

Performance Based Oversight 2022 Assessment Insurance Carriers

The Texas Department of Insurance, Division of Workers' Compensation (DWC) is required to monitor workers' compensation system participants' compliance with the Texas Labor Code and DWC rules. Compliance objectives are achieved through Performance Based Oversight (PBO), data monitoring, complaint handling, audits, and enforcement actions.

As part of the overall compliance plan, Texas Labor Code §402.075 requires DWC to assess the performance of system participants in meeting the key regulatory goals established by the commissioner of workers' compensation.

Based on the performance assessment, insurance carriers are placed into regulatory tiers: poor performers, average performers, and high performers. DWC focuses its regulatory oversight on the poor performers.

The 2022 PBO assessment will evaluate insurance carriers. Health care providers will be assessed in 2023.

Weighted Measures

The selected insurance carriers will be assessed on the following measures:

1. Timely payment of initial temporary income benefits by the insurance carrier – 50% 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) – 5% weight.
5. Timely submission of medical bill processing data via EDI – 5% weight.

Data Time Frame Used for 2022 Assessment

The data time frame used to assess performance of the insurance carriers for the above measures will be January 1, 2022, through June 30, 2022.

Selection Criteria

The insurance carriers will be selected for the 2022 PBO assessment based on their volume of initial payment of temporary income benefit transactions received by DWC during the assessment data time frame. The minimum volume of transactions will be determined based on the overall volume of the assessment data and DWC resources but will not be less than 20 initial payments.

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 DWC.

Tier Structure and Placement Methodology

Three regulatory tiers are used to make a distinction between poor, average, and high performers in the workers' compensation system. The insurance carriers assessed are considered to have an impact on the workers' compensation system due to their volume of filings. DWC is not asserting that a high volume has a negative impact on the system. Insurance carriers who are not assessed due to low volume are not absolved from regulatory duties or regulatory oversight.

DWC will conduct several steps to place each insurance carrier into an overall regulatory 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 be added together to calculate the overall score (no rounding). The overall score identifies the overall performance standard for the assessed entity. The overall performance standard is defined below.

The performance standards are:

- High Tier:** 95.00 or greater
- Average Tier:** 80.00 through 94.99
- Poor Tier:** 79.99 or less

Example of Scoring and 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%	50%	47.50		
Measure 2 – Timeliness of processing initial medical bill	92.5%	30%	27.75		
Measure 3 – Timeliness of processing request for reconsideration medical bills	90%	10%	9.00		
Measure 4 – Timeliness of submission of the EDI initial pay data	87.3%	5%	4.37		
Measure 5 – Timeliness of submission of the EDI medical data	75%	5%	3.75		
				92.37	Average

Assessment Process

DWC will distribute the preliminary findings to the respective insurance carrier entities during the summer of 2022. The insurance carriers will be given an opportunity to review these preliminary findings. If any findings are refuted, the insurance carrier will be able to submit a management response (response template to be posted on the TDI website) and applicable evidence to refute any findings. DWC will review management responses, evidence, and legal arguments. A summary document indicating whether the initial finding has changed and, if so, the reason for the change will be provided to insurance carrier.

The final results of the 2022 PBO insurance carrier assessments will be published on the TDI website after the results have been shared with each of the respective insurance carriers. DWC expects to publish these results in December 2022.

Tentative Timeline

The following is a tentative timeline of milestones of the 2022 PBO insurance carrier process:

- January 2022:** Announce the 2022 PBO assessment.
- August 2022:** Distribute initial findings to selected insurance carriers.
- September – October 2022:** DWC reviews management responses to initial findings.
- November 2022:** DWC distributes results.
- December 2022:** Publish results and tier placements.

Incentives

Incentives given to system participants:

1. Limited audit exemption: Insurance carriers in the high and average performer categories may benefit from limited audits. 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, DWC can also audit average and high performers as necessary.
2. Modified penalties: DWC will consider high performer designation as a factor when determining appropriate enforcement action. As a result, 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: A 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 noncompliance.

Enforcement

DWC's emphasis is on early detection of noncompliance and informal discussions to resolve any compliance issues. DWC will initiate enforcement actions, including warning letters and the assessment of penalties when appropriate and necessary, to ensure compliance and to deter future noncompliance.

DWC considers factors in Texas Labor Code §415.021(c) and 28 Texas Administrative Code §180.26 when determining appropriate enforcement actions.