



TEXAS DEPARTMENT OF INSURANCE

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memo

To: Workers' Compensation System Participants

From: Emily McCoy, Associate General Counsel, Office of General Counsel

Date: January 19, 2018

Re: Informal Posting: Amendments to 28 TAC §134.230, and §134.600 concerning Return to Work Rehabilitation Programs and Preauthorization, Concurrent Utilization Review, and Voluntary Certification of Health Care.

The Texas Department of Insurance, Division of Workers' Compensation (TDI-DWC) is accepting comments for amendments to 28 Texas Administrative Code (TAC) §134.230, regarding return to work rehabilitation programs and 28 TAC §134.600, regarding preauthorization, concurrent utilization review, and voluntary certification of health care. The informal working draft is available at www.tdi.texas.gov/wc/rules/drafts.html and the comment period closes on February 2, 2018 at 5 p.m. Central time.

The informal working draft is not a formal rule proposal and comments received will not be treated as formal public comments for the purposes of the Administrative Procedure Act. There will be an opportunity to formally comment once the rule is proposed and published in the *Texas Register*. Informal comments may be submitted by email to InformalRuleComments@tdi.texas.gov or by mail or delivery to:

Texas Department of Insurance, Division of Workers' Compensation
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The Workers' Compensation Research and Evaluation Group recently published a report entitled "Outcome Comparisons of Return to Work Rehabilitation Programs by Accreditation Status" that concluded there was no statistical difference in the disability duration, measured by the length of temporary income benefits, between CARF-accredited and non CARF-accredited programs. Moreover, Senate Bill 1494 of the 85th Legislative Regular Session amended Labor Code §413.014 to require preauthorization and concurrent utilization review for health care facilities providing work-hardening (WH) or work-conditioning (WC) programs. The bill no longer requires but instead permits the commissioner, by rule, to exempt a credentialed health care facility providing WH and WC services from preauthorization and concurrent review requirements. Currently, health care facilities that are accredited by the Commission on Accreditation of Rehabilitation Facilities (CARF) are exempt from preauthorization and concurrent review requirements for WH and WC.

The division proposes amendments to 28 TAC §134.600 to remove the exemption status from CARF-accredited facilities to implement Senate Bill 1494. The division also proposing amendments to 28 TAC §134.230 to set one fee schedule for WH and WC services, regardless of a facility's accreditation status by removing the increased payment to CARF-accredited facilities providing WH or WC services. Amendments to 28 TAC §134.230 also include several non-substantive changes for readability.