

tion needs and enhance user functionality, increasing the overall agency performance," said Jeffrey C. Rucker, OSHA Safety & Health Manager.

Texas OSHCON was active in the development and testing of OIS and provided input and insight in the migration from the old application to OIS. They participated in various project workshops that addressed Emergency Response, Consultation Application, IMIS (Integrated Information Management System) Redesign, IMIS Migration and OIS.

Changes to the Supplemental Income Benefits Application Process

In March 2009, Commissioner of Workers' Compensation Rod Bordelon adopted new requirements for injured employees applying for supplemental income benefits (SIBs). The revised rules, 28 Texas Administrative Code §§130.101-130.109, align the work search requirements for injured employees applying for SIBs with the work search requirements for people applying for unemployment insurance benefits. The adopted rules were effective July 1, 2009 and apply to injured employees with SIBs qualifying periods beginning on or after July 1, 2009. The following are highlights of the changes to the application process.

- **A revised *Application for Supplemental Income Benefits, DWC Form-052.***

The new application requires detailed information of the injured employee's work search efforts, including the types of documentation necessary to support the application.

- **A new publication *Questions and Answers About Supplemental Income Benefits.***

The new publication details changes to the process and changes in the work search requirements.

- **New work search requirements.** SIBs applicants must now demonstrate an active effort to comply with the newly adopted work search requirements. Applicants must meet one or more of the following work search requirements each week during the 13-week qualifying period. Injured employees must show that he or she has:

- returned to work in a position which is equal to the injured employee's ability to work; or
- actively participated in a vocational rehabilitation program [such as those offered by the Department of Assistive and Rehabilitative Services (DARS) or a private vocational rehabilitation program]; or

Injured employees applying for SIBs for qualifying periods beginning on or after July 1, 2009, must use the new form and application process.

- been unable to perform any type of work in any capacity as documented by a doctor; or
- actively participated in work search efforts through the Texas Workforce Commission (TWC) appropriate for the injured employee's county, or by other documented job searches. SIBs applicants are now required to perform at least the minimum number of weekly work searches required for their county of residence.

Injured employees applying for SIBs for qualifying periods beginning on or after July 1, 2009, must use the new form and application process. Information about the new process, including the revised application and the number of mandatory weekly work search requirements by county, is available on the TDI website at www.tdi.state.tx.us/wc/employee/sibs.html.

For questions about applying for SIBs, the work search requirements, or when an application is due, contact the insurance carrier or the local TDI-DWC field office by calling **1-800-252-7031**.

Companies Approved to Self-Insure for Workers' Compensation Claims

UNDER TEXAS LAW, certain large, private companies can self-insure for workers' compensation claims, while retaining the protection of the Texas Workers' Compensation Act for the company and for its employees. To qualify, a company must have a minimum workers' compensation insurance unmodified manual premium of \$500,000 and meet other requirements subject to annual review.

From August 2008 through June 2009, a total of 44 companies with approximately 278,850 employees in Texas were approved to self-insure for workers' compensation claims for a one-year period under TDI-DWC's Self-Insurance program.

The Commissioner of Workers' Compensation approved renewals for Certificates of Authority to Self-Insure for:

- AAA Cooper Transportation
- ABF Freight System
- American Electric Power Company, Inc.
- Ameron International Corporation
- Archer-Daniels-Midland Company
- Ascension Health
- Associated Wholesale Grocers, Inc.
- Baptist Hospitals of Southeast Texas
- Chevron Corporation
- Driver Pipeline Company, Inc.
- E. I. du Pont de Nemours and Company
- Emerson Electric Co.
- FedEx Freight East, Inc.
- FedEx Ground Package System, Inc.
- Guardian Industries Corp.
- Hyatt Corporation
- International Paper Company
- Jacobs Engineering Group, Inc.
- Johns Manville
- Kiewit Corporation
- Kimberly-Clark Corporation

- Limited Brands, Inc.
- Lockheed Martin Corporation
- Leonard Family Corporation
- Louisiana Pacific Corporation
- MeadWestvaco Corporation
- Mount Vernon Mills
- PACCAR
- Parker-Hannifin Corporation
- Poly-America, L.P.
- PPG Industries, Inc.
- Sam Kane Beef Processors, Inc.
- Southwestern Bell Telephone, L.P.
- Starbucks Corporation
- Textron, Inc.
- The Procter & Gamble Company
- The Sherwin-Williams Company
- Trinity Mother Frances Health System
- Valero Energy Corporation
- VF Corporation
- Union Tank Car Company
- Unique Staff Leasing I, Ltd.
- Wal-Mart Associates, Inc.
- Weyerhaeuser Company

For more information on applying to the Self-Insurance Regulation program, visit the TDI website at www.tdi.state.tx.us/wc/si/index.html.

Consent Orders

division of workers' compensation

During Fiscal Year 2009 ending August 31, 2009, the Division of Workers' Compensation executed a total of 55 enforcement actions and assessed \$1,041,650 in fines. Following is a summary of enforcement actions executed from January 1, 2009 through August 31, 2009. Enforcement actions for the TDI-DWC can also be viewed online at: wwwapps.tdi.state.tx.us/inter/asproot/commish/da/dwclips2009.asp

COMPANY	VIOLATION	ACTION TAKEN	ORDER NUMBER	DATE OF ORDER
ACIG Insurance Company of Dallas	Failure to take final action on a medical bill no later than the 45th day following receipt	Fined \$2,000	DWC-09-0010	01/30/09
American Casualty Company of Reading Pennsylvania of Chicago, IL	Failure to use a doctor licensed in the State of Texas to review health care services requested by a health care provider for medical necessity	Fined \$4,000	DWC-09-0001	01/07/09
American Home Assurance Company of Chicago, IL	Failure to timely comply with a decision or order of the commission (two instances); Failure to take final action on a complete medical bill (four instances); Failure to pay for preauthorized medical services (three instances); Failure to timely respond to request for reconsideration	Fined \$48,000	DWC-09-0053	08/28/09
American Home Assurance Company of Chicago, IL	Failure to timely comply with a TDI-DWC decision or order (two instances); Failure to pay a complete medical bill within 45 days of receipt (two instances); Failure to pay for medical services that had been preauthorized (four instances)	Fined \$51,500	DWC-09-0054	08/28/09
American Home Assurance Company of Chicago, IL	Failure to timely comply with a TDI-DWC decision or order; Failure to take final action on a medical bill within 45 days of receipt (four instances); Failure to pay for medical services that were preauthorized (three instances)	Fined \$48,000	DWC-09-0055	08/28/09
American Home Assurance Company of Chicago, IL	Failure to timely comply with a decision or order of the commission (two instances); Failure to timely pay a complete medical bill within 45 days of receipt (six instances); Failure to pay for medical services that had been preauthorized (two instances); Failure to respond to a request for reconsideration within 21 days of receipt	Fined \$52,500	DWC-09-0056	08/28/09
American Home Assurance Company of New York City, NY	Failure to use a doctor licensed in the State of Texas to review health care services requested by a health care provider for medical necessity (six instances)	Fined \$22,500	DWC-09-0005	01/08/2009
City of Plano of Plano	Failure to respond to a TDI-DWC data request in a timely manner	Fined \$2,500	DWC-09-0030	05/08/09
Continental Casualty Company of Chicago, IL	Inappropriate payment or denial of payment of 144 medical bills out of 517 bills reviewed; failure to meet compliance standard for data submission accuracy, timely reporting of medical bill data, or timely processing of medical bills	Fined \$55,000	DWC-09-0015	02/27/09

Consent Orders

division of workers' compensation

COMPANY	VIOLATION	ACTION TAKEN	ORDER NUMBER	DATE OF ORDER
Employers Mutual Casualty Company of Des Moines, IA	Failure to pay the reasonable and necessary medical costs of treatments/services requiring preauthorization which were approved prior to providing the health care (three instances); inappropriate retrospective review of the medical necessity of preauthorized treatment or services (three instances)	Fined \$12,500	DWC-09-0026	05/01/09
Fidelity and Guaranty Insurance Company of Saint Paul, MN	Late payment for preauthorized services (five instances); improper denial of partial payment for preauthorized services	Fined \$9,000	DWC-09-0007	01/08/09
Fortenberry, Dewitt C., M.D., of Texarkana	Failure to file Report of Medical Evaluation in a timely manner	Fined \$1,500	DWC-09-0012	02/25/09
Franz, Jerry, M.D., of Irving	Failure to file the Report of Medical Evaluation in a timely manner (11 instances); failure to respond to letters of clarification in a timely manner (three instances); failure to timely re-examine claimants after the letter of clarification request	Fined \$3,500	DWC-09-0025	05/01/09
Gill, Darshan, M.D., of McAllen	Failure to respond to letters of clarification in a timely manner (two instances)	Fined \$2,000	DWC-09-0020	03/20/09
Liberty Insurance Corporation of Boston, MA	Failure to use a doctor licensed in the State of Texas to conduct a peer review requested by the health care provider for medical necessity of health care services provided	Fined \$3,750	DWC-09-0027	05/01/09
Metiscan Corpus Christi of Dallas	Misuse of the Texas Department of Insurance/ Division of Worker's Compensation name and/or symbol in 19 documents	Fined \$1,000 Cease & Desist	DWC-09-0022	04/13/09
Murphy, Charles, M.D., of Plano	Failure to file the Report of Medical Evaluation in a timely manner (106 instances); failure to file the Report of Medical Evaluation before the seven-day deadline expired (106 instances); and failure to meet the compliance standard of 95 percent	Fined \$45,000	DWC-09-0003	01/08/09
National Fire Insurance Company of Chicago, IL	Inappropriate payment or denial of payment of 41 medical bills out of 205 bills reviewed; failure to meet compliance standard for appropriate denial or reduction of a medical bill	Fined \$12,000	DWC-09-0016	02/27/09
New Hampshire Insurance Company of Harrisburg, PA	Failure to use a doctor licensed in the State of Texas to review health care services requested by a health care provider for medical necessity (two instances)	Fined \$7,500	DWC-09-0006	01/08/09
Old Republic Insurance Company of Greensburg, PA	Failure to use a doctor licensed in the State of Texas to conduct a peer review requested by the health care provider for medical necessity of health care services provided (two instances)	Fined \$7,500	DWC-09-0028	05/01/09
Otto, Laurie, M.D., of Plano	Failure to file the Report of Medical Evaluation in a timely manner (10 instances); failure to meet the compliance standard of 95 percent	Fined \$3,750	DWC-09-0018	03/19/09

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division of workers' compensation

COMPANY	VIOLATION	ACTION TAKEN	ORDER NUMBER	DATE OF ORDER
Panzarella, Robert, M.D., of Humble	Failure to file the Report of Medical Evaluation in a timely manner (97 instances); failure to file the Report of Medical Evaluation with the insurance carrier by facsimile or electronic transmission (11 instances); failure to respond to letters of clarification in a timely manner (six instances); failure to notify TDI-DWC of rescheduled designated doctor examination (four instances); failure to meet compliance standard of 95 percent	Fined \$12,500	DWC-09-0024	04/16/09
Roberson, Eric, M.D., of Webster	Failure to file the Report of Medical Evaluation in a timely manner (105 instances); failure to file the Report of Medical Evaluation with the insurance carrier by facsimile or electronic transmission (105 instances); failure to file the Report of Medical Evaluation before the seven-day deadline (105 instances); and failure to meet the compliance standard of 95 percent	Fined \$12,300	DWC-09-0009	01/30/09
Service Lloyds Insurance Company of Austin	Failure to use a doctor licensed in the State of Texas to conduct a peer review requested by the health care provider for medical necessity of health care services provided	Fined \$3,750	DWC-09-0029	05/01/09
St. Luke's Episcopal Health System of Houston	Improperly pursuing a private claim against a workers' compensation claimant when the injury had not been finally adjudicated and the claimant had not been in violation of their selection of a doctor	Fined \$1,000	DWC-09-0011	02/25/09
Tarrant County Hospital District of Fort Worth	Failure to timely respond to a request for data	Fined \$3,500	DWC-09-0051	08/25/09
Texas Municipal League Intergovernmental Risk Pool of Austin	Failure to pay the reasonable and necessary medical costs of treatments/services requiring preauthorization which were approved prior to providing the health care (four instances); inappropriate retrospective review of the medical necessity of preauthorized treatment or services (four instances)	Fined \$5,000	DWC-09-0019	03/19/09
The Insurance Company of the State of Pennsylvania of Harrisburg, PA	Failure to use a doctor licensed in the State of Texas to review health care services requested by a health care provider for medical necessity (two instances)	Fined \$7,500	DWC-09-0004	01/08/09
Transcontinental Insurance Company of Chicago, IL	Inappropriate payment or denial of payment of 90 medical bills out of 318 medical bills reviewed; failure to meet the compliance standard for appropriate denial or reduction of a medical bill	Fined \$18,000	DWC-09-0014	02/27/09
Transportation Insurance Company of Chicago, IL	Inappropriate payment or denial of payment of 154 medical bills out of 422 medical bills reviewed; failure to meet the compliance standard for appropriate denial or reduction of a medical bill	Fined \$65,000	DWC-09-0013	02/27/09

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COMPANY	VIOLATION	ACTION TAKEN	ORDER NUMBER	DATE OF ORDER
Zurich American Insurance Company of Schaumburg, IL	Failure to initiate Temporary Income Benefits in a timely manner (three instances)	Fined \$1,600	DWC-09-0021	04/13/09
Zurich American Insurance Company of Schaumburg, IL	Failure to use a doctor licensed in the State of Texas to review health care services requested by a health care provider for medical necessity (four instances)	Fined \$15,000	DWC-09-0002	01/07/09
Zurich American Insurance Company of Schaumburg, IL	Improper denial of payment for medical services that were preauthorized (six instances)	Fined \$42,750	DWC-09-0043	08/25/09
Zurich American Insurance Company of Schaumburg, IL	Improper denial of payment for medical services that were preauthorized (10 instances)	Fined \$55,500	DWC-09-0044	08/25/09
Zurich American Insurance Company of Schaumburg, IL	Improper denial of payment for medical services that were preauthorized (eight instances)	Fined \$59,500	DWC-09-0045	08/25/09
Zurich American Insurance Company of Schaumburg, IL	Failure to timely pay a TDI-DWC decision or order (five instances)	Fined \$32,500	DWC-09-0046	08/25/09
Zurich American Insurance Company of Schaumburg, IL	Failure to timely pay a TDI-DWC decision or order (five instances)	Fined \$30,000	DWC-09-0047	08/25/09
Zurich American Insurance Company of Schaumburg, IL	Failure to timely pay a TDI-DWC decision or order (two instances)	Fined \$19,750	DWC-09-0048	08/25/09
Zurich American Insurance Company of Schaumburg, IL	Failure to timely pay TDI-DWC decision or order (three instances); failure to timely pay Temporary Income Benefits (TIBs) (three instances)	Fined \$23,800	DWC-09-0049	08/25/09
Zurich American Insurance Company of Schaumburg, IL	Failure to take action on medical bills within 45 days of receipt (10 instances); failure to timely respond to a request for preauthorization; failure to timely respond to a Request for Reconsideration; failure to sufficiently explain reason for denying or reducing payment on a medical bill (eight instances)	Fined \$36,000	DWC-09-0050	08/25/09

Commissioner's Orders Online

<https://wwwapps.tdi.state.tx.us/inter/asproot/commish/da/dwcclips2009.asp>

Division of Workers' Compensation Contact Information

www.tdi.state.tx.us/wc/dwcontacts.html

CompConnection for HCP	1-800-372-7713
EDI/TXCOMP HelpDesk	1-888-4-TXCOMP (1-888-489-2667)
Fraud Hotline	512-463-6700 or 1-888-327-8818
Government Relations	512-463-6651
Human Resources	512-804-4450
Injured Employee Hotline (local field offices)	1-800-252-7031 or local office/(Austin) 512-933-1899
Office of Injured Employee Counsel	1-866-EZE-OIEC (1-866-393-6432)
Open Records	512-804-4434
Public Information/Publications	512-463-6425 512-804-4240
Safety Violations Hotline	1-800-452-9595
Speakers' Bureau	512-804-4685
Stay at Work/Return to Work	512-804-5000
TDI-DWC Main Office	1-800-371-7713 512-804-4000
Workplace Safety	1-800-687-7080 (Accident Prevention Services; OSHCON; Safety Resource Center; Federal Data Collection)
Other Helpful Numbers	
Texas Workforce Commission	1-800-832-2829
Department of Assistive and Rehabilitative Services	1-800-628-5115

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TDInSight

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