



TEXAS DEPARTMENT OF INSURANCE

Division of Workers' Compensation - Office of General Counsel (MS-15)

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memo

To: Workers' Compensation System Participants

From: Emily McCoy, Associate General Counsel, Division of Workers' Compensation

Date: June 16, 2017

RE: Informal Posting: Amended 28 TAC § 134.500, regarding Definitions; amended 28 TAC § 134.530, Requirements for Use of the Closed Formulary for Claims Not Subject to Certified Networks; amended 28 TAC § 134.540, Requirements for Use of the Closed Formulary for Claims Subject to Certified Networks

The Texas Department of Insurance, Division of Workers' Compensation (TDI-DWC) is accepting comments on an informal working draft of amended 28 Texas Administrative Code (TAC) §§ 134.500, 134.530, and 134.540, available at <http://www.tdi.texas.gov/wc/rules/drafts.html>. The informal working draft was posted on the TDI-DWC website on June 16, 2017 and the comment period closes on July 7, 2017, 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
Maria Jimenez
Office of General Counsel MS – 15
7551 Metro Center Drive, Suite 100
Austin, Texas 78744 – 1645

Amendments to § 134.500, concerning definitions; § 134.530, concerning requirements for use of the closed formulary for claims not subject to certified networks; and § 134.540, concerning requirements for use of the closed formulary for claims subject to certified networks, would amend the definition of closed formulary to exclude any prescription drug created through compounding, and require preauthorization for all prescription drugs created through compounding for claims subject to and not subject to certified networks. The division emphasizes that the proposed rule changes are not intended to prohibit the use of medically necessary compound medications in the workers' compensation system. Rather, they are intended to ensure that injured employees have access to all health care reasonably required by the nature of the injury as and when needed.

Interested persons are encouraged to provide comments on the proposed rule changes. The division is specifically interested in receiving comments on the proposed changes to §§ 134.500; 134.530; and 134.540, including proposed language that these rule amendments will become effective on a date certain approximately sixty days after these amendments are finally adopted to allow a transition time for stakeholders affected by the proposed rule changes. However, the division is interested in receiving any comment on the topic of preauthorization requirements for compounded medications.