

Pharmacy Closed Formulary Rules

This presentation is for educational purposes only and is not a substitute for the statute and Division rules.

Topics Covered

- Texas Department of Insurance Overview
- Pharmacy Formulary Rule History & Development
- Pharmacy Formulary Rules
- Case Scenarios and Resources

Topics Covered

Pharmacy Formulary Rules

- Amended §134.500
- Amended §134.506
- New §134.510
- New §134.520
- New §134.530
- New §134.540
- New §134.550
- Amended §133.306

Can be found under “Adoptions”

<http://www.tdi.texas.gov/wc/rules/index.html>

- Existing §134.502

Resources for

- » Employees
- » Empleados
- » Employers
- » Health Care Providers
- » Insurance Carriers
- » Attorneys

Quick Start

- » I Want to ...
- » What's New
- » Coverage Verification
- » Disability Management
- » eBill
- » Fee Guidelines
- » Healthcare Networks
- » Office of the Medical Advisor
- » Performance Based Oversight

Workers' Compensation Rules

- 28 Texas Administrative Code (TAC) Chapters 102 - 180 (for injuries on or after January 1, 1991)
 - Rules in [HTML](#) format (Secretary of State website)
 - Rules in [PDF](#) format (TDI)

Adoptions

- [Adoptions](#)
- [Rulebook Supplements](#)
 - [Rulebook Supplement 2011-01 Available Online](#)
 - [How To Update Your Rulebook](#)

Proposals

- [Proposed Rules for Public Comment](#)
- [Informal Working Draft Rules for Comment](#)

Resources

- [Texas Register](#) (official repository of state rules and open meetings information)
- [Certified Workers' Compensation Network Rules](#) (28 TAC Chapter 10)
- [TDI-DWC Rule Chart](#) (PDF)
- [HB 7 Related Rule Projects](#)
- [Webcast Archive](#) (audio files from public hearings and stakeholder meetings)
- Old Law Rules: 28 TAC Chapters 41-89 (for injuries prior to January 1, 1991)

Who is the Texas Department of Insurance?

Texas Department of Insurance

The Texas Department of Insurance (TDI) envisions a financially stable and fair marketplace and an effective and efficient workers' compensation system.

The mission of TDI is to protect insurance consumers by regulating the insurance industry fairly and diligently with the Texas Insurance Code

Texas Department of Insurance – Division of Workers' Compensation

The primary duties of TDI-DWC are:

- to regulate and administer the business of workers' compensation in Texas; and
- ensure that the Texas Workers' Compensation Act, Texas Labor Code, and other laws regarding workers' compensation are implemented and enforced.

Texas Department of Insurance Divisions

Division of Workers' Compensation (DWC)

- Non Network Claims
- Political Subdivisions

Health and Workers' Compensation Certified Networks Division (HWCN)

- Certified Workers' Compensation Network Claims
- Political Subdivisions that formed a certified network

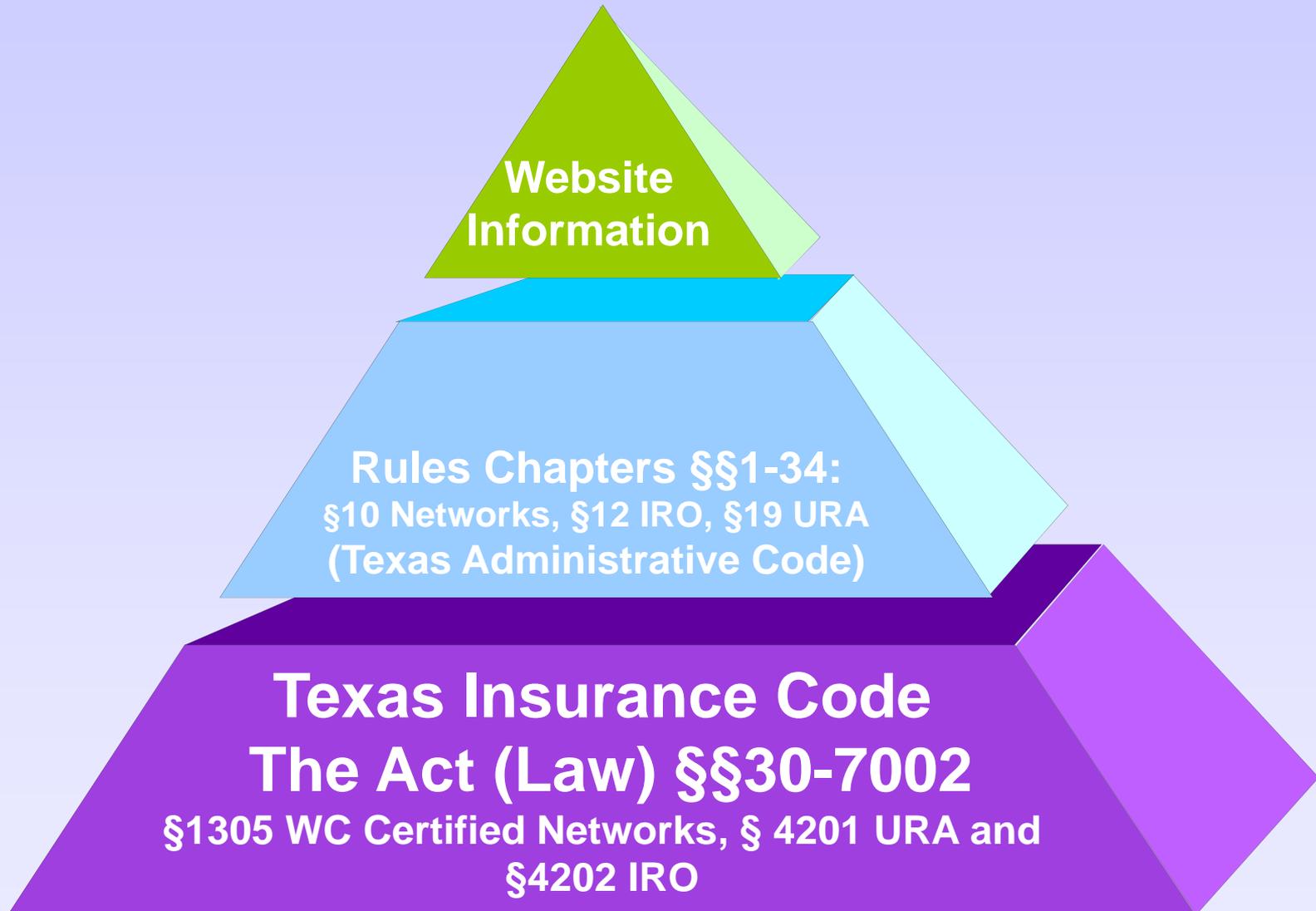
Office of Injured Employee Counsel (OIEC)

- Provides injured employee assistance
- Office of Injured Employee Counsel (OIEC) by calling the toll-free telephone number
- 1-866-EZE-OIEC (1-866-393-6432)

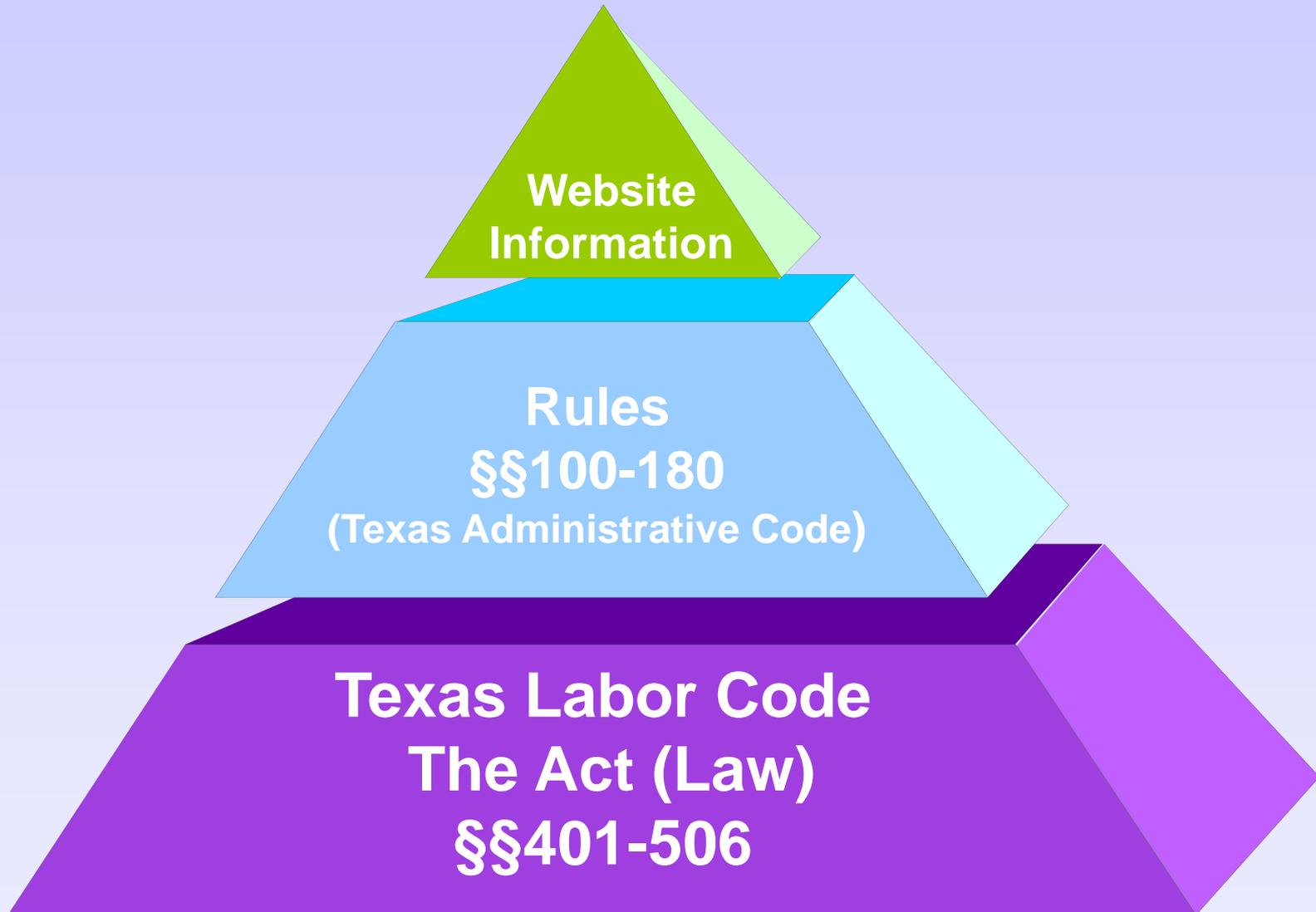
www.oiec.texas.gov

Texas Workers' Compensation Regulation

The Texas Insurance Code



The Texas Labor Code



Pharmaceutical Benefits

Texas Labor Code §408.021

An employee who sustains a compensable injury is entitled to all health care reasonably required by the nature of the injury as and when needed. The employee is specifically entitled to health care that:

- cures or relieves the effects naturally resulting from the compensable injury;
- promotes recovery; or
- enhances the ability of the employee to return to or retain employment.

Pharmaceutical Benefits

That means....

A physician providing care may prescribe any necessary prescription drugs, and order over-the-counter alternatives to prescription medications as clinically appropriate in accordance with state law and the Texas Workers' Compensation Act

Pharmacy Closed Formulary Amended and New Rules

History of Rule Development

79th Texas Legislature passed HB-7, which amended Texas Labor Code §408.028. Pharmaceutical Services:

“...The commissioner by rule shall adopt a closed formulary under Section 413.011. Rules adopted by the commissioner shall allow an appeals process for claims in which a treating doctor determines and documents that a drug not included in the formulary is necessary to treat an injured employee's compensable injury.”

History of Rule Development

The TDI-DWC:

Conducted stakeholder meetings

- August 2008
- March 2009
- August 2009

Posted 3 informal working drafts of the rules prior to formal proposal

- December 16, 2008
- June 12, 2009
- February 4, 2010

History of Rule Development

Professional medical and pharmacy associations were involved in providing stakeholder input, some examples are:

- Texas Medical Association
- Texas Pain Society
- Texas Pharmacy Association
- Texas Osteopathic Medical Association
- Texas Orthopedic Association

History of Rule Development

July 16, 2010

Proposed Closed Formulary rules published in the *Texas Register*

August 16, 2010

Public hearing and close of public comments

December 17, 2010

Adopted Closed Formulary rules published in the December 17, 2010 *Texas Register* and with corrected effective date of *January 17, 2011* in the January 14, 2011 edition of *Texas Register*

Pharmacy Formulary Rules

28 TAC Chapter 134 *Benefits—Guidelines for Medical Services, Charges and Payments*

Subchapter F, *Pharmaceutical Benefits*

Pharmacy Formulary Rules

Amended Rules

§134.500 – Definitions

includes key definitions pertaining to all pharmaceutical benefits rules

§134.506 - Outpatient Open Formulary for Claims with Dates of Injury Prior to September 1, 2011 addresses the formulary that applies to “legacy claims”

Pharmacy Formulary Rules

New Rules

§134.510 - Transition to the Use of the Closed Formulary for Claims with Dates of Injury Prior to September 1, 2011

- Addresses transition to the closed formulary for “legacy claims”

§134.520 - Outpatient Closed Formulary for Dates of Injury On or After September 1, 2011

- Applies the closed formulary to dates of injury September 1, 2011 and forward

Pharmacy Formulary Rules

New Rules

§134.530 - Requirements for Use of the Closed Formulary for Claims Not Subject to Certified Networks

- Describes the requirements for use of the closed formulary for non-network claims

§134.540 - Requirements for Use of the Closed Formulary for Claims Subject to Certified Networks

- Describes the requirements for use of the closed formulary for certified network claims

Pharmacy Formulary Rules

New Rules

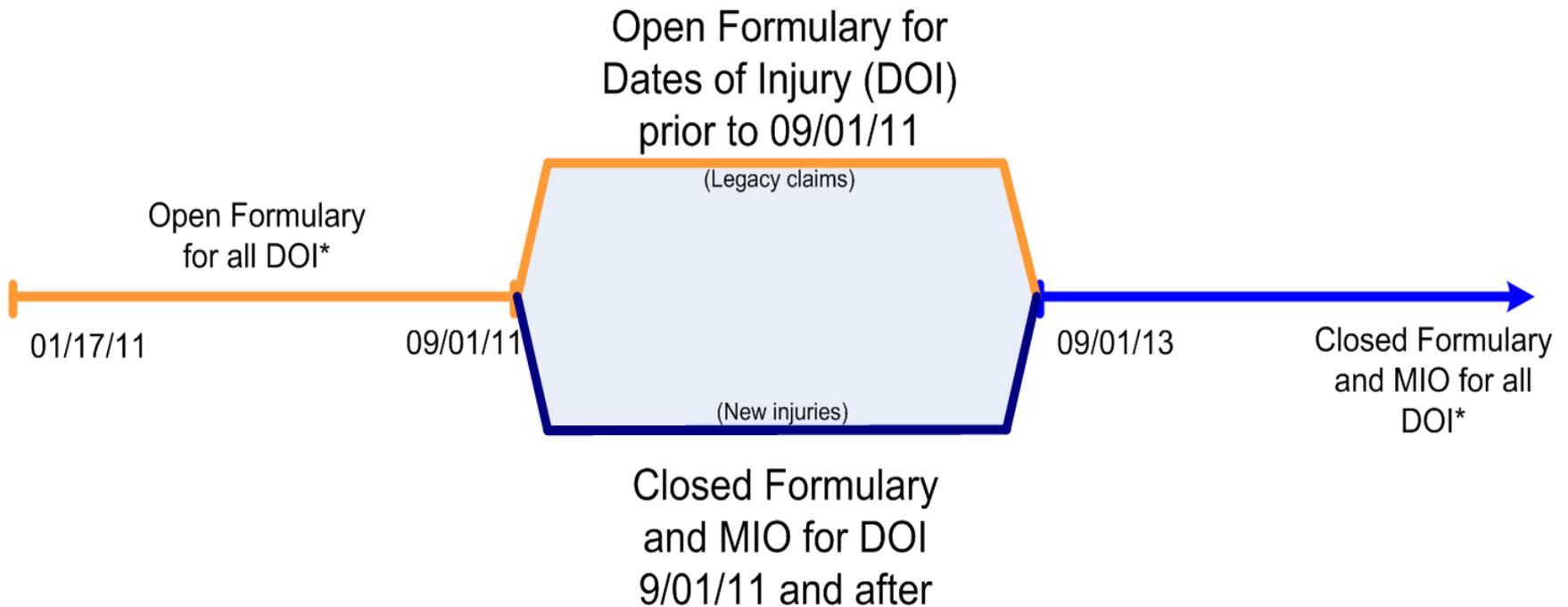
§134.550 - Medical Interlocutory Order (MIO)

- Outlines a process for access to drugs excluded from the closed formulary that are denied preauthorization where unreasonable risk of a medical emergency exists

§133.306 – Interlocutory Order for Medical Benefits

- The Commissioner may delegate authority to DWC staff to issue an interlocutory order for future or accrued medical benefits

Timeline of the Closed Formulary Implementation



This timeline is for educational purposes only, and is not a substitute for the statute or rules.

*Except Old Law Claims (DOI Dec 31, 1990 and before)

§134.500

Definitions

Definitions

Defines “Closed Formulary” as:

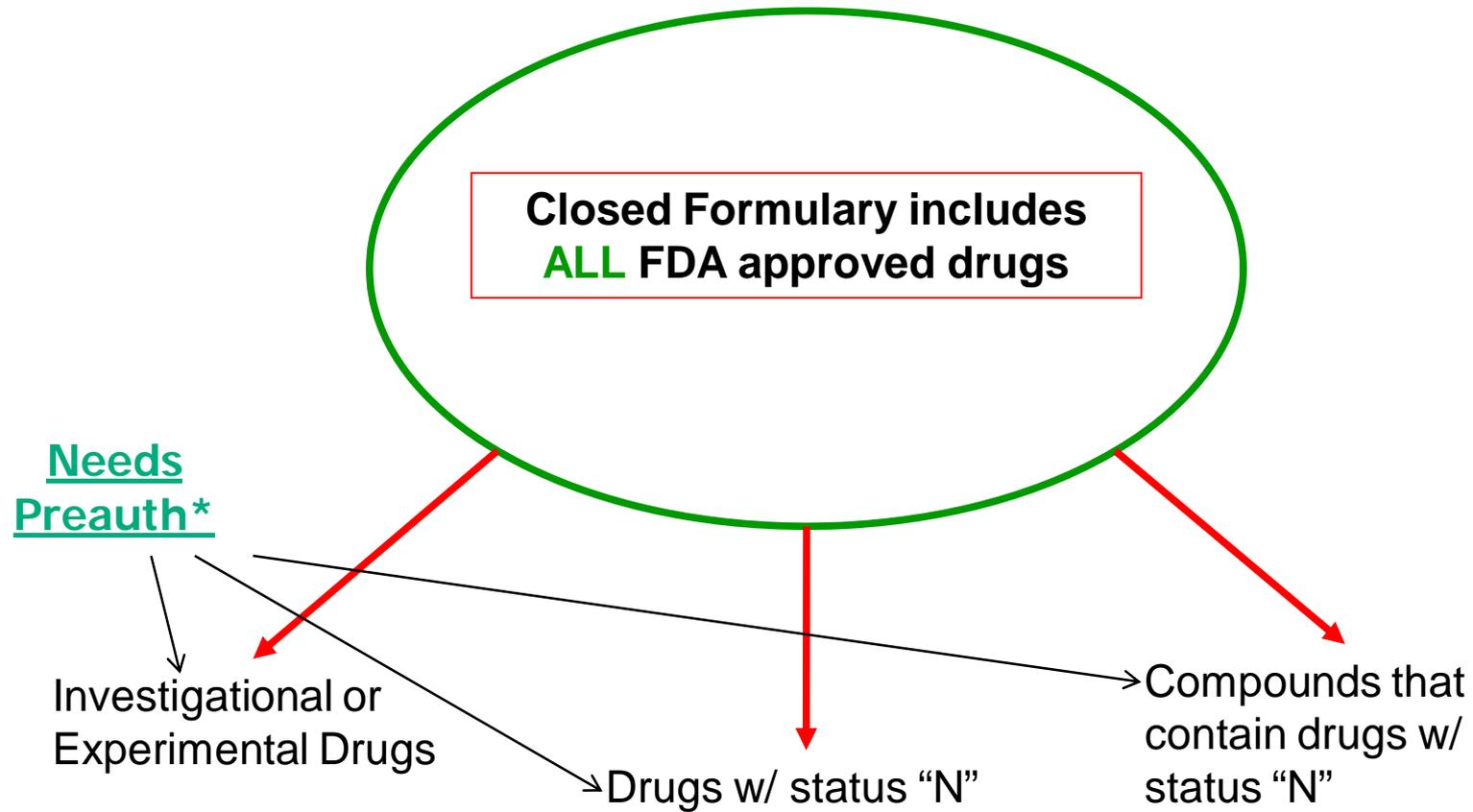
All available Food and Drug Administration (FDA) - approved prescription and non-prescription drugs prescribed and dispensed for outpatient use with some exclusions

Definitions

Exclusions from the Closed Formulary:

- drugs with “N” status identified in the current edition of the Official Disability Guideline (ODG) Treatment in Workers’ Comp/Appendix A, *ODG Workers’ Compensation Drug Formulary* and any updates
- any compounded drugs that contains a drug identified with an “N” status in ODG; and
- investigational or experimental drugs as defined in Texas Labor Code §413.014(a)

Pharmacy Closed Formulary*



*after initial pharmaceutical coverage

“N” Status Drugs

- ODG’s appendix A is the most current publication for “N” status drugs:

www.worklossdata.com

- TDI-DWC will post the “N” status drugs from ODG’s Appendix A on its website:

<http://www.tdi.texas.gov/wc/pharmacy/index.html>

- “N” status drugs is updated monthly

ODG Workers' Compensation Drug Formulary

Drug Class	Generic Name	Brand Name	GE	Status	Cost
Opioids	Codeine	Codeine	Y	Y	
Opioids	Codeine/acetamin.	Tylenol #3	Y	Y	\$2.81
Opioids	Fentanyl buccal	Fentora®	N	N	
Opioids	Fentanyl buccal film	Onsolis™	N	N	
Opioids	Fentanyl lollipop	Actiq®	Y	N	\$1,516.13
Opioids	Fentanyl transdermal	Duragesic®	Y	Y	\$160.38
Opioids	Fentanyl transmucosal	Abstral	N	N	
Opioids	Hydrocodone/acetamin.	Vicodin®	Y	Y	\$21.79

<http://www.tdi.texas.gov/wc/dm/index.html>

Disability Management News & Publications

- [Monthly Listing of "N" Drugs in Official Disability Guidelines – Treatment in Workers' Comp \(ODG\) / Appendix A. ODG Workers' Compensation Drug Formulary \(PDF\)](#)
 - ["N" Drug List](#) (Excel)
- Monthly Updates to *Official Disability Guidelines* - [Memo](#) (PDF); Spreadsheet ([Excel](#), [PDF](#))



Texas Department of Insurance
Division of Workers' Compensation

This table is provided as a convenience only and is not a substitute for the current edition of *ODG Treatment in Workers' Comp / Appendix A: ODG Workers' Compensation Drug Formulary* ([see memo](#)).

ODG Texas Workers' Compensation Status "N" Drugs
(Excluded from the Closed Formulary as of March 31, 2011)

Drug Class	Generic Name	Brand Name	Status
Opioids	Buprenorphine (for pain)	Suboxone®	N
Opioids	Buprenorphine (transdermal)	Butrans™	N
Opioids	Butalbital	Fioricet®	N
Opioids	Fentanyl buccal	Fentora®	N
Opioids	Fentanyl buccal film	Onsolis™	N
Opioids	Fentanyl lollipop	Actiq®	N
Opioids	Fentanyl transmucosal	Abstral	N
Opioids	Hydrocodone/ibuprofen	Vicoprofen®	N
Opioids	Hydromorphone ER	Exalgo	N
Opioids	Meperidine	Demerol®	N
Opioids	Methadone (link to rules)	Methadose®	N
Opioids	Morphine ER	Avinza®	N
Opioids	Morphine ER	Kadian®	N
Opioids	Oxycodone	OxyContin®	N

Definitions

Defines “Open formulary” as:

Includes all available Food and Drug Administration (FDA) approved prescription and nonprescription drugs prescribed and dispensed for outpatient use, but does not include drugs that lack FDA approval, or non-drug items

Definitions

Statement of medical necessity is:

A written statement from the prescribing doctor to establish the need for treatments or services, or prescriptions, including the need for a brand name drug where applicable.

Definitions

Statement of medical necessity shall include:

- the injured employee's full name, DOI, SSN and diagnosis code
- whether the drug has previously been prescribed and dispensed, if known, and whether the inability to obtain the drug poses an unreasonable risk of a medical emergency; and

Definitions

Statement of medical necessity shall include:

- how the prescription treats the diagnosis, promotes recovery, or enhances the ability of the injured employee to return to or retain employment

Definitions

Medical emergency is defined as:

The sudden onset of a medical condition manifested by acute symptoms of sufficient severity, including severe pain that in the absence of immediate medical attention could reasonably be expected to result in:

- placing the patient's health or bodily functions in serious jeopardy; or
- serious dysfunction of any body organ or part

Definitions

Also includes other definitions, which are defined in the Texas Occupations Code:

- Compounding
- Generic Equivalent
 - Pharmaceutically
 - Therapeutically
- Substitution
- Prescribing doctor (includes dentists, physician assistants, and advanced practice nurses)

§134.506

**Outpatient Open Formulary for
Claims with Dates of Injury Prior
to September 1, 2011
(effective January 17, 2011)**

Open Formulary for Legacy Claims

- Applies to both network and non-network claims with dates of injury prior to September 1, 2011
- A legacy claim is any date of injury prior to September 1, 2011
- Subject to the open formulary until September 1, 2013

Open Formulary for Legacy Claims

How are drugs prescribed in an open formulary?

Non-Network

- According to the ODG treatment guidelines

Network

- According to the certified network's treatment guidelines

Open Formulary for Non-Network Claims

- Drugs included in an open formulary do not require preauthorization, but are subject to retrospective review
- However, investigational or experimental drugs statutorily require preauthorization

Open Formulary for Non-Network Claims

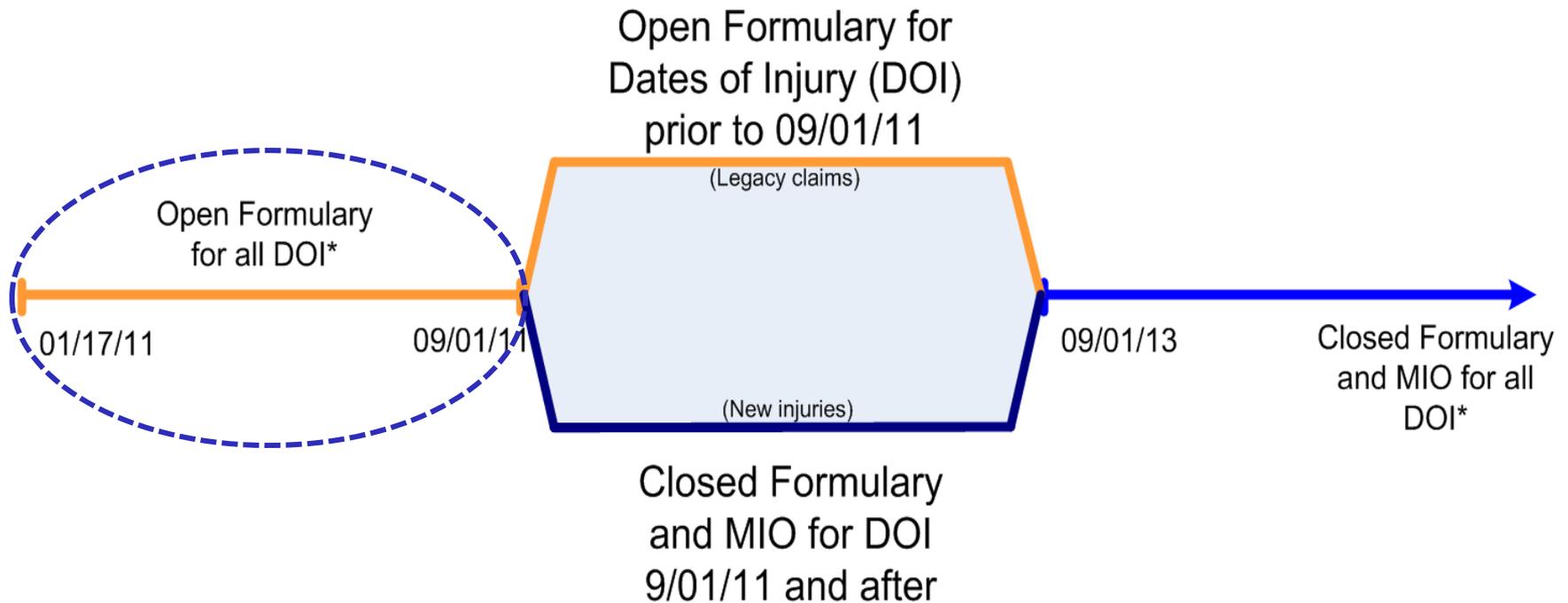
- As of January 17, 2011 preauthorization is not required for drugs* not recommended by the Official Disability Guidelines
- However, they are subject to retrospective review

*unless experimental or investigational

Open Formulary for Network Claims

- Drugs in the open formulary shall be prescribed according to the certified network's treatment guidelines
- Drugs prescribed and dispensed shall be preauthorized in accordance Texas Insurance Code Chapter 1305 and Texas Administrative Code Chapter 10

Timeline of the Closed Formulary Implementation



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*Except Old Law Claims (DOI Dec 31, 1990 and before)

§134.510

**Transition to the Use of the
Closed Formulary for Claims
with Dates of Injury Prior to
September 1, 2011**

Transition of Legacy Claims

- New rule
- Addresses the transition of the legacy claims into a closed formulary

Transition of Legacy Claims

- Applies to claims with dates of injury prior to September 1, 2011 which are subject to the closed formulary and the MIO process on or after September 1, 2013

Transition of Legacy Claims

At any time between September 1, 2011 and September 1, 2013:

The prescribing doctor should include a statement of medical necessity with the prescription for drugs excluded from the closed formulary for legacy claims

Transition of Legacy Claims

To facilitate the transition, the prescribing doctor or the insurance carrier may:

- Contact each other to discuss ongoing pharmacological management of the injured employee's claim
- When the parties contact each other, they must provide a name, phone number, date and time to discuss ongoing pharmacological management of the injured employee's claim

Transition of Legacy Claims

Beginning no later than March 1, 2013, the insurance carrier shall:

- Identify legacy claims where an excluded drug has been prescribed after September 1, 2012
- Provide written notification to the injured employee, prescribing doctor and pharmacy, if known

Transition of Legacy Claims

The written notification will contain:

- Date the closed formulary will apply
- Name, telephone number, and date and time to discuss ongoing pharmacological management of the injured employee's claim

Transition of Legacy Claims

Agreement:

During the discussion the insurance carrier and a prescribing doctor may enter into an agreement on the application of the closed formulary on an individual claim-by-claim basis

Transition of Legacy Claims

Agreement requirements:

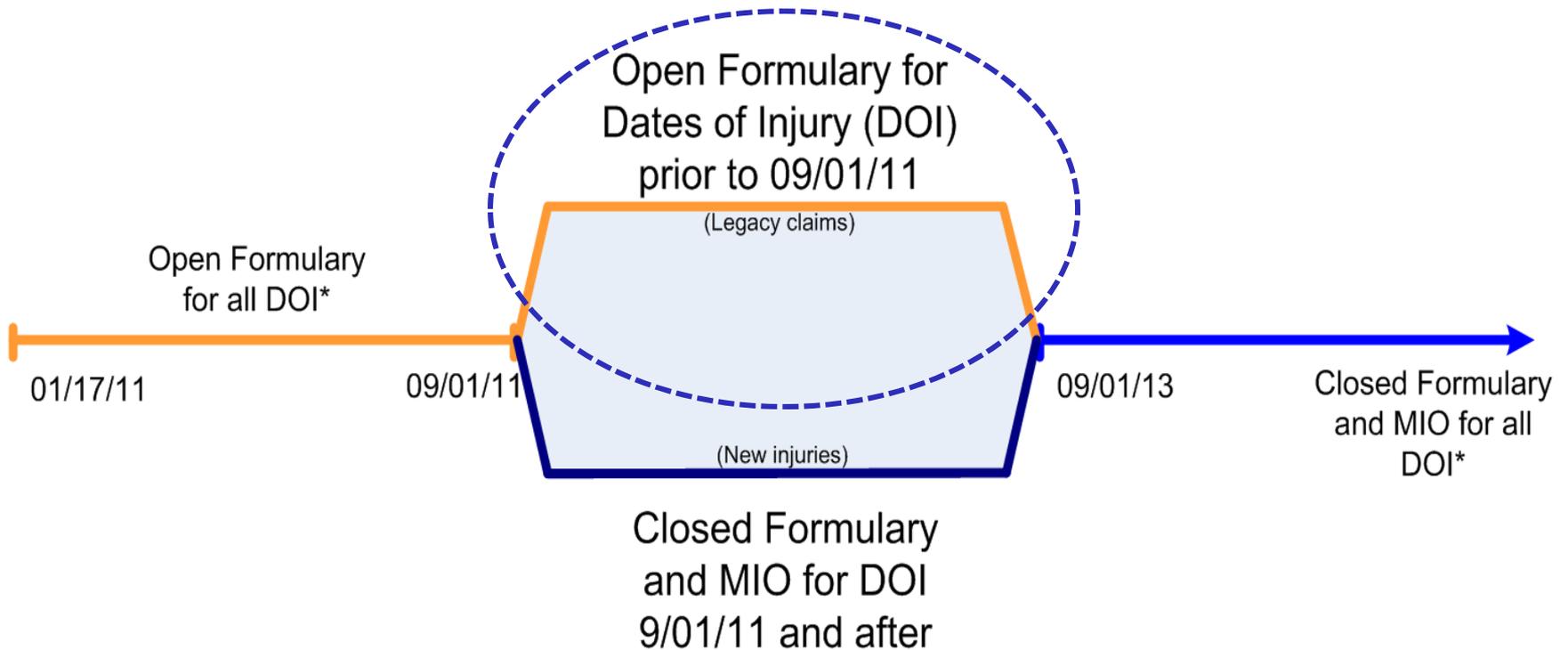
- Must be documented by the carrier and shared with the prescribing doctor and injured employee
- Health care provided as a result of the agreement is not subject to retrospective review

Transition of Legacy Claims

If an agreement is not reached:

- A denial of a request for an agreement is not subject to dispute resolution
- Closed formulary applies as of September 1, 2013

Timeline of the Closed Formulary Implementation



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§134.520 Outpatient Closed Formulary for Dates of Injury On or After September 1, 2011

Formally adopts a closed formulary for dates of injury on or after September 1, 2011

**§134.530 - Requirements for Use of the
Closed Formulary for Claims
Not Subject to Certified Networks**

AND

**§134.540 - Requirements for Use of the
Closed Formulary for Claims
Subject to Certified Networks**

Applicability of the Closed Formulary

Closed Formulary For Outpatient Use

Non-Network	Network
<p><u>§134.530 (a)</u></p> <p>applies to <i>non-network</i> claims on and after September 1, 2011</p> <p>date of injury occurred on or after September 1, 2011</p>	<p><u>§134.540 (a)</u></p> <p>applies to <i>network</i> claims on and after September 1, 2011</p> <p>date of injury occurred on or after September 1, 2011</p>

Closed Formulary and Preauthorization

Closed Formulary For Outpatient Use

Non-Network

Rule 134.530 (b)

Preauthorization is only required for:

- a) "N" status drugs
- b) Compounds containing "N" status drugs
- c) Experimental or investigational drugs as defined in Labor Code §413.014(a)

Network

Rule 134.540 (b)

Preauthorization is only required for:

- a) "N" status drugs
- b) Compounds containing "N" status drugs
- c) Experimental or investigational drugs as defined in Labor Code §413.014(a)

Pharmaceutical Benefits

TIC Chapter §4201 Utilization Review Agents

- §4201.101 CERTIFICATE OF REGISTRATION REQUIRED. A utilization review agent *may not* conduct utilization review unless the commissioner issues a certificate of registration to the agent under this subchapter.
- §4201.054 WORKERS' COMPENSATION BENEFITS. A workers' compensation insurance company *must comply* with TIC Chapter 4201 when performing utilization review.

Closed Formulary and Pain Pumps

Non-Network

Rule 134.530 (c)(1)

Intrathecal drug delivery systems (pain pump) requires preauthorization

In accordance with 134.600 and the request must include:

1. Regime plan of care
2. Anticipated dosage or range of dosages

Network

Rule 134.540 (c)(1)

Intrathecal drug delivery systems (pain pump) requires preauthorization

In accordance with the certified network's processes

Closed Formulary and Pain Pumps

Non-Network

Rule 134.530 (c)(2)

Refills of pain pump with drugs excluded from the closed formulary must be preauthorized on an annual basis

Preauthorization is required in addition to annual preauth:

1. Change in the medications, dosages or drug regime
2. Change in prescribing doctor

Network

Rule 134.540 (c)(2)

Refills of pain pump with drugs excluded from the closed formulary must be preauthorized on an annual basis

Preauthorization is required in addition to annual preauth:

1. Change in the medications, dosages or drug regime
2. Change in prescribing doctor

Closed Formulary and Treatment Guidelines

Closed Formulary and Treatment Guidelines

Non-Network

Rule 134.530 (d)(1-2)

Drugs shall be prescribed and dispensed according to ODG

Drugs included in the formulary may be prescribed and dispensed without preauthorization when:

1. Recommended by ODG
2. Exceeds or not addressed by ODG

Network

Rule 134.540 (d)

Drugs shall be prescribed and dispensed according to the network's processes

Closed Formulary and Treatment Guidelines

Non-Network

Rule 134.530 (d)(3)

Drugs included in the closed formulary that are prescribed and dispensed without preauthorization:

- Are subject to retrospective review

Network

Rule 134.540 (d)

Drugs included in the closed formulary that are prescribed and dispensed without preauthorization:

- Are subject to retrospective review

Appeals for Drugs Excluded from the Closed Formulary

Closed Formulary and Appeals

Non-Network

Rule 134.530 (e)(1)

When a prescribing doctor determines and documents a need for an excluded drug and has prescribed the drug:

The prescribing doctor, injured employee, or other requestor

- must request preauthorization

Network

Rule 134.540 (e)(1)

When a prescribing doctor determines and documents a need for an excluded drug and has prescribed the drug:

The prescribing doctor, injured employee, or other requestor

- must request preauthorization

Closed Formulary and Appeals

Non-Network

Rule 134.530 (e)(1)

Preauthorization must be in accordance with:

Rule 134.600

Preauthorization,
Concurrent Review and
Voluntary Certification of
Health Care

Network

Rule 134.540 (e)(1)

Preauthorization must be in accordance with:

Certified network's
preauthorization process

Closed Formulary and Appeals

Non-Network

Rule 134.530 (e)(2)

If preauthorization is requested by the injured employee or other requestor and they request a statement of medical necessity:

- the prescribing doctor shall provide as set forth in §134.502

Network

Rule 134.540 (e)(2)

If preauthorization is requested by the injured employee or other requestor and they request a statement of medical necessity:

- the prescribing doctor shall provide as set forth in §134.502

Closed Formulary and Appeals

Non-Network

Rule 134.530 (e)(3)

If the preauthorization for an excluded drug is denied:

The requestor may submit a request for medical dispute resolution according to § 133.308 MDR by *Independent Review Organization*

Network

Rule 134.540 (e)(3)

If the preauthorization for an excluded drug is denied:

The requestor may submit a request for medical dispute resolution according to § 133.308 MDR by *Independent Review Organization*

Closed Formulary and Appeals

Non-Network

Rule 134.530 (e)(4)

In the event of an unreasonable risk of a medical emergency:

An interlocutory order may be obtained according to

1. §133.306 Interlocutory Orders for Medical Benefits; or
2. §134.550 Medical Interlocutory Order

Network

Rule 134.540 (e)(4)

In the event of an unreasonable risk of a medical emergency:

An interlocutory order may be obtained according to

1. §133.306 Interlocutory Orders for Medical Benefits; or
2. §134.550 Medical Interlocutory Order

Closed Formulary and Initial Pharmaceutical Coverage

Initial Pharmaceutical Coverage

Texas Labor Code §413.0141

...an insurance carrier shall provide for payment of specified pharmaceutical services sufficient for the first seven days following the date of injury

- if the health care provider requests and receives verification of insurance coverage and
- a verbal confirmation of an injury from the employer or from the insurance carrier...

Closed Formulary and Initial Coverage

Non-Network

Rule 134.530 (f)(1)

Drugs *included* in the closed formulary may be prescribed and dispensed without preauthorization:

Are not subject to retrospective review

Network

Rule 134.540 (f)(1)

Drugs *included* in the closed formulary may be prescribed and dispensed without preauthorization:

Are not subject to retrospective review

Closed Formulary and Initial Coverage

Non-Network

Rule 134.530 (f)(2)

Drugs *excluded* from the closed formulary may be prescribed and dispensed without preauthorization, except for experimental or investigational drugs:

Are subject to retrospective review

Network

Rule 134.540 (f)(2)

Drugs *excluded* from the closed formulary may be prescribed and dispensed without preauthorization:

Are subject to retrospective review

Closed Formulary and Retrospective Review

Closed Formulary and Retrospective Review

Non-Network

Rule 134.530 (g)&(g)(1)

Drugs that do not require preauthorization are subject to retrospective review*

Drugs provided in accordance with ODG are presumed reasonable and reasonably required

*except those prescribed under rule for initial pharmaceutical coverage

Network

Rule 134.540 (g)

Drugs that do not require preauthorization are subject to retrospective review*

*except those prescribed under rule for initial pharmaceutical coverage

Closed Formulary and Retrospective Review

Non-Network

Rule 134.530 (g)(2)

In order for an insurance carrier to deny payment subject to retrospective review for a drug *recommended by ODG*:

The denial must be supported by documentation of evidence-based medicine that outweighs the *presumption of reasonableness*

Network

Rule 134.540 (g)(1)

In order for a carrier to deny payment subject to retrospective review for a drug that is *within the certified network treatment guidelines*:

The denial must be supported by documentation of evidence-based medicine that outweighs the *network treatment guidelines*

Closed Formulary and Retrospective Review

Non-Network

Rule 134.530 (g)(3)

Prescribing doctor who prescribes drugs that exceed, are not recommended or are not addressed by the ODG

Must provide a statement of medical necessity upon request

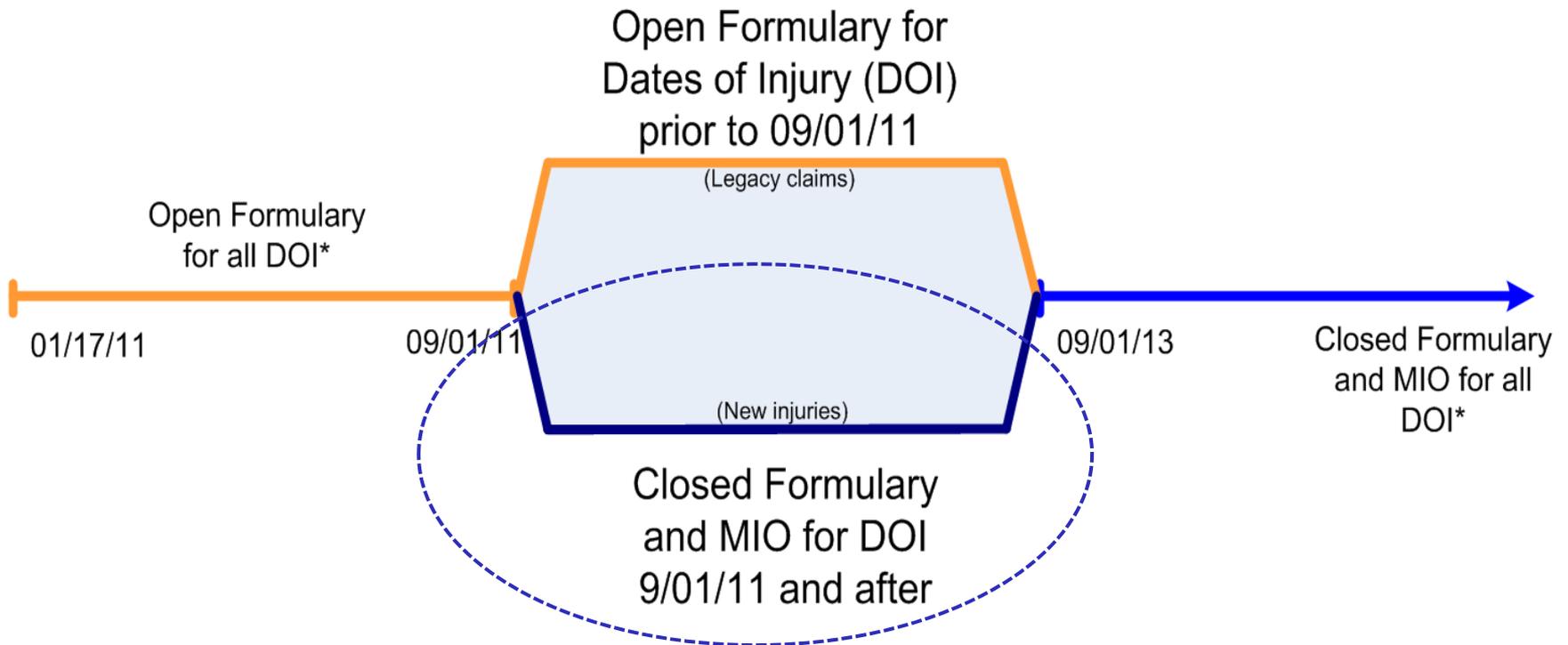
Network

Rule 134.540 (g)(2)

Prescribing doctor who prescribes drugs that exceed, are not recommended or are not addressed by the certified network treatment guidelines must:

Must provide a statement of medical necessity upon request

Timeline of the Closed Formulary Implementation



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§134.502

Pharmaceutical Services

Statement of Medical Necessity

§134.502 Pharmaceutical Services

The carrier, employee, or pharmacist may request a statement of medical necessity from the prescribing doctor.

Statement of Medical Necessity

§134.502 Pharmaceutical Services

The prescribing doctor shall provide a statement of medical necessity to the requesting party:

- not later than the 14th working day after receipt of request; and
- shall not bill for nor shall the carrier reimburse for the statement of medical necessity.

§134.550 – Medical Interlocutory Order (MIO)

Medical Interlocutory Order “MIO”

- When the preauthorization denial of a drug excluded from the closed formulary ;
- poses an unreasonable risk of medical emergency to the injured employee;
- provides a means for an injured employee to continue use of the previously prescribed and dispensed drug(s) throughout the duration of the appeals/dispute process

Medical Interlocutory Order

Who can submit a request for an MIO?

- Pharmacy
- Prescribing doctor

Requests for an interlocutory order that do not meet these criteria can be requested through §133.306

Medical Interlocutory Order

Medical Interlocutory Order will be issued if the request contains the following information:

1. injured employee name;
2. date of birth of injured employee;
3. prescribing doctor's name;
4. name of drug and dosage;
5. MIO requestor's name (pharmacy or prescribing doctor);
6. MIO requestor's contact information;

Medical Interlocutory Order continued...

Additional Criteria

7. The preauthorization request for a previously prescribed and dispensed drug(s), which is excluded from the closed formulary, has been denied by the insurance carrier;
8. Has submitted an independent review (IRO) to the insurance carrier or the insurance carrier's utilization review agent;

Medical Interlocutory Order continued...

Additional Criteria

9. Noted that the preauthorization denial poses an unreasonable risk of a medical emergency (as defined in §134.500);
10. Have identified the potential of an unreasonable risk of medical emergency has been documented in the preauthorization request;
11. Notified the insurance carrier that a request for an MIO is being submitted to the division; and

Medical Interlocutory Order continued ...

12. a signature and the following certification by the MIO requestor :

“I hereby certify under penalty of law that the previously listed conditions have been met.”

Medical Interlocutory Order

Submit the request for MIO to the Division and copy:

Prescribing doctor

Injured employee

Dispensing Pharmacy (if known)

Insurance Carrier

The full details of the dispute process are provided in the rule and include opportunities to appeal Independent Review Organizations (IRO) decisions to a Contested Case Hearings (CCH) and district court in accordance with Division rules.

§133.306
Interlocutory Orders
for
Medical Benefits

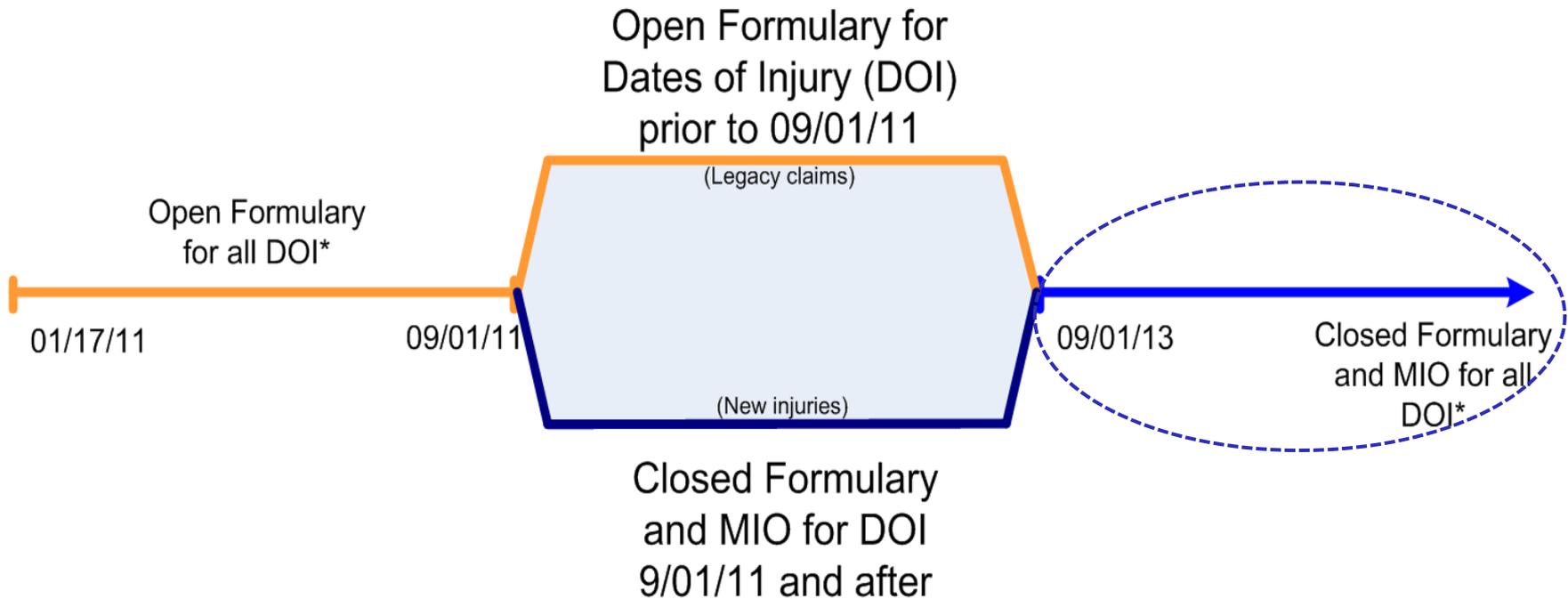
Interlocutory Orders (IO)

Allows the Division to issue interlocutory orders for accrued and/or future medical benefits

Interlocutory Orders (IO)

- Allows for an injured employee to request an IO when an insurance carrier makes an adverse determination for an excluded drug (prescribed on or after September 1, 2011); and
- Division determines those medical benefits are or were medically necessary and constitute health care reasonably required

Timeline of the Closed Formulary Implementation



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Case Studies

Scenario #1

Date of injury: 09-15-2011

Date of scripts: 10-01-2011

Date of dispense: 10-02-2011

Drugs: Three prescription drugs; two are included in the closed formulary and the third drug is excluded from the closed formulary with an “N” status.

Scenario #1

- 1. Does the closed formulary apply to the claim?**
- 2. Is preauthorization required for any of the drugs?**

Scenario #2

Date of injury: 08-15-2009

Date of script: 02-24-2012

Date of dispense: 02-25-2012

Drug: One drug that is excluded from the closed formulary with an “N” status.

Scenario #2

- 1. Does the closed formulary apply to the claim?**
- 2. Is preauthorization required for the drug?**

Scenario #3

Date of injury: 08-15-2011

Date of script: 10-02-2013

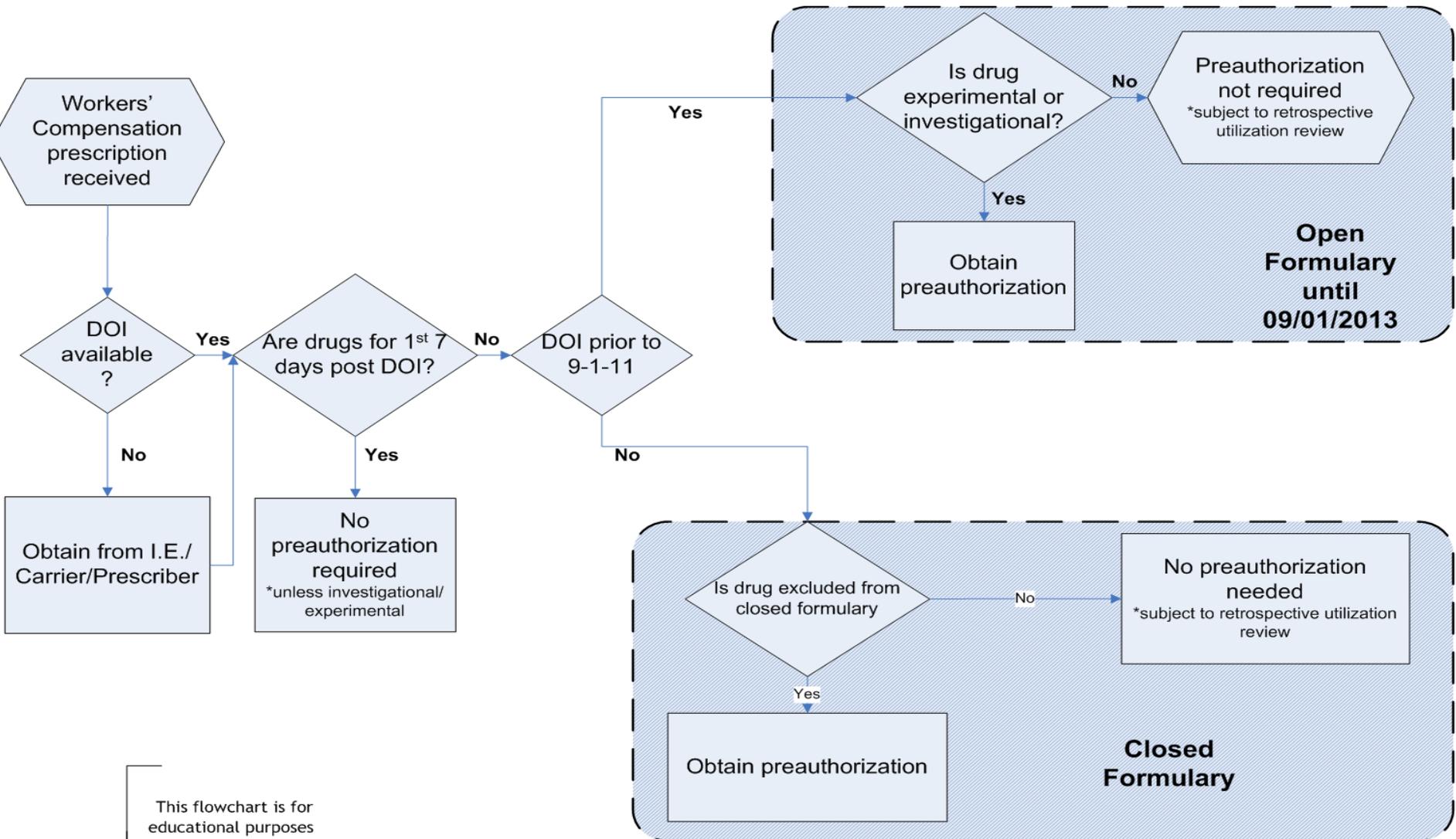
Date of dispense: 10-03-2013

Drug: One drug that is excluded from the closed formulary with an “N” status.

Scenario #3 - Answers

- 1. Does the closed formulary apply to the claim?**
- 2. Is preauthorization required for the drug?**

DWC Non-Network Preauthorization Decisions



This flowchart is for educational purposes only, and is not a substitute for the statute or rules.

Topics Covered:

- TDI-DWC Overview
- Rule History and Development
- Pharmacy Formulary Rules
- Case Scenarios and Resources

Resources

Official Disability Guidelines

(Non-Network treatment guidelines and ODG Appendix A)

www.worklossdata.com

www.worklossdata.com/odgtraining.htm

ODG Texas Workers' Compensation Status **“N” Drugs**

www.tdi.texas.gov/wc/pharmacy

Resources

Pharmacy Closed Formulary Rules

(28 TAC Subchapter F Pharmaceutical Services)

[http://info.sos.state.tx.us/pls/pub/readtac\\$ext.ViewTAC?tac_view=5&ti=28&pt=2&ch=134&sch=F&rl=Y](http://info.sos.state.tx.us/pls/pub/readtac$ext.ViewTAC?tac_view=5&ti=28&pt=2&ch=134&sch=F&rl=Y)

General Information about Medical Services



**COMP
CONNECTION**
for Health Care Providers

800-372-7713
512-804-4000 (Austin Area)

Texas Department of Insurance, Division of Workers' Compensation

Thank You!