

# TEXAS WORKERS' COMPENSATION Education Conference



**About us:  
Office of Injured  
Employee Counsel**

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What Happens When There's  
a Dispute?





# What is OIEC?

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The Office of Injured Employee Counsel (OIEC) is the state agency that assists, educates, and advocates on behalf of the injured employees of Texas





# OIEC and Workers' Comp

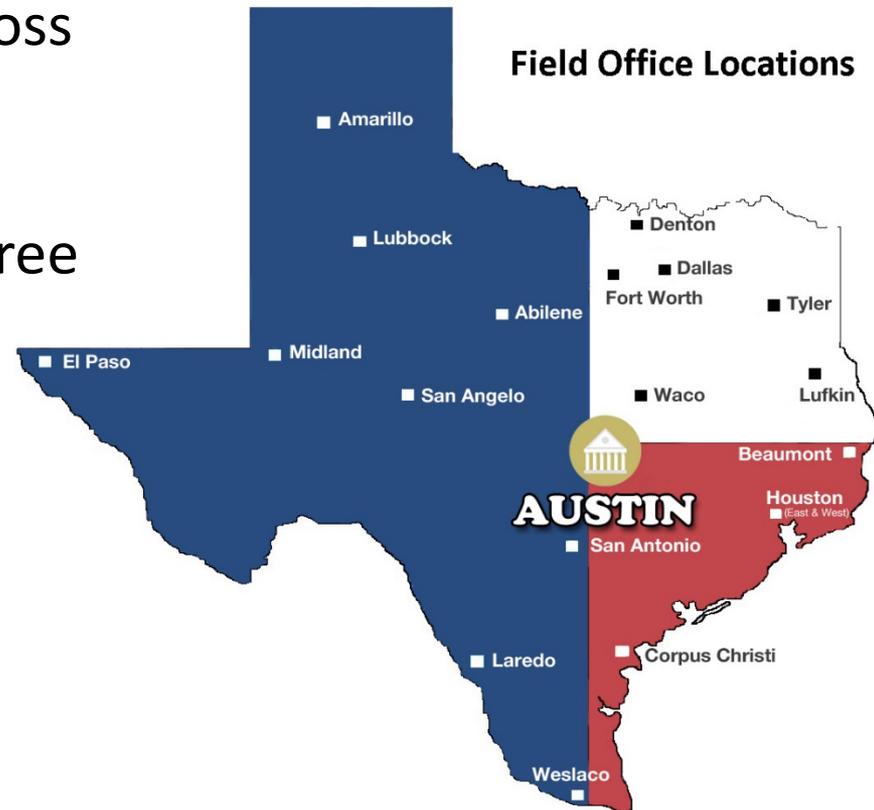
- State agency roles
  - TDI-DWC – regulatory
  - OIEC – advocacy
- Worker' comp
  - State-regulated insurance program
  - Pays covered medical expenses
  - Replaces lost wages
  - Not mandatory except for certain governmental entities





# OIEC Locations

- 21 OIEC offices across the state
- Help from OIEC is free





# Accomplishing Our Mission

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**Assist**

**Ombudsman Program**

**Educate**

**Customer Service Program**

**Advocate**

**Legal Services**



# System Participants

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- Injured employees
- Employers
- Insurance carriers
- Healthcare providers
- Attorneys
- OIEC Ombudsman





# OIEC Ombudsman Program

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- Assist injured employees, free of charge
- Experts in workers' compensation
- Experts in dispute resolution
- Licensed insurance adjusters
- Not attorney - assist vs. represent





# Complaints vs. Disputes

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COMPLAINTS	DISPUTES
<p data-bbox="589 568 923 775">Allegation of <u>violation of</u> <u>the law</u></p> <p data-bbox="595 868 915 929">(Regulatory)</p>	<p data-bbox="1128 565 1673 694"><u>Disagreement</u> between two parties</p> <p data-bbox="1219 865 1580 1001">(Regulatory &amp; Advocacy)</p>



# What Happens When There is a Dispute?

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**Income  
Benefit  
Disputes**



**Medical  
Disputes**



# Income Benefit Disputes

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## A disputed issue regarding:

- Compensability
- Entitlement to income or death benefits





# Common Income Benefit Disputes

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- Extent of injury
- Temporary income benefits
- Impairment income benefits
  - Maximum medical improvement & impairment rating
- Supplemental income benefits





# OIEC's Role in Income Benefit Dispute Resolution

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- OIEC Customer Service Representative
  - Informal Dispute Resolution
- OIEC Ombudsman
  - Benefit Review Conference
  - Contested Case Hearing
  - Review by Appeals Panel





# Benefit Review Conference (BRC)

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- Non-binding mediation
- Prepare injured employee
- Communicate & gather documentation
- Attempt resolution
- Ombudsman attends and assists





# Contested Case Hearing (CCH)

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- Ombudsman can assist before and during CCH proceeding
- Preparation meeting
- Exchange evidence
- Discovery
- Prepare statements
- Direct/cross-examining witnesses





# Appeals Panel

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- Review decision and order
- Discuss options
- Explain appeals process
- Last step for OIEC





# What Happens When There is a Dispute?

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**Income  
Benefit  
Disputes**



**Medical  
Disputes**



# Medical Benefits

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- Health care
  - Related
  - Medically necessary
- Some treatment needs preauthorization





# Treating Doctor Responsibilities

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**Make initial diagnosis**



**Treat the work-related injury: Request Preauthorization**



**Manage care and referrals**



**Assess work status and provide DWC 073 forms**



**Certify MMI and impairment when appropriate**



# Avoiding Medical Disputes

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- Preauthorization requested
  - Medical reports
  - Statements of medical necessity
  - Compliance with ODG/prerequisite care
- Utilization review agent (URA) reviews

Better info from doctor = better chance at preauth!  
But if treatment denied – then what?



# Three Things to Consider

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1. Is the proposed treatment for a diagnosis that has been accepted by the insurance carrier?
2. Is the treatment recommended by the Official Disability Guidelines (ODG)?
3. Is the treatment classified as non-emergency requiring preauthorization?



# Filing Medical Disputes

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## – Dispute

– Preauthorization

– Concurrent review

– Retrospective  
medical necessity

– Medical fee

## – Form

– LHL009

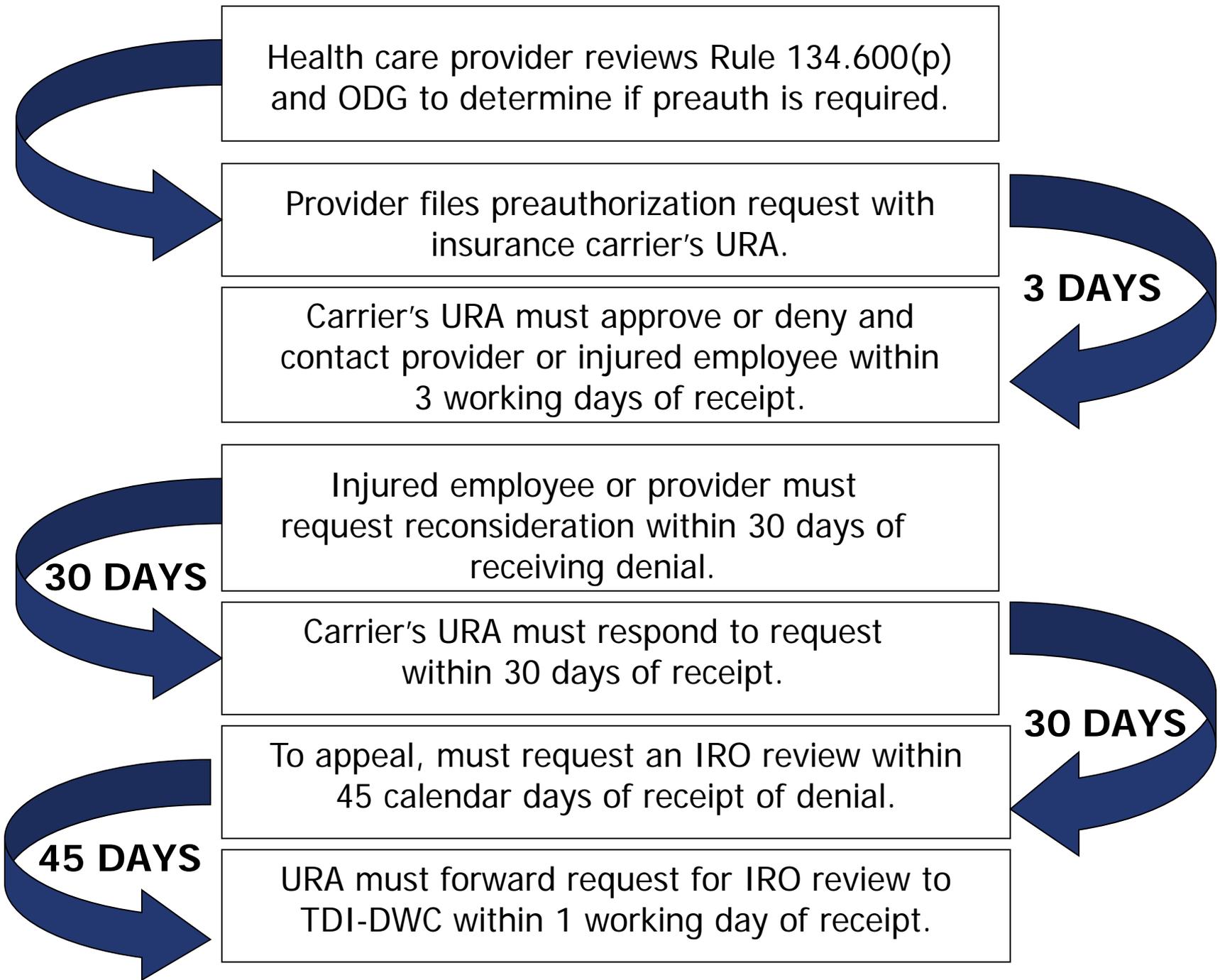
– LHL009

– LHL009

– DWC060

**Form LHL009** - Request for an Independent Review Organization (IRO) - Used to request resolution on disputes involving treatment

**Form DWC060** - Request for Medical Fee Dispute Resolution



Health care provider reviews Rule 134.600(p) and ODG to determine if preauth is required.

Provider files preauthorization request with insurance carrier's URA.

Carrier's URA must approve or deny and contact provider or injured employee within 3 working days of receipt.

Injured employee or provider must request reconsideration within 30 days of receiving denial.

Carrier's URA must respond to request within 30 days of receipt.

To appeal, must request an IRO review within 45 calendar days of receipt of denial.

URA must forward request for IRO review to TDI-DWC within 1 working day of receipt.

**3 DAYS**

**30 DAYS**

**30 DAYS**

**45 DAYS**



# IRO Process & LHL009

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- Documents sent to the utilization review agent (URA) that issued the second denial.
  - Form LHL-009
  - Two preauthorization denials
  - Supporting documents
- TDI assigns an Independent Review Organization (IRO)
- IRO will issue a decision no later than 20 days after receipt of the dispute.



# Dispute of the IRO Decision

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## Medical CCH

Parties disputing the IRO's decision may appeal through DWC's Chief Clerk of Proceedings. A medical contested case hearing (MCCH) is held at the nearest DWC field office.



# When to Dispute Income or Medical Benefits?

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- Contact OIEC with your particular information and we can help to guide you.





# Tips For Injured Employees

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- Injured employee responsible for claim
- Keep all paperwork and reports
- Keep in contact with:
  - Employer
  - Doctor
  - Insurance Adjuster
  - Attorney
  - OIEC Ombudsman





# Customer Handouts

 **Office of Injured Employee Counsel**

## About The Agency

The Office of Injured Employee Counsel (OIEC) is the state agency that assists, educates, and advocates on behalf of the injured employees of Texas. OIEC provides services in 21 offices across the state, with the central office located in Austin, Texas. Agency services include advocacy, customer service and dispute assistance through OIEC's Ombudsman Program.



**OIEC Customer Service Representatives**

- First point of contact for injured employees in the OIEC system.
- Educate injured employees about workers' compensation and their rights and responsibilities during the dispute resolution process.
- Offer referrals to help people find services from other local, state and federal agencies.
- Resolve more than 400 disputes each month with informal dispute resolution.
- Connect injured employees with OIEC Ombudsmen.

**OIEC Ombudsmen**

- Assist unrepresented injured employees and beneficiaries at no cost with disputes relating to workers' compensation income or medical benefits.
- Do not give advice, make decisions or sign agreements (Ombudsmen assist – attorneys represent).
- Required to complete a six-month training program, have a workers' compensation insurance adjuster's license and at least one year of field experience.
- Work within the workers' compensation dispute resolution process which includes:
  - Informal Dispute Resolution
  - Benefit Review Conference
  - Contested Case Hearing
  - Review by Appeals Panel

**OIEC Legal Services**

- Staff of attorneys that support the Ombudsman Program through training and resources.
- Identify systemic issues and address them through the legislative and rulemaking processes.
- Participate in cases pending before appellate courts if they impact injured employees as a

For more additional information, please contact the  
Office of Injured Employee Counsel  
(866) 393-6432 | oiec.texas.gov | @OIEC

 **Office of Injured Employee Counsel**

## Indemnity Dispute Resolution Process

Disputes concerning compensability, extent of injury, ability to work, or the amount of income benefits due are called indemnity disputes.



Many times the Office of Injured Employee Counsel (OIEC) is able to help resolve an indemnity dispute that comes up in a workers' compensation claim without the need for formal dispute resolution; however, if the dispute cannot be resolved informally, there is a formal dispute resolution process.

An OIEC Ombudsman can assist an injured employee free of charge through each step of the dispute resolution process at the Texas Department of Insurance, Division of Workers' Compensation. An injured employee will be required to attend one or more proceedings. If the disputed issues are not resolved at one level then the dispute may progress to the next level, as described below.

**Benefit Review Conference (BRC):** Non-binding mediation held in a field office designed to mediate and resolve disputes. A TDI-DWC Benefit Review Officer conducts the conference and is an impartial individual trained to help parties resolve disputes. Injured employees are allowed to have two, one-hour Benefit Review Conferences per disputed issue. If the issues are not resolved, either party may request a Contested Case Hearing.

**Contested Case Hearing (CCH):** A formal hearing conducted by a TDI-DWC Administrative Law Judge which lasts about two hours. Witnesses testify under oath and a record of the hearing is created for future reference. Evidence is exchanged and presented to the Administrative Law Judge who issues a binding decision in writing. A party that disagrees with the decision may file an appeal with the TDI-DWC Appeals Panel. If the Administrative Law Judge's decision is not timely appealed, it becomes final.

**Appeals Panel Review:** An Appeals Panel is made up of three judges assigned to review the CCH Administrative Law Judge's decision. The panel makes a determination if the law was correctly applied. The panel may issue a new decision, affirm a decision, or send the decision back to the Administrative Law Judge for further review. This is the last step in the dispute resolution process that OIEC participates in assisting injured employees.

**Judicial Review:** OIEC cannot help at this level because it is statutorily barred from judicial review. A party that is not satisfied with the final decision of TDI-DWC may request a Judicial Review and new evidence may be added. The petition must be filed with the appropriate District Court in the County where the injury took place.

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# Contact Us

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[Twitter.com/OIEC](https://twitter.com/OIEC)



[Youtube.com/user/OIECTube](https://youtube.com/user/OIECTube)

Injured employee toll-free phone number

(866) 393-6432

(866) EZE-OIEC

[www.oiec.texas.gov](http://www.oiec.texas.gov)