

## **Performance Based Oversight 2012 Assessment Insurance Carriers**

As a regulatory agency, the Texas Department of Insurance, Division of Workers' Compensation (TDI-DWC) is required to monitor system participants' compliance with the Texas Workers' Compensation Act and Rules and to take appropriate action to ensure compliance. Compliance objectives are achieved through Performance Based Oversight (PBO), data monitoring, complaint handling, audits, and when appropriate, enforcement actions.

As part of the overall compliance plan, Section 402.075 of the Texas Labor Code mandates TDI-DWC to, at least biennially, assess the performance of insurance carriers.

Based on the performance assessment, insurance carriers will be placed into regulatory tiers: poor performers, average performers, and consistently high performers. The TDI-DWC must then focus its regulatory oversight on the poor performers.

For the 2012 PBO assessment, the TDI-DWC will only assess the insurance carriers. The health care providers will be assessed in 2013.

### **Insurance Carrier Selection Criteria**

The insurance carriers selected for the 2012 PBO assessment are selected based on the following:

- The volume of 20 or more initial payment of Temporary Income Benefit transactions between January 1, 2011 and June 30, 2011.
- The 122 insurance carriers for the 2012 PBO assessment include:
  - 76 commercial carriers
  - 39 self insureds
    - 2 state entities (SORM, UT System)
  - 7 certified self-insureds

### **Weighted Measures**

The selected insurance carriers will be assessed on the following measures for the 2012 PBO assessment:

1. Timely payment of initial Temporary Income Benefits (TIBs) by the insurance carrier – 40% weight
2. Timely processing of initial medical bills by the insurance carrier – 40% weight
3. Timely submission of Initial Payment of TIBs data via Electronic Data Interchange (EDI) – 10% weight
4. Timely submission of Medical Bill Processing data via EDI – 10% weight

### **Data Timeframe used for 2012 Assessment**

For the insurance carriers the data timeframe used to assess performance of the above measures will be:

All insurance carrier measures: January 1, 2012 through June 30, 2012

If any of the 122 selected insurance carriers no longer meet the original selection criteria, they will be given the option to remain in the 2012 PBO Assessment. Additionally, any 2010 PBO poor performers not selected will also be given the option to be included in the 2012 PBO Assessment.

## **Data Sources**

The data sources used to assess performance of the above measures will come from the claim and medical data submitted electronically via EDI to the TDI-DWC.

## **Tier Structure and Placement Methodology**

TDI-DWC will have three regulatory tiers that distinguish among poor, average, and high performers in the system. Those assessed are deemed to have an impact on the system due to their volume of filings or initiation of benefit payments. TDI-DWC is not asserting that high volume has a negative impact on the system. Those insurance carriers who are not assessed due to low volume are not absolved from regulatory duties or regulatory oversight when necessary.

In placing the selected entities into regulatory tiers, TDI-DWC will conduct several steps to place each insurance carrier into an overall tier. The first step is to calculate the performance score (percentage) for each measure. Next, the performance score for each measure will be multiplied by the assigned weight value – the value is rounded up. This calculation of two percentages will then be multiplied by 100 to obtain a weighted value – the value is rounded up. The weighted value of each measure will then be added together to calculate the final score – no rounding. The final score will identify the overall performance standard for the assessed entity. The overall performance standard is defined below.

The final scores will be placed into three regulatory tiers based on pre-determined performance standards that distinguish among poor, average, and high performers in the system.

The performance standards are:

**High Tier:** 95 or greater

**Average Tier:** 80.00 through 94.99

**Poor Tier:** 79.99 or less

## Example of tier placement:

**Insurance Carrier X Tier Placement**

<b>Measure</b>	<b>Step 1</b> Calculate Individual Measure	<b>Step 2</b> Weight of Individual Measure	<b>Step 3</b> Multiply Score by 100 to obtain weighted value	<b>Step 4</b> Overall Score	<b>Step 5</b> Overall Tier Placement
<b>Measure 1</b> - Timeliness of Payment of Initial TIBs	95%	40%	38		
<b>Measure 2</b> – Timeliness of processing initial Medical Bill	82.5%	40%	33		
<b>Measure 3</b> – Timeliness of submission of the EDI Initial Pay Data	87.3%	10%	8.73		
<b>Measure 4</b> – Timeliness of submission of the EDI Medical Data	75%	10%	7.5		
<b>Overall Score</b>				87.23	
<b>Tier Placement</b>					AVERAGE

## Process

The TDI-DWC will distribute the initial findings to the respective insurance carrier entities in July 2012. The insurance carriers will be given an opportunity to review these initial findings and, if any findings are refuted, the insurance carrier will be able to submit a management response (to be posted on the TDI-DWC website) and applicable evidence. The TDI-DWC will review all management responses, provided evidence and legal arguments. The TDI-DWC will then prepare a summary of changes document which will indicate whether the initial finding is changed and, if so, the reason for the change.

The final results of the 2012 PBO carrier assessments will be published on the TDI-DWC website approximately three weeks after the results have been shared with each of the respective insurance carriers. The TDI-DWC anticipates the publication of the results in late December 2012.

## Tentative Timeline

The following is a tentative timeline of milestones of the 2012 PBO insurance carrier process:

November 2011: Public announcement of 2012 PBO Assessment

December 2011: Distribute notification letters

July 2012: Distribute initial findings

September – October 2012: TDI-DWC reviews management responses to initial findings

December 2012: Distribution and publication of final results

## Incentives

The TDI-DWC will afford incentives in the PBO process. The TDI-DWC is continuously exploring new incentives to offer system participants; therefore, the following incentives should not be construed as a finite list.

1. Limited audit exemption – the TDI-DWC will propose its annual audit plan around those insurance carriers assessed as poor performers. If a situation arises, such as an increase in complaints, identified systemic issues or continued non-compliance, the TDI-DWC reserves the discretion to audit average and high performers as deemed necessary.
2. Consideration of sanctions/modified penalties – the TDI-DWC will consider the results of the current PBO assessment in determining whether to impose sanctions, and if so, the severity of the sanctions to impose as set forth in 28 Texas Administrative Code 180.26. The TDI-DWC also considers the factors in Texas Labor Code 415.021(c) in determining the penalty amount, if any.
3. Complaint investigation priority – the TDI-DWC will consider the results of the current PBO assessment when determining the priority of a complaint investigation. Pursuant to Texas Labor Code 402.0235, the TDI-DWC prioritizes complaint investigations based on severity, Commissioner order violations and continued non-compliance and any other risk-based criteria.
4. Publication of all tiers/results – tier results will be published on the TDI-DWC's Web site.
5. High Performer logo - for use as a marketing tool by those participants in the high performing tier.
6. Reduced penalties - for self-disclosure of non-compliance.