

## **Performance Based Oversight 2018 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. TDI-DWC must then focus its regulatory oversight on the poor performers.

For the 2018 PBO assessment, TDI-DWC will only assess the insurance carriers. The health care providers will be assessed in 2019 and 2021.

### **Insurance Carrier Selection Criteria**

The insurance carriers selected for the 2018 PBO assessment are selected based on the following:

- The volume of initial payment of Temporary Income Benefit transactions between January 1, 2017 and June 30, 2017
- 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 2018 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 2018 Assessment**

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

All insurance carrier measures: January 1, 2018 through June 30, 2018

## **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 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:**

<b>CARRIER XYZ</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%	30%	24.75		
<b>Measure 3 –</b> Timeliness of processing request for reconsideration medical bills	90%	10%	9		
<b>Measure 4 –</b> Timeliness of submission of the EDI Initial Pay Data	87.3%	10%	8.73		
<b>Measure 5 –</b> Timeliness of submission of the EDI Medical Data	75%	10%	7.5		
				<b>87.98</b>	<b>AVERAGE</b>

**Assessment Process**

TDI-DWC will distribute the initial findings to the respective insurance carrier entities during the summer 2018. 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. TDI-DWC will review all management responses, provided evidence and legal arguments. 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 2018 PBO carrier assessments will be published on TDI-DWC website approximately two weeks after the results have been shared with each of the respective insurance carriers. TDI-DWC anticipates the publication of the results in late December 2018.

## **Tentative Timeline**

The following is a tentative timeline of milestones of the 2018 PBO insurance carrier process:

**November 2017:** Public announcement of 2018 PBO Assessment

**December 2017:** Notification letters sent to selected insurance carriers

**August 2018:** Distribute initial findings

**September – October 2018:** TDI-DWC reviews management responses to initial findings

**December 2018:** Distribution and publication of final results

## **Incentives**

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, 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, TDI-DWC can also audit average and high performers as deemed necessary.
2. Modified penalties – TDI-DWC will consider high performer designation as a factor when determining appropriate enforcement action. As a result, 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**

TDI-DWC's emphasis is on early detection of noncompliance and informal discussions to resolve any noncompliant issues. 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, 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;
  - Whether the administrative violation has negative impact on the delivery of benefits to an injured employee;
  - History of compliance with electronic data interchange requirements; and
  - Other matters that justice may require.
- 28 Texas Administrative Code §180.26