

Performance Based Oversight 2016 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 the 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 2016 PBO assessment, the TDI-DWC will only assess the insurance carriers. The health care providers will be assessed in 2015 and 2017.

Insurance Carrier Selection Criteria

The insurance carriers selected for the 2016 PBO assessment are selected based on the following:

- The volume of initial payment of Temporary Income Benefit transactions between January 1, 2015 and June 30, 2015
- Initial Payment of TIBs Volume
 - Lowest number of initial payments: 20

Weighted Measures

The selected insurance carriers will be assessed on the following measures for the 2016 PBO assessment:

1. Timely payment of initial Temporary Income Benefits by the insurance carrier – 40% weight
2. Timely processing of initial medical bills by the insurance carrier – 30% weight
3. Timely processing of request for reconsideration medical bills by the insurance carrier – 10% weight
4. Timely submission of Initial Payment data via Electronic Data Interchange (EDI) – 10% weight
5. Timely submission of Medical Bill Processing data via EDI – 10% weight

Data Timeframe used for 2016 Assessment

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

All insurance carrier measures: January 1, 2016 through June 30, 2016

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

The 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. The 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, the 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:

CARRIER XYZ	Step 1 Calculate Individual Measure	Step 2 Weight of Individual Measure	Step 3 Multiply Score by 100 to obtain weighted value	Step 4 Overall Score	Step 5 Overall Tier Placement
Measure 1 – Timeliness of Payment of Initial TIBs	95%	40%	38		
Measure 2 – Timeliness of processing initial Medical Bill	82.5%	30%	24.75		
Measure 3 – Timeliness of processing request for reconsideration medical bills	90%	10%	9		
Measure 4 – Timeliness of submission of the EDI Initial Pay Data	87.3%	10%	8.73		
Measure 5 – Timeliness of submission of the EDI Medical Data	75%	10%	7.5		
				87.98	AVERAGE

Assessment Process

The TDI-DWC will distribute the initial findings to the respective insurance carrier entities during the summer 2016. 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 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 2016 PBO carrier assessments will be published on the TDI-DWC website approximately two 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 2016.

Tentative Timeline

The following is a tentative timeline of milestones of the 2016 PBO insurance carrier process:

November 2015: Public announcement of 2016 PBO Assessment

December 2015: Notification letters sent to selected insurance carriers

July 2016: Distribute initial findings

September – October 2016: The TDI-DWC reviews management responses to initial findings

December 2016: Distribution and publication of final results

Incentives

The TDI-DWC will afford the following incentives:

1. Limited audit exemption – Insurance carriers in the high and average performer categories may benefit from limited audits. Instead, the TDI-DWC will focus its annual audit plan on those insurance carriers assessed as poor performers. However, if a compliance problem is identified, such as an increase in complaints, the TDI-DWC can also audit average and high performers as deemed necessary.
2. Modified penalties – The TDI-DWC will consider high performer designation as a factor when determining appropriate enforcement action. As a result, the TDI-DWC may assess penalties that are lower for high performers than ordinarily assessed.
3. Publication of all tier results – Tier results will be published on the TDI website.
4. High Performer logo – The High Performer logo will be available for use as a marketing tool by those system participants whose scores put them in the high performing tier.
5. Reduced penalties – Reduced penalties for self-disclosure of non-compliance.

Enforcement

The TDI-DWC's emphasis is on early detection of noncompliance and informal discussions to resolve any noncompliant issues. The TDI-DWC will initiate enforcement actions, including Warning Letters and the assessments of penalties when appropriate and necessary to ensure compliance and to deter future noncompliance.

To determine an appropriate enforcement action, the TDI-DWC will consider the following:

- Section 415.021(c) of the Texas Labor Code:
 - Seriousness of the violations;
 - History and extent of previous administrative violations;
 - Demonstration of good faith;
 - Amount of penalty to deter future violations; and
 - Other matters that justice may require.
- 28 Texas Administrative Code §180.26