

What is the goal of disability management?

The goal of disability management is to optimize health care and return-to-work outcomes for injured employees to avoid delayed recovery in the Texas Workers' Compensation System. All system participants in a workers' compensation claim are encouraged to facilitate and improve communications regarding the return-to-work goals or plans established by health care providers.

The Division of Workers' Compensation (DWC) has adopted disability management rules, which may be viewed on the Texas Department of Insurance (TDI) website at <http://www.tdi.texas.gov/wc/dm/index.html>.

Title 28 Texas Administrative Code (TAC) Chapter 137

§137.1 – Disability Management Concept

§137.10 – Return to Work Guidelines

§137.100 – Treatment Guidelines

Overview of Return-to-Work Guidelines

The DWC adopted the most current edition of The Medical Disability Advisor, Workplace Guidelines for Disability Duration (Disability Guidelines), excluding all sections and tables relating to rehabilitation, published by the Reed Group, as the DWC's return-to-work guidelines.

These guidelines provide expected lengths of disability durations, which represent points in time when additional evaluation and communication among the health care provider, injured employee, insurance carrier, and employer may occur if an injured employee has not fully recovered and returned to work.

Additional information about the Disability Guidelines is available from the Reed Group website at www.mdguidelines.com.

Return-to-Work Guidelines for Health Care Providers

- The Disability Guidelines provides minimum, optimum, and maximum expectancies (or averages) of return-to-work time frames (disability duration) that are considered to be an expected length of disability duration.
- Treating doctors and other health care providers may consider factors that may influence medical recovery and disability durations, such as co-morbid conditions and medical complications of the injured employee.
- The disability duration values in the Disability Guidelines are not absolute values and do not represent specific lengths or periods of time at which an injured employee must return-to-work; the values represent points in time at which additional evaluation may take place if full medical recovery and return-to-work have not occurred.
- 28 TAC §129.5 concerning work status reports addresses communications between the treating doctor, referral doctor, or designated doctor and system participants regarding the injured employee's physical ability to return-to-work after a compensable injury.

Return-to-Work for Employers

- Upon request, employers with ten or more employees must give the employee's treating doctor a description of the employee's regular job duties, and descriptions of any other jobs that may be available for the employee during his or her recovery.
- Employers are encouraged to stay in contact with the injured employee and the employee's treating doctor during the course of treatment to discuss return-to-work alternatives and opportunities, and to exchange information about the employee's ability to work as his or her recovery progresses.
- Employers must be sure to assign duties to the injured employees in accordance with the doctor's instructions. If the employee cannot perform all the functions of his or her pre-injury job, consider temporarily modifying or adjusting the employee's job duties or work schedule. Determine whether work-sharing options or part-time work can be implemented among the injured employee and other employees so the injured employee can perform functions that are productive and beneficial to the business.

Return-to-Work for Injured Employees

- Injured employees may obtain claim assistance by contacting the local TDI-DWC field office by calling 800-252-7031. For general information about workers' compensation in Texas, visit the injured employee resource page on the TDI-DWC website at <https://www.tdi.texas.gov/wc/employee/index.html>.
- Injured employees may obtain assistance in return-to-work from the Texas Workforce Commission (TWC), which offers a variety of services at no cost throughout the state. Contact a local Texas Workforce Center or visit <http://www.workintexas.com> for more information about these and other programs including: training, career and job search tools, vocational rehabilitation services, child care to qualified families, and employment assistance.

Return-to-Work for Insurance Carriers

- Insurance carriers are encouraged to facilitate and improve communications with the treating doctor and injured employee regarding return-to-work goals and monitor the injured employee's progress.
- Insurance carriers are encouraged to assist the treating doctor and injured employee in communicating with the employer regarding proposed job duty and activity modifications.
- Insurance carriers may use Disability Guidelines in combination with Labor Code §413.021 to evaluate and determine if skilled case management is necessary.
- Insurance carriers may not use the Disability Guidelines as the sole justification or the only reasonable grounds for reducing, denying, suspending or terminating income benefits to an injured employee.

Overview of Treatment Guidelines

The DWC adopted the most current edition of the Official Disability Guidelines Treatment in Workers' Comp (ODG), excluding the return-to-work pathways, published by Work Loss Data Institute (also referred to as the "DWC treatment guidelines"). The ODG provides evidence-based protocols for medical treatment and includes recommendations for medical procedures. Health care providers are required to provide treatment in accordance with adopted guidelines unless the treatments and services require preauthorization in

accordance with 28 TAC §134.600 of this title (relating to Preauthorization, Concurrent Utilization Review, and Voluntary Certification of Health Care). Treatments and services within the guidelines which are presumed to be health care reasonably required.

An insurance carrier may not deny preauthorization or reimbursement for a treatment solely because the diagnosis or treatment is not included in the DWC treatment guidelines. However, an insurance carrier who can provide evidence-based documentation that outweighs the presumption of reasonableness established by the Labor Code and DWC rules may retrospectively deny reimbursement for a treatment or service that is included in the treatment guidelines.

The ODG online product is the most current version and is updated frequently. System participants are to use the most current online edition of the publication on the date medical service is rendered. The DWC and the publishers of the ODG have partnered to identify changes that have occurred in the online version of the ODG in the previous month. The DWC posts these updates of the online version of the ODG monthly. These updates are posted on the TDI website at <http://www.tdi.texas.gov/wc/dm/documents/odgupdates.xlsx> for convenience, but are not a substitute for the complete online text of the ODG.

Treatments and services that exceed or are not addressed by ODG require preauthorization in accordance with 28 TAC §134.600. For prescriptions, this preauthorization requirement applies only to drugs specifically excluded from the pharmacy closed formulary (see 28 TAC §134.600(p)(11) - (12), and 134.500 - 134.550).

Appendix D

Although ODG covers the vast majority of cases seen in workers' compensation, there are still times when uncommon situations can occur which are not addressed in the standard guidelines. In cases where the medical care is an exception to ODG, the health care provider should refer to Appendix D of the ODG, "Documenting Exceptions to the Guidelines."

Any associated preauthorization or reconsideration requests should also document:

1. extenuating circumstances of the case that warrants performance of the treatment, including the rationale for procedures not addressed in ODG;
2. patient co-morbidities;
3. objective signs of functional improvement for treatment conducted thus far;
4. measurable goals and progress points expected from additional treatment; and
5. additional evidence that supports the health care provider's case.

For information on how to purchase access to the guidelines, see the Work Loss Data Institute's website at <http://www.worklossdata.com/>.