Setting the Standard

An Analysis of the Impact of the 2005 Legislative Reforms on the Texas Workers' Compensation System, 2012 Results

Texas Department of Insurance
December 2012

Texas Department of Insurance
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December 1, 2012

The Honorable Rick Perry, Governor
The Honorable David Dewhurst, Lieutenant Governor
The Honorable Joe Straus, Speaker

Dear Governor Perry, Lieutenant Governor Dewhurst and Speaker Straus:

In accord with Texas Insurance Code Section 2053.012 and Texas Labor Code Section 405.0025, the Texas Department of Insurance and the Division of Workers' Compensation present the biennial reports on the impact of the 2005 House Bill (HB) 7 reforms on the affordability and availability of workers' compensation insurance for Texas employers and the impact of certified workers' compensation health care networks on return-to-work outcomes, medical costs, quality of care issues and medical dispute resolution.

Please contact either of us or Melissa Hamilton, Associate Commissioner of Government Relations at 463-6123 if you have any questions or to request a briefing on this information.

Sincerely,

Eleanor Kitzman
Commissioner of Insurance

Rod Bordelon
Commissioner of Workers' Compensation

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Executive Summary

Texas Insurance Code, Section 2053.012, and Texas Labor Code, Section 405.0025, require the Texas Department of Insurance (TDI) to issue biennial reports to the Texas Legislature no later than December 1 every even-numbered year on the impact of the 2005 House Bill (HB) 7 reforms on the affordability and availability of workers' compensation insurance for Texas employers and the impact of certified workers' compensation health care networks on return-to-work outcomes, medical costs, quality of care issues and medical dispute resolution.

The following are key findings from this analysis of the 2005 HB 7 reforms:

Rates and Premiums in the Insurance Market

- Workers' compensation insurance has been profitable each year from 2005 to 2011, as measured by the industry's combined ratios and return on net worth.
- Since 2003, rates have come down almost 50 percent through 2011.
- Average premiums have come down from a high of $2.85 per $100 of payroll in 2003 to $1.38 per $100 of payroll in 2010. This is a reduction of over 50 percent.
- The average rate indication from rate filings requested for the 2012 biennial rate hearing is 1.3 percent. This suggests that the industry estimates the need for a 1.3 percent increase in current premium levels to cover losses and expenses and produce the targeted profit.
- Undeveloped loss ratios are lower for claims in a network than for claims outside a network. The loss ratios suggest that the filed credits for certified health care networks, which range up to 20 percent, are reasonable.

WC Health Care Networks

- The number of employers participating in networks and employees being treated by networks has significantly increased; approximately 35 percent of new claims are treated in workers' compensation networks.
- Since TDI began accepting applications for workers' compensation health care networks on January 2, 2006, the agency has certified 30 networks covering 250 counties.
- Data calls conducted with 12 of the largest insurance company groups (representing 84.5 percent of 2011 direct workers' compensation premiums

written in Texas) indicate that most large insurance companies have contracted with or established a certified workers' compensation network.

- An estimated 56,344 policyholders in 2012 (compared to 39,643 in 2010) have agreed to participate in workers' compensation networks in exchange for premium credits up to 15 percent. However, insurance carriers predict slower growth in the number of policyholders participating in networks over the next biennium.
- The vast majority of policyholders (84 percent) participating in networks are small to mid-sized employers with an annual premium of less than $25,000.
- Results from data calls with workers' compensation networks indicate that as of February 2012, approximately 327,373 injured employees have been treated in 27 networks since 2006.
- One certified network (Texas Star) and one workers' compensation carrier in Texas (Texas Mutual Insurance Company) account for 67 percent of all policy holders participating in networks and 32 percent of all injured employees treated in networks.

Medical Costs and Utilization of Care

- Total medical costs for professional services evaluated at six months post-injury decreased by 36 percent between its peak in 2002 and 2007, but they increased by 26 percent since 2007. Data indicates that the impact of workers' compensation networks on medical costs and utilization of care was mixed.
- Similarly, total hospital costs decreased from 2002 until 2004, but increased during the years 2005 to 2008. They have remained in a level or marginally increasing trend since 2008. Total pharmacy costs have stayed at about the same level since 2006.
- The average professional cost per claim also decreased by 24 percent between its peak in 2002 and 2007, but increased significantly by 31 percent between injury years 2007 and 2011. Primary causes for these increases were increased fees for services in the 2008 professional services fee guideline, and increases in utilization for some services.
- Since the adoption of the 2003 professional services fee guideline, the percentage of injured employees receiving physical medicine services decreased substantially. This accounted for the majority of the professional cost decrease per claim between injury years 2002 and 2007. Since 1998, utilization of certain treatments and services has increased, including impairment rating examinations and reports, surgeries other than spinal surgery, diagnostic services, and durable

medical equipment and supplies. An exception is spinal surgery which has experienced significant decline in cost and utilization.

- Overall, average medical costs were higher for claims in certified health care networks than for non-network claims. But, while non-network's average costs increased by 12 percent from injury year 2010 to injury year 2011, most networks experienced either cost reductions or lower increases than non-network claims. Also, network claims tended to have higher utilization of professional and pharmacy services than non-network claims.
- Medical costs in network claims appear to be higher primarily because of higher hospital fees, higher pharmacy utilization and higher utilization of certain physical medicine services and diagnostic tests than non-network claims with similar types of injuries.

Access to Care, Satisfaction with Care and Health-Related Outcomes in Health Care Networks

- The results of recent injured employee surveys conducted by TDI show that a higher percentage (55 percent) of employees surveyed in 2012 reported "no problem" in getting the medical care they felt they needed for their work-related injury, compared with 52 percent of injured employees surveyed in 2005; however this rate is lower than the 60 percent reported in 2008.
- When compared to injured employees who received non-network medical care, most networks were able to get an injured employee in to see a non-emergency doctor sooner than non-network claims, but a slightly higher percentage of injured employees in workers' compensation networks reported "a big problem" in getting to see a specialist.
- While employees were able to access medical care faster in 2012 compared to 2005, employees generally reported slightly lower satisfaction levels with the medical care they received when compared to 2005. Additionally, a slightly higher percentage (25 percent) of employees surveyed in 2012 reported that the medical care they received for their work-related injury was worse than their routine medical care when compared to employees surveyed in 2005 (19 percent).
- Based on results from the standardized survey instrument known as the Short Form 12 (SF-12), the physical functioning scores for injured employees in workers' compensation networks were higher than the scores reported by injured employees who received non-network care, and higher than the general U.S. population.

Return-to-Work Outcomes

- Initial employment within six months after injury for injured employees receiving Temporary Income Benefits (TIBs), (i.e., injured employees with more than seven days of lost time), rose steadily from 75 percent in 2006 to 81 percent in 2009, but declined to 78 percent in 2010. The lower 2010 return-to-work rate could be a reflection of the down turn in the U.S. economy, which led to higher unemployment rates and therefore lower re-employment opportunities for injured employees.
- The sustained return-to-work rate within six months post-injury (i.e., the percentage of injured employees receiving TIBs who have remained employed for at least three successive quarters) improved from injury year 2006 through 2009, but decreased slightly in 2010. As is the case with the initial return-to-work rate, the lower sustained return-to-work rate in 2010 could be related to the downturn in the U.S. economy.
- The number of days lost from work due to work-related injuries fell from an average of 97 days (a median of 26 days) for employees injured in 2004 to 62 days (a median of 21 days) for employees injured in 2010.
- The median number of weeks of TIBs paid to injured employees declined from a median of 7.3 weeks in injury year 2004 to 6.0 weeks in injury year 2010. Average TIBs payments per claim increased from $2,156 for injuries sustained in 2004 to $2,298 in injury year 2010. This increase is most likely the result of higher TIBs weekly benefit amounts, which became effective during the last quarter of injury year 2006. Case mix, changes in average weekly wages or injury type and severity, may also be driving the higher average TIBs payments per claim.
- A higher percentage (69 percent) of employees surveyed in 2012 reported that they were currently employed at the time of the survey (compared with 64 percent in 2005) and a significantly lower percentage of employees surveyed in 2012 (14 percent compared with 20 percent in 2005) reported that they had not yet returned to work 17-21 months after their injuries.
- A higher percentage (50 percent) of injured employees surveyed in 2012 who had not returned to work reported that they were released by their treating doctor to go back to work with no or some physical restrictions than employees surveyed in 2005 (44 percent). With few exceptions, more network injured employees generally reported that they had been released to go back to work by their treating doctor when compared to non-network claims.

Medical Dispute Resolution and Complaint

- The number of medical disputes has declined from more than 13,000 in 2005 to less than 8,000 in 2011. Overall, a relatively low number of complaints (368) have been filed about workers' compensation health care networks since the certification of workers' compensation health care networks began in 2006.
- Complaints about networks center on issues such as the availability of network health care providers, injured employees' concerns about the delivery of network notices, and providers' concerns about payment issues and their ability to participate in networks.
- The amount of time to resolve medical disputes in 2011 have also decreased from the 2005 levels: fee disputes from 335 to 197 days, pre-authorization disputes from 59 to 20 days, and retrospective medical necessity disputes from 123 to 31 days.
- These improvements in the number of days to resolve medical disputes resulted from a variety of factors, including: changes in HB 7 to more closely align the Independent Review Organization processes for workers' compensation and group health; fewer new disputes being filed and efforts from TDI-DWC staff to more efficiently process new and legacy (pre-HB 7) medical fee disputes; the adoption of new fee guidelines by TDI-DWC in 2008; and the adoption of evidence-based treatment guidelines.
- The percentage of medical disputes over pre-authorization denials increased after 2005 while the percentage of medical disputes over retrospective medical necessity issues decreased during this time. This is likely due to the requirement that medical services that fall outside of TDI-DWC's treatment guidelines be pre-authorized by the insurance carrier.

Employer Participation

- Private-sector employer participation rates decreased one percentage point to 67 percent in 2012, but it was still the third highest employer participation rate since the first employer survey was conducted in 1993.
- Among these subscribing employers, large employers with 500 or more employees also opted into the system at the second highest rate (83 percent) in ten years.
- An estimated 33 percent of year-round Texas private-sector employers (approximately 113,000 employers) do not have workers' compensation coverage.

- Increased employer participation rates over time, especially among large employers, have resulted in the third highest coverage rate (81 percent) for Texas employees since 1993.
- An estimated 19 percent of Texas employees (representing approximately 1.7 million employees) worked for non-subscribing employers – the second lowest percentage in ten years. It should be noted that the employee coverage rates in 2012 were affected somewhat by the decision of one of the largest Texas employers to become a nonsubscriber this year.
- The most frequently cited reasons by non-subscribing employers for not purchasing workers' compensation coverage was that they had too few employees, they had few-on-the-job injuries, that they were not required to have workers' compensation insurance by law and workers' compensation medical costs were too high.
- The most frequently cited reasons subscribing employers gave for participating in the Texas workers' compensation system included concerns about lawsuits and the ability to participate in a certified health care network. The ability to participate in certified health care networks was also the primary reason given by large employers (i.e., employers with 500 or more employees) for participating in the Texas workers' compensation system.
- For the first time in recent surveys and across all measures, subscribing employers in 2012 reported higher satisfaction levels with their workers' compensation coverage than nonsubscribers with their alternative occupational benefit programs.

1. Introduction

Medical costs have been a concern in the Texas workers' compensation system since the 76th Legislature passed House Bill (HB) 3697 in 1999 mandating a series of studies comparing the cost, quality and utilization of medical care provided to injured employees in Texas with those in other states and other health care delivery systems. The results from these and other studies showed that Texas had some of the highest average medical costs per claim and that these costs were primarily driven by the amount of medical care provided to injured employees (also known as the utilization of care).[1] Additionally, these studies highlighted that, compared with similarly injured employees in other states, Texas injured employees had poorer return-to-work outcomes and satisfaction with care. Growing concerns from policymakers and system participants about high medical costs and poor outcomes led to the passage of HB 2600 by the 77th Legislature in 2001, which included key components, such as:

- treatment guidelines
- eliminating the spinal surgery second opinion process and requiring preauthorization for spinal surgeries
- requiring medical necessity disputes to be reviewed by Independent Review Organizations (IROs) (that is, panels of independent doctors certified by TDI)
- instituting a registration and training requirement for doctors treating injured employees (that is, the Approved Doctor's List)
- increasing training requirements for doctors performing impairment rating examinations, and
- requiring the use of Medicare's reimbursement structure, payment policies, and coding requirements for medical billing.

Since the passage of HB 2600, a significant amount of attention has been placed on lowering medical costs through a reduction in the overutilization of medical care provided to injured employees. The issue of reducing medical costs and improving the quality of medical care provided to injured employees was also a key component driving the passage of a new health care delivery model in HB 7 – workers' compensation health care delivery networks ("networks"). In 2005, the 79th Legislature passed HB 7, which

[1] See Research and Oversight Council on Workers' Compensation, *Striking the Balance: An Analysis of the Cost and Quality of Medical Care in the Texas Workers' Compensation System: A Report to the 77th Legislature*, 2001; Research and Oversight Council on Workers' Compensation, *Returning to Work: An Examination of Existing Disability Duration Guidelines and Their Application to the Texas Workers' Compensation System: A Report to the 77th Legislature*, 2001; Texas Department of Insurance, Workers' Compensation Research and Evaluation Group, *Medical Cost and Quality of Care Trends in the Texas Workers' Compensation System*, 2004; and Workers' Compensation Research Institute, *CompScope Benchmarks for Texas, 6th Edition*, 2006.

represented the most comprehensive organizational and policy reforms to the Texas workers' compensation system since 1989. Key aspects of these reforms included:

- the abolishment of the former Texas Workers' Compensation Commission and transfer of its administrative duties to the Texas Department of Insurance, Division of Workers' Compensation (TDI-DWC)
- the creation of the Office of Injured Employee Counsel to serve as a voice for injured employees during rulemaking and assist them during dispute resolution
- the formation of workers' compensation health care networks approved by TDI to improve the quality of medical care received by injured employees at a reasonable cost for Texas employers
- the adoption of evidence-based medical treatment guidelines designed to provide guidance to health care providers about appropriate treatment protocols for work-related injuries
- the streamlining of medical and income benefit dispute resolution processes to improve the timeliness of dispute resolution, and
- an increased focus on improving return-to-work outcomes in Texas.

HB 7 contained several provisions requiring TDI to evaluate the impact of these reforms on a biennial basis and to report the results to the Governor, Lieutenant Governor, Speaker of the House of Representatives and the Legislature. Section 2053.012, Texas Insurance Code, and Section 405.0025, Texas Labor Code require TDI and the Workers' Compensation Research and Evaluation Group to issue these biennial reports to the Texas Legislature no later than December 1st every even-numbered year on the impact of these legislative reforms on the affordability and availability of workers' compensation insurance for Texas employers and the impact of certified workers' compensation health care networks on return-to-work outcomes, medical costs and quality of care issues and medical dispute resolution.

Specifically, this report examines the impact of the 2005 legislative reforms on

- the affordability and availability of workers' compensation insurance for Texas employers (per Section 2053.012, Texas Insurance Code), including:
  1) projected workers' compensation premium savings realized by Texas employers
  2) employer participation in the system
  3) market competition, including an analysis of how loss ratios, combined ratios and individual risk variations have changed since the implementation of the reforms, and
  4) workers' compensation network participation by small and medium-sized employers

- the impact of certified workers' compensation health care networks (per Section 405.0025, Texas Labor Code) on
  1) medical costs and utilization of care
  2) access to and satisfaction with medical care
  3) return-to-work outcomes
  4) health-related functional outcomes, and
  5) the frequency, duration and outcome of medical disputes and complaints.

TDI and TDI-DWC continue to track the results of these reforms in order to fulfill the legislature's intent to improve both the cost and quality of medical care provided to injured employees in Texas as well as the affordability and availability of workers' compensation insurance for Texas employers.

Following the introduction, Section 2 provides an overview of the status of the Texas workers' compensation insurance market prior to and after the implementation of workers' compensation networks under HB 7, including workers' compensation insurance rates and premiums, market competition, financial solvency, and loss and combined ratios. This section also summarizes recent rate filings submitted by workers' compensation insurance companies.

Section 3 of the report presents the most current information available regarding workers' compensation network participation in the Texas workers' compensation system. This section includes the number of workers' compensation networks certified as well as the geographic distribution by county of network coverage. Additionally, Section 3 summarizes the results of a data call issued to 12 of the largest Texas workers' compensation insurance companies and a data call issued to all certified workers' compensation health care networks regarding their estimates of the number of employers (policyholders) that are participating in workers' compensation networks as well as the number of injured employees being treated in network. Section 3 also provides information about the premium credits certain insurance companies are offering to Texas policyholders in exchange for network participation.

Section 4 of the report presents information about medical cost and utilization of care trends pre- and post-HB 7, including information about how these trends vary by type of medical service. This section examines how fees for individual medical services have changed over time, and how injury rates, claim frequency, disputes and denials, and health care networks have affected medical payments in the system. This section also includes results from TDI's *2012 Workers' Compensation Network Report Card*, which compares the medical care and utilization of care results between network and non-network claims.

Section 5 of the report provides an analysis of how access to care, satisfaction with care and health-related outcomes have changed in the workers' compensation system since 2005. This section also compares the perceptions of injured employees who were treated in certified networks with those of injured employees who received non-network medical care.

Section 6 of the report examines how return-to-work trends have improved in Texas over time and provides preliminary information about income benefit savings as a result of reductions in lost time as well as differences in return-to-work outcomes for network and non-network claims.

Section 7 of the report looks at the frequency, duration, and outcomes for medical disputes in the Texas workers' compensation system, and the impact that the HB 7 reforms have had on these disputes. Additionally, this section examines the number and type of complaints that TDI has received since 2005 regarding workers' compensation health care networks.

Section 8 of the report provides estimates of overall employer participation in the Texas workers' compensation system and the percentage of the Texas workforce employed by non-subscribing employers. Section 8 also includes non-subscription rates categorized by industry and employer size and explores the reasons both subscribing and non-subscribing employers gave for their respective workers' compensation coverage decisions. Additionally this section looks at the percentage of Texas employers who are knowledgeable about the HB 7 reforms and how this knowledge is currently impacting their perceptions regarding economic development in Texas.

2. Effects of Reforms on the Insurance Market

Introduction

HB 7 requires the commissioner to report on the affordability and availability of workers' compensation insurance for Texas employers. This chapter looks at the effects of the HB 7 reforms on market competition and carrier financial solvency. A review of the workers' compensation insurance market's concentration and profitability, insurers' rate filings, and insurers' use of competitive rating tools helps to evaluate the affordability and availability of coverage for Texas employers.

Market Concentration

In 2011, more than 270 insurance companies had positive direct written premium for workers' compensation insurance. The total direct written premium for the workers' compensation insurance market was about $2.16 billion in Texas. Table 2.1 shows the direct written premium since 2005. Calendar years 2009 and 2010 both experienced significant decreases in direct premium. This drop was a likely byproduct of the recession since the recession affected employer payrolls, which are the exposure used to price workers' compensation insurance. In 2011, the direct written premium increased to almost the level that it was in 2009.

Table 2.1: 2005–2011 Direct Written Premium

Calendar Year	Direct Written Premium	Change in Direct Written Premium
2005	$2,702,011,275	
2006	$2,801,145,442	3.7%
2007	$2,730,265,013	-2.5%
2008	$2,581,298,283	-5.5%
2009	$2,183,885,939	-15.4%
2010	$1,922,770,862	-12.0%
2011	$2,163,990,743	12.5%

Source: The department's compilation of the Texas Statutory Page 14 of the NAIC Annual Statement for Calendar Years Ending December 31, 2005–2011.

The top 10 insurance company groups write 81.7 percent of the market and the top writer, Texas Mutual Insurance Company, has 33.8 percent of the market based on its 2011 direct written premium. Texas Mutual, formerly the Texas Workers' Compensation Insurance Fund, wrote nearly $730 million in direct written premium. The Legislature created Texas Mutual in 1991 to serve as a competitive force in the marketplace, to guarantee the availability of workers' compensation insurance in Texas, and to serve as

an insurance company of last resort. While Texas Mutual is the insurer of last resort, it predominately writes voluntary business, competing with the rest of the workers' compensation market. The involuntary market makes up less than a quarter of one percent of the workers' compensation insurance market.[2]

Table 2.2 shows the historic market shares for the top 25 insurance company groups, based on each group's ranking in 2011. These groups wrote over 90 percent of the direct written premium for workers' compensation insurance in 2011. The table shows the market share for these same groups back to 2007, even though they may not have all been in the top 25 or at the same rank during those years. Additionally, the table does not show some groups, which may have been top writers historically but are no longer active or a top 25 writer in 2011.

Table 2.2: 2007–2011 Market Share by Insurance Company Group

Group	Rank (2011 Annual Statement)	2007	2008	2009	2010	2011
Texas Mut Ins Co	1	27.5%	29.3%	29.1%	31.1%	33.8%
Liberty Mutual Grp	2	9.0%	11.3%	10.9%	10.0%	9.2%
Hartford Fire Grp	3	6.7%	6.9%	7.4%	8.1%	7.4%
Travelers Grp	4	6.3%	6.4%	7.8%	7.9%	7.4%
American Intl Grp Inc	5	12.6%	11.3%	8.1%	7.7%	7.0%
Zurich Ins Co Grp	6	8.6%	7.6%	7.3%	7.2%	6.6%
Ace Ltd Grp	7	4.8%	3.0%	4.3%	2.1%	3.4%
Continental Cas Grp	8	2.9%	2.8%	2.8%	2.6%	2.6%
Service Lloyds Grp	9	1.7%	1.9%	2.2%	2.3%	2.2%
Chubb & Son Inc Grp	10	1.9%	1.9%	1.8%	2.1%	2.0%
Amerisure Co	11	1.6%	1.8%	1.9%	1.4%	1.4%
Old Republic Ins Grp	12	1.7%	1.3%	1.6%	1.5%	1.4%
Fairfax Fin Grp	13	0.5%	1.1%	1.2%	1.0%	0.6%
BCBS of MI Grp	14	0.1%	0.1%	0.2%	0.5%	0.8%
WR Berkley Corp Grp	15	0.4%	0.5%	0.5%	0.7%	0.7%
Delek Grp	16	1.0%	1.1%	1.2%	1.0%	0.6%
Sentry Ins Grp	17	0.8%	0.8%	0.8%	0.7%	0.6%
SeaBright Ins Co	18	0.5%	0.7%	0.7%	0.7%	0.6%
Arch Ins Grp	19	0.5%	0.5%	0.6%	0.7%	0.6%
Berkshire Hathaway Grp	20	0.0%	0.1%	0.2%	0.5%	0.6%
Amerisafe Grp	21	0.5%	0.5%	0.5%	0.5%	0.5%
American Financial Grp	22	0.2%	0.4%	0.5%	0.5%	0.4%
BCBS of SC Grp	23	0.0%	0.0%	0.0%	0.2%	0.4%
XL Amer Grp	24	0.2%	0.3%	0.3%	0.4%	0.4%
Federated Mut Grp	25	0.4%	0.4%	0.4%	0.4%	0.4%
Total		**90.5%**	**91.8%**	**92.2%**	**91.7%**	**91.9%**

Source: The department's compilation of the Texas Statutory Page 14 of the NAIC Annual Statement for Calendar Years Ending December 31, 2007–2011.

[2] Texas Mutual writes the involuntary market in its START program.

One indicator of a competitive market is a lack of concentration by those participants in the market. A commonly accepted economic measure of market concentration is the Herfindahl-Hirschman Index, or HHI, which considers the relative size and distribution of firms, or insurers, in a market. A market with an HHI index between 1,000 and 1,800 is considered moderately concentrated and one with an HHI index above 1,800 is considered concentrated. The HHI based on insurance company group market shares for Texas is 1,464.

Profitability

Two important measures of the financial health of the Texas workers' compensation insurance market are the loss ratio and the combined ratio. The loss ratio is the relationship between premium collected and the losses incurred (amounts already paid out plus amounts set aside to cover future payments) by the insurance companies. The combined ratio is similar to the loss ratio, except that it compares the premiums collected with both the losses and expenses incurred by the insurance company.

Each year the department analyzes historical loss ratios and combined ratios on an accident year basis. In an accident year analysis, the losses tie back to the year in which the accident occurred, regardless of when the claimant reports the loss or the company pays the loss. For example, accident year 2008 reflects claims or losses from all accidents that happened in 2008 even if, for example, a loss was initially reported in 2009 and paid at a later date.

The loss ratio used in the department's analysis equals the projected direct ultimate incurred losses divided by the direct earned premium. This ratio is a widely accepted metric that gauges underwriting results by comparing losses to premium. In its analysis, the department uses ultimate incurred losses, which estimate the cost of claims from a given accident year when they are ultimately or finally settled. It may take many years for a company to settle a claim because there may be ongoing payments for medical treatment or income benefits. As the name implies, loss ratios focus on the impact of losses. To ascertain overall profitability, it is necessary to factor in other types of expenses.

The combined ratio literally combines the loss ratio with the expense ratio to gauge overall profitability, before consideration of insurance companies' investment earnings. The expense ratio includes loss adjustment expenses, other types of expenses, and policyholder dividends. Loss adjustment expenses are those costs incurred in processing, investigating, and settling claims. Other types of expenses include insurance company administrative overhead; commissions; and taxes, licenses, and fees. Policyholder

dividends are a return of a percentage of the premiums in excess of losses and expenses to policyholders by certain types of insurance companies.

A combined ratio of less than 100 percent indicates that the insurance company earned a profit on its insurance operations (also called an underwriting profit). A ratio greater than 100 percent indicates a loss on insurance operations, although this loss may be more than offset by earnings on investments. For example, if the projected ultimate combined ratio is 110.0 percent, then for every $1.00 in premium the insurance company collects, it expects that it will use $1.10 to pay losses and expenses it incurs. The insurance company will need to find other sources to pay the 10 cents that is in excess of the premium. This may be earnings from investments or even a direct charge against the insurance company's surplus. In 2011, the projected accident year combined ratio was 94.9 percent. This means that for every dollar collected by the insurance company, it will pay an estimated 94.9 cents to cover losses and expenses. The insurance company will keep the remaining approximately five cents as profit.

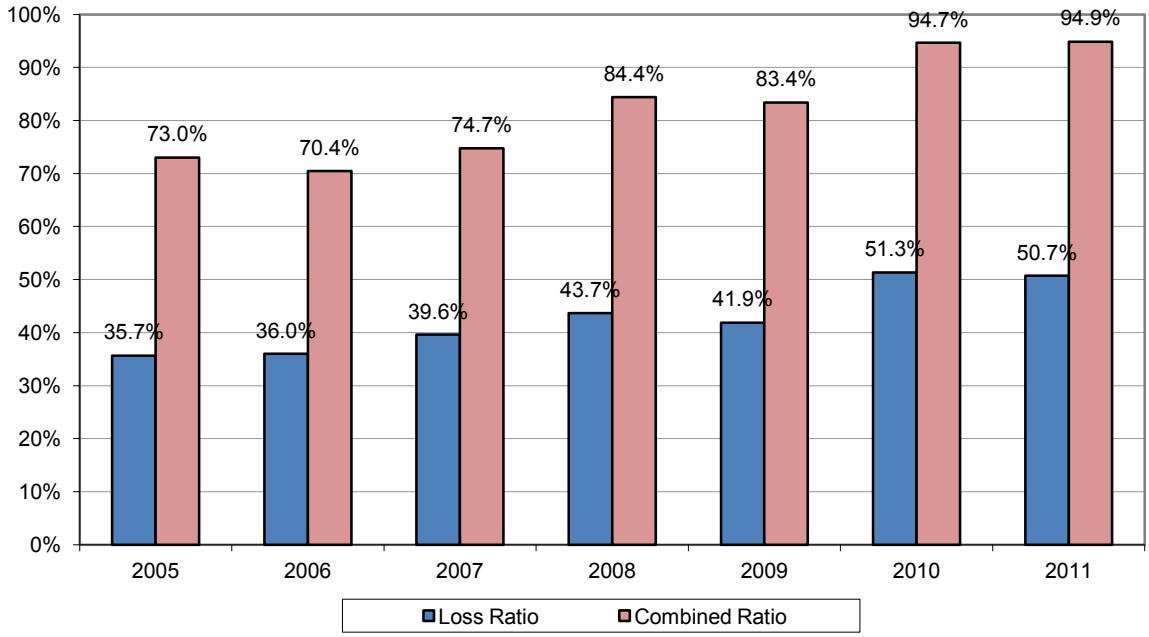
Table 2.3 and Figure 2.1 show the loss ratio and the combined ratio, both of which reflect that the last seven years have been profitable for insurance companies writing workers' compensation insurance. In 2008 and 2009, the accident year combined ratios deteriorated relative to the prior three years. In 2010 and 2011, the combined ratios deteriorated again, but remained profitable.

Table 2.3: Projected Ultimate Calendar/Accident Year Loss and Combined Ratios

Accident Year	Direct Earned Premium	Ultimate Losses	Loss Ratio	Combined Ratio
2005	$2,131,103,682	$759,805,337	35.7%	73.0%
2006	$2,201,815,184	$792,228,947	36.0%	70.4%
2007	$2,199,889,123	$871,174,776	39.6%	74.7%
2008	$2,210,241,056	$965,664,860	43.7%	84.4%
2009	$1,944,612,874	$814,329,705	41.9%	83.4%
2010	$1,729,558,428	$887,418,371	51.3%	94.7%
2011	$1,819,827,507	$922,905,594	50.7%	94.9%

Source: Texas Workers' Compensation Financial Data Call, Texas Compilation of Statutory Page 14, Texas Compilation of the Insurance Expense Exhibit. Loss development factors used in determining the ultimate losses are from the Financial Data Package as of December 2011.

Figure 2.1: Projected Ultimate Calendar/Accident Year Loss and Combined Ratios



Source: Texas Workers' Compensation Financial Data Call, Texas Compilation of Statutory Page 14, Texas Compilation of the Insurance Expense Exhibit. Loss development factors used in determining the ultimate losses are from the Financial Data Package as of December 2011.

Note that these ratios exclude the experience for large deductible policies, which prior to the application of the deductible credit represent about half of the market in terms of premium. Additionally, the ratios shown in Table 2.3 and Figure 2.1 do not fully reflect insurers' recent rate changes. Reflection of the rate changes in the recent past would increase the loss ratios and combined ratios since the average rate change has been downward.

Another measure of industry profitability is the return on net worth. The return on net worth is the ratio of net income after taxes to net worth and indicates the return on equity. It includes income from all sources, including investment income, and reflects all federal taxes. The combined ratio reflects only the income from the insurance operations and does not reflect investment income or federal taxes. The return on net worth can also be used to compare insurance companies with firms in other industries. Table 2.4 shows the return on net worth for workers' compensation insurance for Texas and countrywide along with the return on net worth based on Fortune's Industrial and Service sectors. Texas has consistently outperformed the rest of the country in the workers' compensation market.

Table 2.4: Return on Net Worth

Year	Workers' Compensation Insurance		All Industries
	Texas	Countrywide	Countrywide
2001	-3.3%	0.2%	10.4%
2002	3.0%	2.4%	10.2%
2003	9.8%	6.9%	12.6%
2004	17.7%	10.1%	13.9%
2005	12.9%	9.6%	14.9%
2006	13.0%	10.0%	15.4%
2007	11.5%	9.0%	15.2%
2008	9.6%	5.1%	13.1%
2009	11.2%	4.2%	10.5%
2010	9.5%	3.9%	12.7%
10-Year Average	9.5%	6.1%	12.9%

Source: NAIC Report on Profitability by Line by State in 2010.

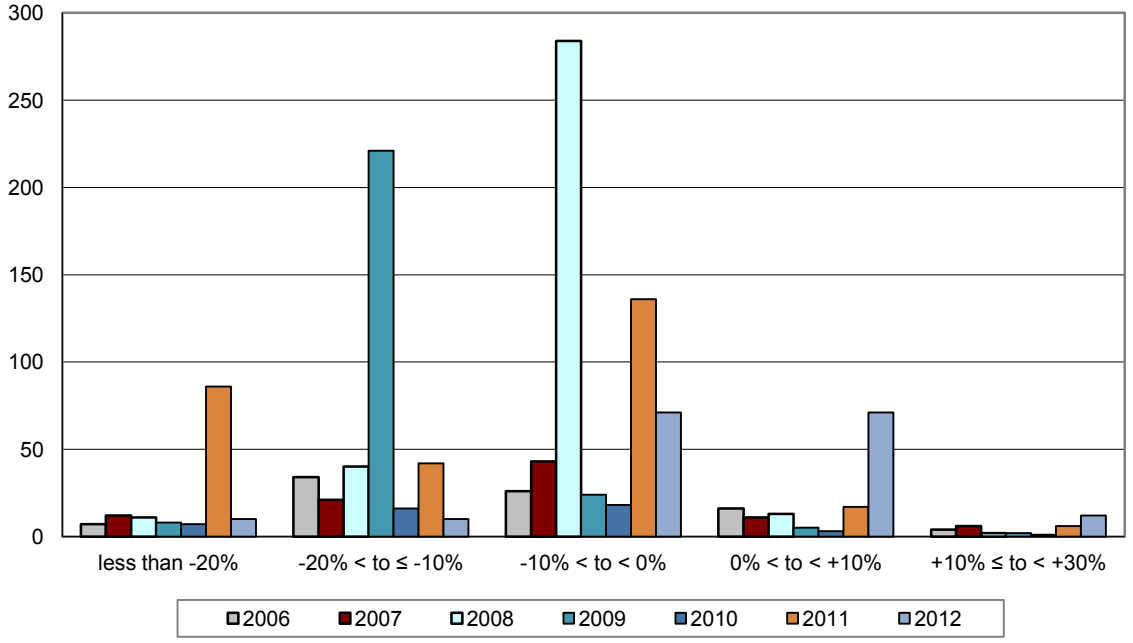
Another difference between the combined ratios shown in this report and the return on net worth is the way the data is collected. The combined ratio used in this report is on an accident year basis while the return on net worth is on a calendar year basis.

Rate Filings

Figure 2.2 shows the number of workers' compensation rate filings, by range of average rate change, effective from January 1, 2006, through October 31, 2012. Insurers continued to file more rate decreases than rate increases through 2011. In 2012, there has been much less rate activity with 91 rate filings to lower rates and 83 rate filings to increase rates. Most of the rate changes in 2012 fall between a 10 percent decrease and a 10 percent increase. In 2011, companies filed to use either the classification relativities that the department promulgates or the initial loss costs filed by the National Council on Compensation Insurance (NCCI). This resulted in 264 rate filings to lower rates and 23 rate filings to increase rates.

The number of rate filings does not include those that were revenue neutral, such as those for schedule rating plans or the introduction of a network premium credit.

Figure 2.2: Rate Filings Effective from 1/1/2006 Through 10/31/2012 by Amount of Change



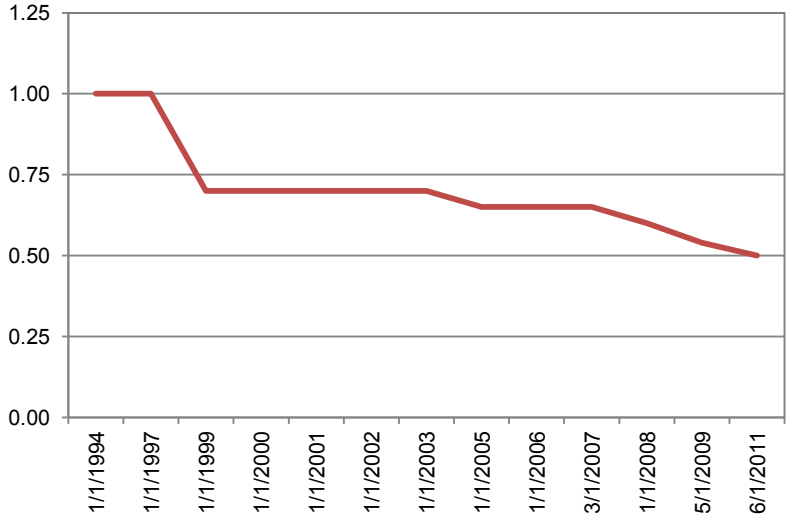
Source: Insurance company rate filings received by the Texas Department of Insurance. The figure does not include filings that were revenue neutral.

Since 2003, rates have come down almost 50 percent. This number includes both changes in companies' deviations as well as overall changes in the classification relativities established by the department. The rate decrease also includes the impact from companies that adopted the initial loss costs filed by NCCI.

The department usually revises the classification relativities each year so that on average, the change in relativities is revenue neutral, even though a particular class' relativity may change by plus or minus 25 percent. The department has however, lowered the classification relativities a few times in the last several years, as shown in Figure 2.3.

In preparation for the 2012 biennial rate hearing on workers' compensation insurance, insurance companies were required to submit rate filings in August 2012, which were to include the company's "rate indication." A company's rate indication is the actuarial determination of how its rate or premium level should change going forward. Rate indications, unlike the loss and combined ratios, but similar to the return on net worth, reflect investment income in determining appropriate premium levels, and will reflect estimates of future income needs. They also reflect current rate and premium levels.

Figure 2.3: Cumulative Changes in Classification Relativities



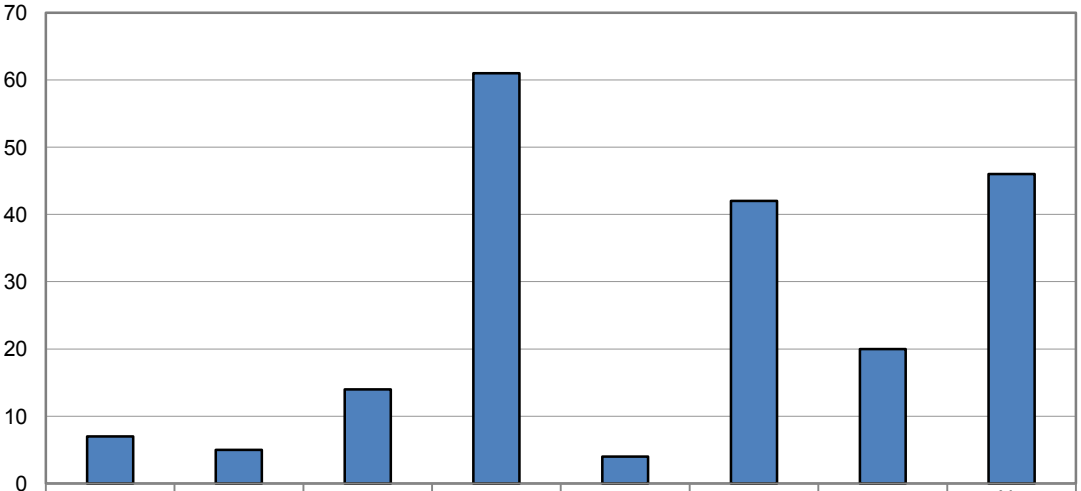
Effective Date	Percent Change
1/1/1994	Introduced
1/1/1997	0.00%
1/1/1999	-30.00%
1/1/2000	0.00%
1/1/2001	0.00%
1/1/2002	0.00%
1/1/2003	0.00%
1/1/2005	-7.10%
1/1/2006	0.00%
3/1/2007	0.00%
1/1/2008	-7.70%
5/1/2009	-10.00%
6/1/2011	-7.40%

Source: Texas Department of Insurance.

The department received 149 insurance company rate filings with rate indications. These indications are based on the insurance companies' calculations, using their assumptions, and do not reflect any judgments or assumptions made by the department. Figure 2.4 shows how many of these companies had indications within the specified ranges shown. For example, 61 companies filed indications that were between -10 percent and 0 percent. If a group of companies filed an indication based on the group's experience, the figure reflects the group indication for each individual insurance company within the group. For example, a group with three companies may have filed indications of -16 percent. In the histogram, they would contribute three counts in the category for rate filings with indications between -20 percent and -10 percent. Forty-six companies filed information but did not submit rate indications. These companies were generally small or wrote only large deductible policies.

For the companies that filed rate indications, the average premium-weighted indication is 1.3 percent. This suggests that the industry estimates the need for a 1.3 percent increase in current premium levels to cover losses and expenses and produce the targeted profit. As noted earlier, the indications vary significantly by company and reflect the companies' assumptions. Even though the companies' indications suggest a small increase in premium levels on average, few companies proposed a rate change with their filing.

Figure 2.4: Summary of Insurance Companies Indications Filed in August 2012 Based on Experience Through 12/31/2011



	Less than ≤ -30%	-30% < to ≤ -20%	-20% < to ≤ -10%	-10% < to < 0%	0%	0% < to < +10%	+10% ≤ to < +50%	No indications submitted
Number of Companies	7	5	14	61	4	42	20	46

Source: Insurance company rate filings received by the department in response to a request for rate filings for the 2012 biennial rate hearing (Commissioner's Bulletin B-0015-12).

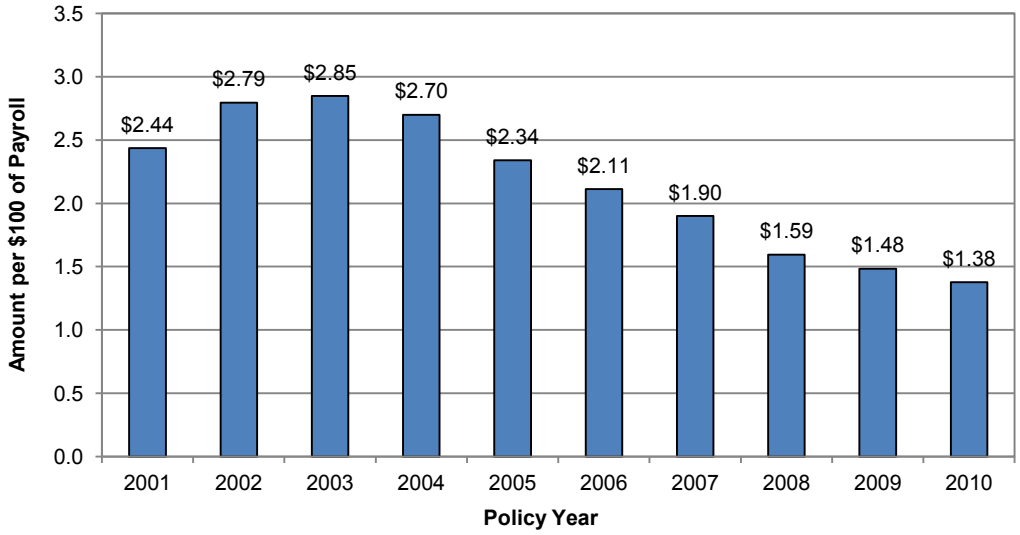
Average Premium

While the rate changes filed by the companies in the last few years show how much rates have come down, the rates are just the start of the workers' compensation pricing process. What employers actually pay, the premium, reflects not only rates but also mandated rating programs such as experience rating and premium discounts, and optional rating tools such as schedule rating plans and negotiated experience modifiers, to recognize individual risk variations. Insurance companies use these rating tools to modify rate changes to achieve desired premium levels. The average premium per $100 of payroll shows how the rate changes filed by companies and their use of rating tools determine the premium paid by employers.

Figure 2.5 shows the average premium per $100 of payroll for policy years 2001 through 2010, reflecting year-to-year changes in premiums charged. This information is on a policy year basis, which is different from the calendar year and accident year data discussed earlier. In a policy year, the premiums and losses tie back to the year in which the policy was effective. By 2003, the average premium increased to a high of $2.85 per $100 of payroll. Prior to this time, the industry suffered underwriting losses and premiums increased. With policy year 2004, the average premium per $100 of payroll began to decrease as insurance companies lowered their rates and increased the use of rating tools, such as schedule rating. The drop in the average premium per $100 of

payroll has continued through 2010, where it is down to $1.38 per $100 of payroll. This drop coincides with the average rate reductions that have taken place, resulting in employers seeing the benefits of the insurance companies' filed rate decreases.

Figure 2.5: Average Premium per $100 of Payroll by Policy Year



Source: The Texas Workers' Compensation Financial Data Call and the department's 2011 Classification Relativity Study.

The average premiums reflect insurance companies' manual rate deviations, experience rating, schedule rating, expense constants, the effect of retrospective rating and premium discounts. They do not reflect network premium credits, the effect of discounts due to deductible policies, or policyholder dividends. Additionally, since workers' compensation is an audit line, which means that audited payrolls determine final premiums, the average premiums may change over time, especially for the most recent years.

Rating Tools Recognizing Individual Risk Variations

One of the revisions that HB 7 made to the workers' compensation statutes was that insurance companies shall consider the effect on premiums of individual risk variations based on loss or expense considerations when setting rates. Additionally, the revisions to the statutes state that neither rates, nor premiums, may be excessive, inadequate, or unfairly discriminatory. The department evaluates insurance company's rates and premiums in light of this, in part, on the rate filings made by the insurance companies, and, equally important, on the use of available rating tools used to reflect individual risk variations. Since insurance companies did not file the effects of these rating tools in their

rate filings prior to HB 7, the department issued periodic data calls to gather this information. The Texas Workers' Compensation Financial Data Call also provides information, which the department uses in gauging the effect of these tools.

Once an insurance company determines an employer's rate based on its classification (which depends on the type of business such as office, construction, or manufacturing), and the employer's loss experience, the insurance company can further modify the policy's premium through the use of rating tools such as schedule rating and negotiated experience modifiers.

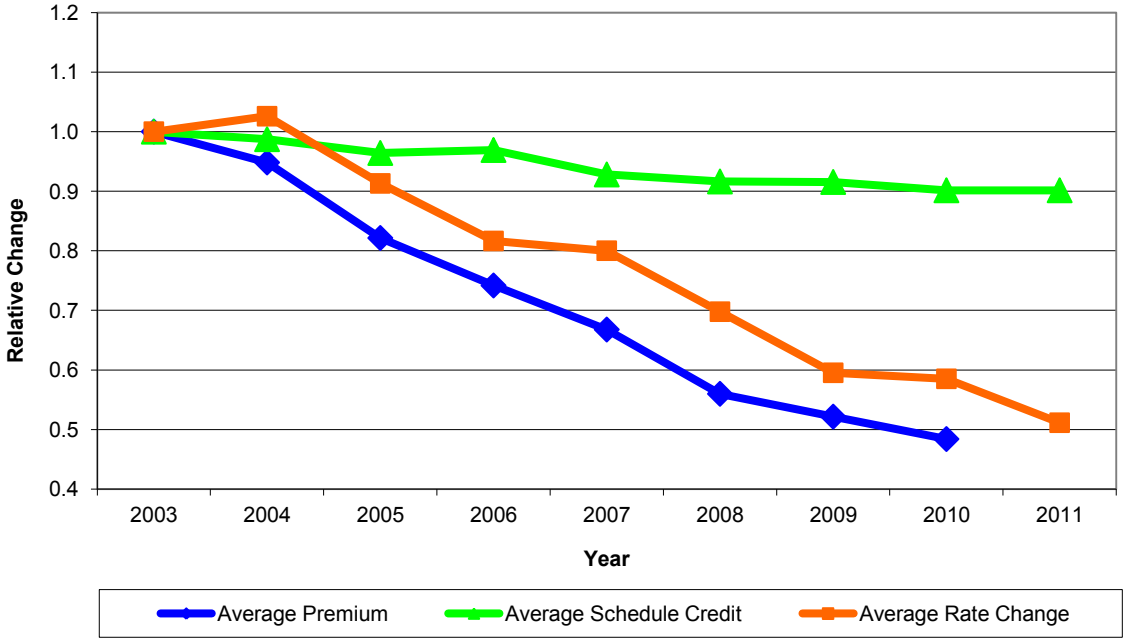
Schedule rating reflects characteristics of the employer, which may not be fully reflected in the employer's past experience. The general categories that are often used in schedule rating include the care and condition of the premises; classification peculiarities; medical facilities; safety devices; selection, training, and supervision of employees; and management's cooperation with the insurance company and safety organization. A credit or debit can be applied to the premium based on the underwriter's evaluation of the insured employer relative to each of these categories (or other categories in the insurance company's schedule rating plan which is filed with the department) up to an aggregate maximum modification, generally plus or minus 40 percent.[3] Application of schedule rating to a policy can result in significant changes in the premiums charged even though there has been no change in the insurance company's filed rate. Based on the filings received for the biennial rate hearing, the average schedule rating adjustment in 2011 was a credit of 14.4 percent. Since 2003, the average schedule rating adjustment has been a credit that has increased gradually each year; therefore, lowering premiums each year, all else equal. Market forces and conditions often influence the use of schedule rating and the size of credits or debits given. Current rules are that the insurance company must be able to support, with documentation maintained by the insurance company, the schedule ratings it uses in calculating premiums for employers.

Figure 2.6 shows two principle drivers of premium levels, which are filed rate changes and schedule rating, and how their relative level compares to the average premium over the same period. To put all this on the same scale, the figure shows the changes in each of these items through 2010 relative to 2003. Since 2003, the average premium has dropped a little more than 50 percent. The average schedule rating factor has decreased 10 percent and the average rate level change has decreased 49 percent. This shows that both rates and premiums have come down significantly since 2003, and continued doing so after 2005 when the legislature enacted HB 7.

[3] In the case of Texas Mutual Insurance Company's START program, the aggregate maximum modification is plus or minus 75 percent.

Another rating tool used to reflect individual risk variations in pricing is a negotiated experience modifier. Experience modifiers reflect an employer's past losses. The greater the losses compared to the losses expected for that type of business, the higher the employer's experience modifier will be, which produces a higher charged premium, and vice versa. An employer and its insurance company can negotiate a lower experience modification, and thus a lower premium, for the employer. Insurance companies use this tool sparingly today with only a few companies reporting that they use it frequently enough to have a noticeable effect on their average experience modifiers. Over the last several years, insurance companies increased the use of negotiated modifiers slightly, but the average effect on the experience modifiers was less than a 1 percent reduction in 2011.

Figure 2.6: Comparison of Relative Change in Average Premiums, Schedule Rating Factors, and Rate Levels



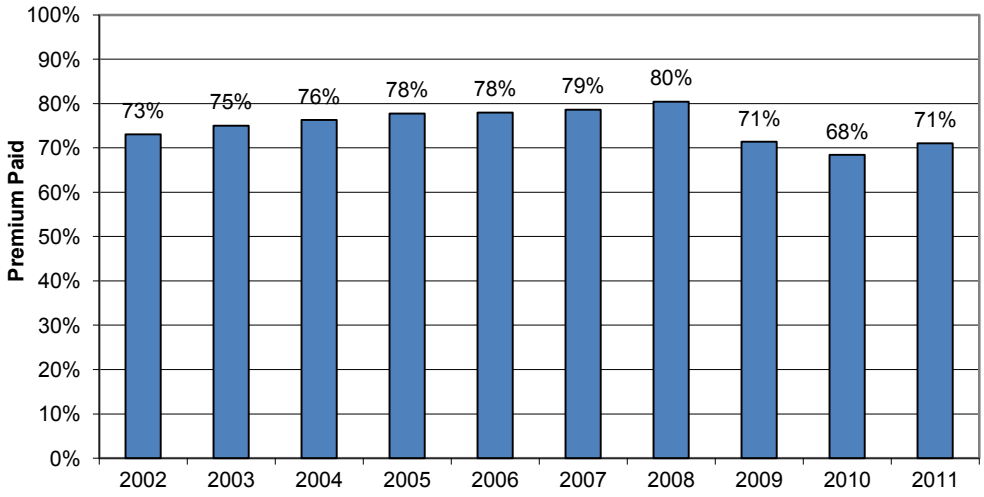
Source: NCCI Financial Data Call and insurance company rate filings.

Another cost saving tool, which is not reflected in the earlier analyses of loss ratios, combined ratios, and average premiums, but which is worth mentioning for completeness, is a deductible, wherein the employer reimburses the insurance company for all or part of a given loss. Promulgated deductible plans and negotiated deductibles are two types of deductible options available for use by Texas employers.[4] The

[4] The Texas Workers' Compensation Financial Data Call excludes large deductible policies. Insurance companies report losses for all other deductible policies on a gross basis. That is, if the total loss is $20,000 and the employer has a deductible of $5,000, the amount reported in the department's Financial Data Call is

promulgated deductible plans are a mix of deductible choices of a per accident, aggregate, or per accident/aggregate level. Negotiated deductible credits are available for employers with larger premiums or larger deductible amounts that effectively allow the employer to self-insure. These negotiated deductibles are popular, consisting of about half the premium prior to the application of the deductible credit. Figure 2.7 shows the average premium credit for employers with a negotiated deductible.

Figure 2.7: Average Negotiated Deductible Credit by Policy Year



Source: Texas Department of Insurance, Quarterly Legislative Report on Market Conditions.

Certified Healthcare Networks

Another way for employers to reduce their premiums is through participation in a department-certified health care network, the focus of the HB 7 reforms. The objective of these networks is to improve the quality of medical care received by injured workers at a reasonable cost for Texas employers and to improve outcomes from injuries.

For those employers that elect to participate in one of these networks, they receive a credit or discount on their premium. Credits filed with the department range up to 20 percent but the majority of actual credits used are between 5 and 15 percent. Insurance companies initially established the credits based on judgment, rather than on experience, since there was no experience. Based on a review of undeveloped loss ratios for companies that have more than 20 percent of their policies in networks, it appears that, on

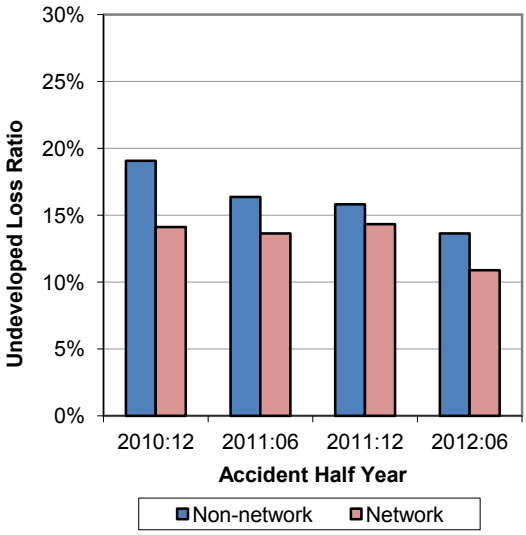
$20,000, even though the insurance company ultimately pays only $15,000 of the loss. The direct earned premium is the amount of premium actually earned prior to the payment of policyholder dividends and the application of credits for deductible policies.

average, the credits are reasonable. The average dollar savings per policy, for those policies receiving a network discount, is about $2,200, but ranges significantly by company.

As the use of the network system expands and more loss experience emerges, the filed premium credits can be evaluated to determine whether the savings due to networks are being passed through to employers. At present, insufficient experience or actuarial data exists to develop experience-based credits to an ultimate level so these premium credits represent the best initial estimates, as determined by insurance companies, of the likely impact of networks on costs. Section 3 of this report provides information about the premium credits filed by insurance companies with the department.

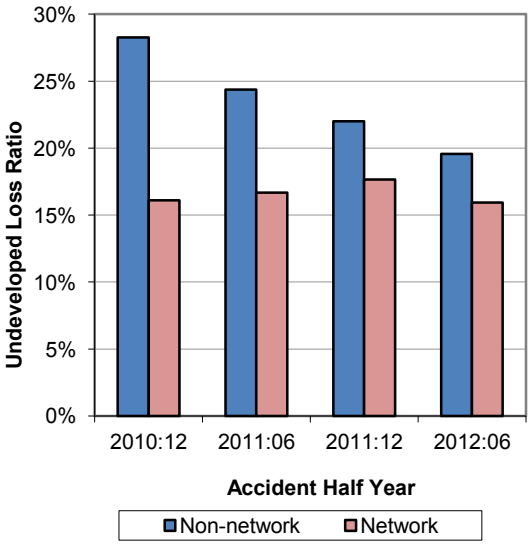
As experience emerges, the department can review the loss ratios to determine whether the premium credits are appropriate or if they should be greater or lesser. Figures 2.8 and 2.9 show the undeveloped indemnity and medical loss ratios for the most recent four half-accident years for insurance companies that reported their experience in networks under a semi-annual network data call. The loss ratios are determined using premium before application of the network credit. The accident half-year loss ratios for claims in a network have better results than for claims outside a network. This is generally the case for both medical and indemnity, however as expected the impact on medical is greater than the impact on indemnity. Even though the data is not fully developed yet, the network premium credits seem reasonable at this time.

Figure 2.8: Indemnity Undeveloped Incurred Loss Ratios for Network and Non-network Experience



Source: The department's semi-annual network data call.

Figure 2.9: Medical Undeveloped Incurred Loss Ratios for Network and Non-network Experience



Source: The department's semi-annual network data call.

Reviews of Insurance Company Solvency

The workers' compensation market looks stable and financially healthy. Loss ratios and combined ratios suggest that insurance companies are writing profitably in the market. Reviews of insurance company solvency are favorable, and there are no adverse trends which would indicate that HB 7 or the economy in general are having an adverse effect on the workers' compensation market.

Summary

The last seven years since the enactment of HB 7 have been profitable for the workers' compensation insurance industry, which has responded by lowering rates, increasing schedule-rating credits, and providing discounts for participation in certified networks. The result is that average premiums charged to employers have come down. However, based on the rate indications filed by insurance companies in August 2012 for the biennial rate hearing, the industry may not continue to lower rates and premiums as they have in the past.

3. Workers' Compensation Health Care Networks

An important component of evaluating the impact of the HB 7 reforms on the Texas workers' compensation system is the implementation of the cornerstone of these reforms - workers' compensation health care networks ("networks"). In the years prior to the adoption of these reforms, rising average medical costs per claim, poor return-to-work outcomes, and high workers' compensation premiums resulted in an increase in the percentage of Texas employers that chose to leave the workers' compensation system (see section 8 of this report for a discussion about employer participation trends in the Texas workers' compensation system).

Research studies published by the former Research and Oversight Council on Workers' Compensation, TDI, and the Workers' Compensation Research Institute (WCRI) highlighted that Texas' high medical costs were being driven primarily by the amount of medical care provided to injured employees (often referred to as "the utilization of medical care"). Despite high medical costs, Texas injured employees were not more satisfied with their medical care compared to employees in other states.[5]

In response to these trends and stakeholders' (e.g., insurance carriers, employers, injured employees, health care providers etc.) concerns, the 79th Legislature introduced a new workers' compensation health care delivery model, which allows insurance carriers to establish or contract with managed care networks that are certified by TDI using a method similar to the certification of health maintenance organizations (HMOs).

Overview of the Network Provisions in HB 7

Under HB 7, workers' compensation insurance carriers (including insurance companies, certified self-insured employers, group self-insured employers, and governmental entities) may elect to contract with or establish workers' compensation health care networks (networks), as long as those networks are certified by TDI. TDI's certification process includes a financial review, validation that the network meets the health care provider credentialing and contracting requirements established in TDI's rules, and a detailed analysis of the adequacy of health care providers available to treat injured

[5] See Research and Oversight Council on Workers' Compensation, *Striking the Balance: An Analysis of the Cost and Quality of Medical Care in the Texas Workers' Compensation System: A Report to the 77th Legislature*, 2001; Research and Oversight Council on Workers' Compensation, *Returning to Work: An Examination of Existing Disability Duration Guidelines and Their Application to the Texas Workers' Compensation System: A Report to the 77th Legislature*, 2001; Texas Department of Insurance, Workers' Compensation Research and Evaluation Group, *Medical Cost and Quality of Care Trends in the Texas Workers' Compensation System*, 2004; and Workers' Compensation Research Institute, *CompScope Benchmarks for Texas, 6th Edition*, 2006.

employees in each proposed network's service area. If an employer chooses to participate in the insurance carrier's workers' compensation network, the employer's injured employees are required to obtain medical care through the network, provided that the injured employee lives in the network's service area and receives notice of the network's requirements from the employer (including a network provider directory).[6]

Employees receiving network notices are asked to sign an acknowledgment form that indicates which certified network the employer is participating in, and acknowledges that the employee understands how to choose a treating doctor, seek medical care within the network or from a network-approved referral provider (with the exception of emergency care), and file a complaint with the network or with TDI.

Health care providers and workers' compensation networks negotiate fees under this new network model rather than utilize TDI-DWC's adopted fee guidelines. Additionally, workers' compensation networks may operate under their own treatment guidelines, return-to-work guidelines and preauthorization requirements, although these treatment and return-to-work guidelines must meet minimum statutory criteria.[7] Under this new model, workers' compensation networks are required to have case management and return-to-work coordination services, as well as provide annual quality assurance and financial reports to TDI to ensure that these networks continue to provide high quality medical care to injured employees. Additionally, HB 7 requires TDI to publish and disseminate an annual workers' compensation network report card that evaluates certified networks on measures including medical costs and utilization, return-to-work outcomes, and injured employee satisfaction with and access to medical care.[8]

Growth in Workers' Compensation Networks

TDI began accepting applications for the certification of workers' compensation health care networks on January 2, 2006. As of February 1, 2012, there were 30 TDI-certified networks, 27 of which have treated 327,373 injured employees since the first network was certified in May 2006.

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[6] By statute, pharmacy services are exempted from workers' compensation networks. Injured employees will continue to obtain pharmaceuticals from any pharmacist willing to accept workers' compensation patients, regardless of whether or not the worker is participating in a workers' compensation network (see Texas Insurance Code, Section 1305.101(c)).

[7] Treatment and return-to-work guidelines utilized by certified workers' compensation networks must be "scientifically valid, evidence-based, and outcome-focused" (see Texas Insurance Code, Section 1305.304).

[8] In accordance with Texas Insurance Code, Section 1305.502, TDI is required to produce annual workers' compensation network report cards on key cost, utilization, and outcome measures. The sixth report card was published in September 2012 (see www.tdi.texas.gov/reports/wcreg/documents/2012_report_card.pdf to view these report cards).

Currently, certified networks cover 250 Texas counties, up from 234 counties in 2008. Most Texas counties support multiple networks, allowing insurance carriers and their policyholders various options for network coverage. Larger metropolitan areas such as Houston, Dallas–Ft. Worth and Austin–San Antonio support more than 21 certified networks.

A complete list of TDI-certified networks, along with a map of the network's respective coverage areas can be found on the TDI website at: www.tdi.state.tx.us/wc/wcnet/wcnetworks.html.

Public Entities and Political Subdivisions

In addition to TDI-certified health care networks, certain public entities and political subdivisions (such as counties, municipalities, school districts, junior college districts, housing authorities, and community centers for mental health and mental retardation services) have the option to: 1) use a workers' compensation health care network certified by TDI under Chapter 1305, Texas Insurance Code; 2) continue to allow their injured employees to seek heath care as non-network claims; or 3) contract directly with health care providers if the use of a certified network is not "available or practical," essentially forming their own health care network.

To date, TDI is aware of three political subdivisions/groups of political subdivisions that have utilized this direct contracting option – the Alliance (a joint contracting partnership of five political subdivision pools), the Trinity Occupational Program (i.e., Ft. Worth ISD) and Dallas County Schools/Dallas ISD/DART

This report includes Alliance, a joint contracting partnership of five political subdivisions (authorized under Chapter 504, Texas Labor Code) that chose to directly contract with health care providers. The report also combines two smaller Chapter 504 entities under the name 504 Others. While not required to be certified by TDI under Chapter 1305, Texas Insurance Code, these networks must still meet TDI's workers' compensation data reporting requirements and are still subject to the annual workers' compensation network report card. New rules adopted by TDI-DWC in 2012 require political subdivisions to report the method by which they provide medical benefits to their employees under Chapter 504, Texas Labor Code, including directly contracting with health care providers. These rules were adopted to ensure that TDI-DWC is aware of which political subdivisions are utilizing network options.

Network Participation Rates

TDI tracks the participation of both Texas policyholders (employers) and injured employees in workers' compensation health care networks created by HB 7. According to the results of a 2012 data call with twelve of the largest workers' compensation insurance company groups (representing 84.5 percent of the 2011 direct workers' compensation premium written in Texas), 56,344 policyholders have agreed to participate in workers' compensation networks in exchange for premium credits that range up to 15 percent. The maximum premium credit offered in 2010 was 20 percent. The total number of policyholders who agreed to participate in networks has increased approximately 42 percent from 2010 to 2012. As a result, TDI estimates that approximately 16 percent of all Texas employers (24 percent of those with workers' compensation coverage) participate in TDI certified networks, up from 12 percent in 2010.

While all of the top twelve insurance company groups have contracted with or established a certified network for their policyholders, usage of networks among insurance companies varies widely. As of August, 2012 four of the twelve insurance company groups offering a network option reported that more than 25 percent of their policyholders have agreed to participate in their workers' compensation network (with one insurance company reporting a 72 percent agreement rate among its policy holders). Network participation among Texas policyholders has grown considerably since 2006 from 7,551 policyholders in 2006, to 56,344 in 2012. It remains to be seen how differences in insurance company marketing strategies, the concentration of high deductible policies within a company's book of business, the level of premium credits offered for network participation, employer requirements to provide employee network notices, and the impact of the economy on insurance company profitability and market competition will affect the participation rates for Texas policyholders over the next biennium.

Some insurance companies indicated that some policyholders are interested in the networks, but are concerned about the administrative responsibility associated with providing employees notice of the network requirements and securing a signed acknowledgment form at the time of hire and separately at the time the employee reports the injury. Some policyholders reported to companies that they are reluctant to direct employees to see certain doctors and are waiting to see whether networks will reduce medical and indemnity claim costs before making the decision to enter into a managed care arrangement.

Insurance companies also reported that some large deductible policyholders (i.e., large employers who have a workers' compensation insurance policy with a large, negotiated

deductible on a per accident basis in exchange for a large premium credit) are reluctant to participate in networks because these policyholders often have multi-state operations, with minimal exposure in Texas. Additionally, since these policies already have significant premium credits applied to them in exchange for the large deductible, some insurance companies are not offering additional premium credits for network participation. For these policyholders as well as for certified self-insured employers, premium credits are not the enticement needed to participate in networks. Rather, if networks can reduce medical and/or indemnity costs and improve return-to-work outcomes, these larger policyholders may increase their participation in networks.

All of the insurance companies with a certified workers' compensation network reported that they were offering their workers' compensation network to both new and existing policyholders and the vast majority of these companies reported that they were offering network participation during the middle of the policy period for policies that have not yet expired or been renewed. This is an area that TDI intends to monitor further since workers' compensation policies are typically renewed annually, and any reluctance on behalf of an insurance company to initially offer its network plan to policyholders during the middle of the policy period will delay the implementation of networks.

Additionally, all of the insurance companies with a certified workers' compensation health care network reported that they were offering this option to all workers' compensation policyholders with employees who live in their network's service area, regardless of premium size, employee classifications, and experience modifier.

As Table 3.1 indicates, the number of Texas policyholders participating in networks has increased significantly since 2006. Fifty-three percent of policyholders participating in networks have an annual premium of less than $5,000 and 84 percent have an annual premium of less than $25,000, indicating that the policyholders participating in networks are mostly small to mid-sized employers.

While the number of policyholders participating in workers' compensation networks has increased by 42 percent in the past two years, the top 12 insurance company groups estimated slower growth in the number of policyholders participating in networks over the next couple of years (5 percent estimated growth in the number of policyholders from 2012 to 2013 and an additional 5 percent growth from 2013 to 2014) (see Table 3.2).

Although insurance companies do not anticipate a significant increase in the number of policyholders that will participate in workers' compensation networks over the next couple of years, they estimate that the number of workers' compensation claims treated in networks will increase 50 percent from 2012 to 2014 (see Table 3.3).

Table 3.1: Total Number of Policyholders Participating in Workers' Compensation Networks for the Top 13 Insurance Carrier Groups

Network Participation Measures	As of Fall 2006	As of Fall 2007	As of Fall 2008	As of Fall 2009	As of Fall 2010	As of Fall 2012
Total Number of Policyholders Participating	7,551	29,146	34,040	36,806	39,643	56,344
By Premium Size (Texas only premium) Less than $5,000 in premium	3,473 (46%)	13,689 (47%)	15,937 (47%)	17,486 (48%)	19,896 (50%)	30,016 (53%)
$5,000-$24,999 in premium	2,522 (33%)	9,869 (35%)	11,659 (34%)	12,795 (35%)	13,389 (34%)	17,596 (31%)
$25,000-$100,000 in premium	1,158 (15%)	4,302 (14%)	4,940 (15%)	5,254 (14%)	5,006 (13%)	6,602 (12%)
More than $100,000 in premium	398 (5%)	1,275 (3%)	1,509 (4%)	1,264 (3%)	1,344 (3%)	2,104 (4%)

Source: Texas Department of Insurance, Workers' Compensation Research and Evaluation Group, 2012.

Table 3.2: Number of Policyholders to Participate In Workers' Compensation Networks, Estimated by the Top 13 Insurance Carrier Groups

Network Participation Measures	Estimate at End of CY 2013	Estimate at End of CY 2014
Overall Estimate	59,029	62,204

Source: Texas Department of Insurance, Workers' Compensation Research and Evaluation Group, 2012.

Table 3.3: Number of Claims to be Treated In Workers' Compensation Networks, Estimated by the Top 13 Insurance Carrier Groups

Network Participation Measures	Estimate at End of CY 2012	Estimate at End of CY 2013	Estimate at End of CY 2014
Overall Estimate	229,241	293,810	342,772

Source: Texas Department of Insurance, Workers' Compensation Research and Evaluation Group, 2012.

Premium Credits for Policyholders

Before an insurance company begins using a certified network, TDI requires that the insurance company provide notification of the level of premium credits that will be granted for employer network participation. The premium credits on file with TDI currently range up to 20 percent with some insurance companies offering a standard credit to all policyholders who participate in the network, and other companies varying the credit depending on the percentage of the policyholders' employees that live within the network's service area. Table 3.4 summarizes the amount or ranges of premium credits that have been filed with TDI as of October 1, 2012. Section 2 of this report examines data regarding the impact of network participation on company loss ratios and

estimates the average premium savings per workers' compensation insurance policy for network participation.

Table 3.4: Insurance Companies' Filed Network Premium Credits as of October 1, 2012

Group Name	Credit
American Compensation Insurance Company	10%
Allianz Grp	10-15%
American Interstate Ins Co	8-12%
Amerisure Grp	0-12%
Arch Ins Co	0-12%
Atlantic American Companies	0-12%
Berkshire Hathaway Grp	5-15%
Chartis Ins Grp	0-5%
Chubb Ins Grp	5%
CNA Ins Group	12%
Columbia Ins Grp	0-12%
EMC Ins Grp	12%
Employers Holdings Grp	15%
Everest National Ins Co	5%
Farmers Ins Group	10%
Florist Mutual Ins Co	10%
Great America Group	0-10%
Guard Insurance Group	10%
Hallmark Financial Services Grp	5-20%
Hartford Ins Group	15%
Imperium Ins Co	10%
Liberty Mutual Group	0-12%
Lincoln General Insurance Company	10%
Lumbermens Underwriting Alliance	10%
Meadowbrook Ins Group	10%
Millea Holdings Inc	10%
National American Ins Co	1%
Old Republic Grp	10%
Republic Indemnity Companies	10%
SeaBright Ins Co	10%
Sentry Ins Group	0-12%
Service Lloyds Group	12%
Sirius Grp	10%
State Auto Mut Grp	5-10%
Texas Alliance of Energy Producers	5-20%
Texas Mutual Ins Co	12%
Travelers Grp	12%
Union Standard Ins Group	12%
Unitrin Prop & Cas Ins Group	8.50%
Utica Natl Ins Group	10%
Westmont Associates, Inc	10%
Zenith Ins Group	5%
Zurich Ins Co Group	0-8%

Source: Texas Department of Insurance Rate Filings, 2012.

Number of Injured Employees Treated in Networks

In addition to tracking the participation of Texas policyholders in workers' compensation networks, TDI also tracks the number of injured employees who have been treated by networks through separate semi-annual data calls with each certified network. As of February 1, 2012, approximately 327,373 injured employees had been treated by a certified network since the first network was certified (see Table 3.5).

Table 3.5: Total Number of Injured Employees Treated by Workers' Compensation Networks Since the First Network Was Certified

Network Participation Measures	As of February 1, 2010	As of February 1, 2012
Total Number of Employees Treated	142,214	327,373
Total Number of Networks Treating Injured Employees	27	27

Source: Texas Department of Insurance, Workers' Compensation Research and Evaluation Group, 2012.

The number of injuries being treated by certified networks continues to increase while the number of networks treating injured employees has stabilized in recent years (see Table 3.6). TDI estimates that as of February 1, 2012, roughly 35 percent (78,408) of all new injuries (medical only claims and lost-time claims) and 38 percent of all lost-time claims that occurred between June 1, 2010 and May 31, 2011 were treated by certified networks.

Summary

HB 7 introduced a new workers' compensation health care delivery model which allows insurance carriers to establish or contract with managed care networks that are certified by TDI using a method similar to the certification of HMOs. Under this new system, injured employees whose employers have contracted with a certified network are required to obtain medical care through the network, provided that the injured employee lives in the network's service area and receives notice of the network's requirements from the employer. TDI began accepting applications for the certification of workers' compensation networks on January 2, 2006, and as of February 1, 2012, 30 certified networks cover a total of 250 counties across Texas.

Table 3.6: Distribution of Injured Employees Treated as of February 1, 2012, by Workers' Compensation Networks

TDI-Certified Network	Total	Percent
Alliance	21,201	26%
Bunch & Associates	44	<1%
Bunch TX HCN-FH	48	<1%
Bunch-Coventry TX	764	1%
Bunch-First Health	110	<1%
Chartis TX HCN	1,379	2%
Coventry Workers' Comp Network	6,182	7%
Dallas County Schools	1,037	1%
Corvel Health Care Corporation	2,557	3%
First Health TX HCN*	1340	2%
First Health/Travelers HCN	6,288	8%
First Health/CSS	266	<1%
Forte, Inc./Compkey Plus	312	<1%
Genex Health Care Network	314	<1%
IC/LMAESN/GENEX Service	447	1%
IMO Med-Select	978	1%
IRA dba IC/GENEX Services	506	1%
Hartford Workers' Compensation Health Care Network	711	1%
Lone Star Network/Corvel	541	1%
Liberty Health Care Network	7,012	8%
Specialty Risk Services Texas Workers' Compensation Health Care Network	498	1%
Sedgwick CMS	328	<1%
Texas Star Network	26,658	32%
Trinity Occupational Program	325	<1%
Zenith Health care Network	745	1%
Zurich Services Corporation	1,984	2%

Note: Totals may not add up to 100 percent due to rounding.
Source: Texas Department of Insurance, Workers' Compensation Research and Evaluation Group, 2012.

According to the information gathered in periodic insurance company and network data calls, the number of Texas policyholders and claims participating in workers' compensation networks has increased significantly since networks first became available in 2006. The majority of these participating policyholders are small employers with annual premium averaging less than $5,000. One certified network – Texas Star, associated with the largest insurance company in Texas, Texas Mutual Insurance Company, accounts for 67 percent of all policyholders participating in certified networks and 32 percent of all network claims in 2012. Premium credits are being offered to Texas policyholders in exchange for network participation, but it is uncertain, at this point, whether the other large insurance company groups in Texas will increase their policyholder participation in networks significantly over the next couple of years. Insurance companies report that policyholders are somewhat reluctant to participate

because of administrative burdens associated with providing network notices to employees and obtaining signed acknowledgment forms, while others report that policyholders are concerned about directing their employees to selected doctors and are waiting to see if networks can reduce claims costs. Another issue that may be affecting both the marketing of networks and the network participation rates among Texas employers is the decreasing losses experienced by the Texas workers' compensation system over the past few years and resulting decreases in premiums, which may be reducing the perceived need to offer and utilize workers' compensation networks. Other sections of this report will examine the trend of decreasing claims costs, which may have resulted in lower loss ratios for insurance companies and lower premiums for Texas employers.

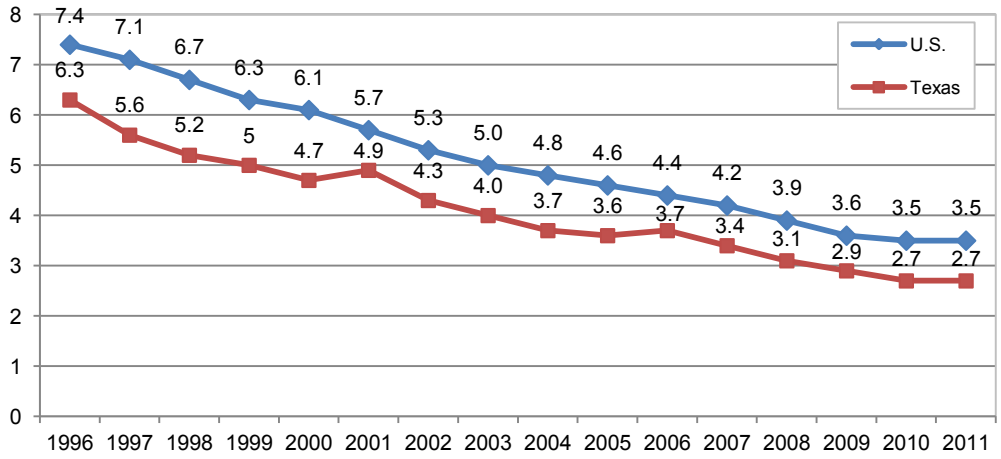
4. Medical Costs and Utilization of Care

The Texas workers' compensation system has begun to fully realize the effects of the various legislative and regulatory reforms enacted by House Bill (HB) 2600 in 2001 and HB 7 in 2005, including the implementation of treatment guidelines and certified health care networks. This section of the report will focus on how medical costs and utilization-of-care trends have changed in the system over time, as well as some of the factors influencing these cost trends.

Injury and Claim Trends

Fluctuations in injury rates and claim frequency significantly affect trends in total and average medical costs in the Texas workers' compensation system. Occupational injury rates have declined steadily during the last two decades both nationally and for Texas, according to the nonfatal occupational injury and illness data collected and reported by the Bureau of Labor Statistics and TDI-DWC for the *Survey of Occupational Injuries and Illnesses*.[9] Since 1998, the nonfatal occupational injury and illness rate fell by 53 percent for the U.S. and by 57 percent for Texas (see Figure 4.1). The injury rate in Texas has been consistently below the national average.

Figure 4.1: Texas and U.S. Nonfatal Occupational Injury and Illness Rates per 100 Full-Time Employees (1996–2011)

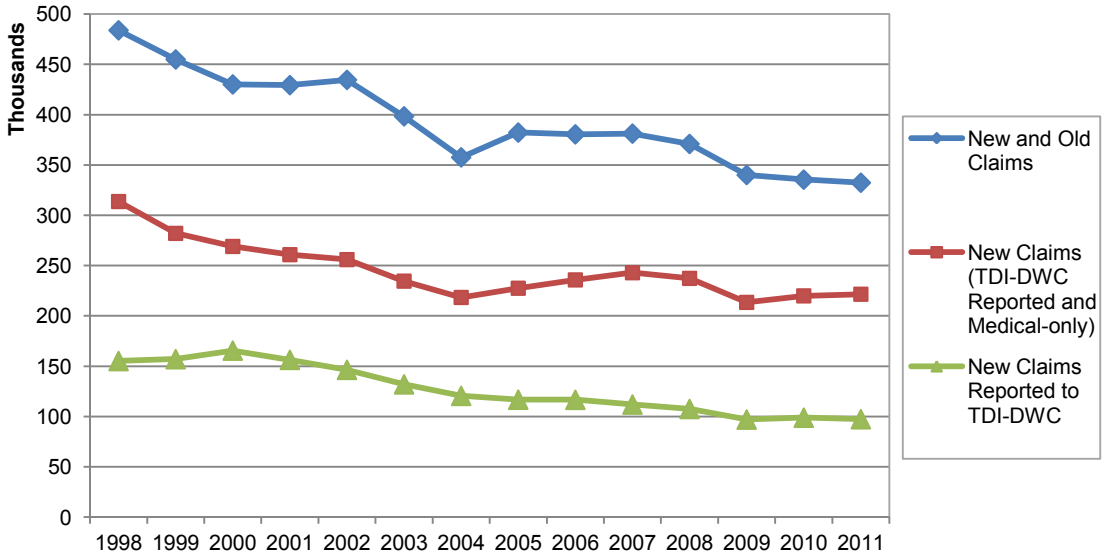


Source: Texas Department of Insurance, Division of Workers' Compensation and U.S. Department of Labor, Bureau of Labor Statistics, *Annual Survey of Occupational Injuries and Illnesses*.

[9] Changes to the OSHA recordkeeping logs in 2002 and the transition from the Standard Industrial Classification (SIC) system to the North American Industry Classification System (NAICS) in 2003 may limit comparability of pre-2003 data series.

The decreasing rate of workplace injuries is also evident in the decreasing number of reportable claims filed with the TDI-DWC and in the number of claims receiving medical treatment in the Texas workers' compensation system (sees Figure 4.2). The figure shows the number of new claims (or injuries) reported to TDI-DWC,[10] as well as the total number of new claims receiving medical treatments and services (including both TDI-DWC-reported claims and medical-only claims). The third series represents the number of all unique claims treated in a given year regardless of the date of injury.

Figure 4.2: Number of Workers' Compensation Claims by Claim Type



Source: Texas Department of Insurance, Workers' Compensation Research and Evaluation Group, 2012.

The key claim trends show steady declines between 1998 and 2011. The number of workers' compensation claims reported to TDI-DWC decreased by 37 percent since 1998. The total number of new workers' compensation claims receiving medical treatment has also declined, but with a period of relative stability or slight increases between 2003 and 2008. Among new claims, the percentage of medical-only claims decreased from 50 percent of total new claims in 1998 to 39 percent in 2000, and then increased steadily to 56 percent in 2011. Since medical-only claims have lower average costs per claim than those with income benefits or lost time, higher percentages of medical-only claims tend to lower the overall average cost per claim. The number of older workers' compensation claims being treated in a given calendar (or service) year decreased by 31 percent from 1998 to 2011.

[10] The number of claims reported to TDI-DWC includes claims with at least one day of lost time, all occupational diseases, and all fatalities. 'Lost-time' claims refer to those claims with more than seven days of lost time in which income benefits are due to the injured employee.

The decline in the number of claims, both nationally and in Texas, can be attributed to a variety of factors, including increased safety awareness among employers and employees, enhanced health and safety outreach and monitoring efforts at the federal and state level, improvements in technology, globalization, increased use of independent contractors, and the possibility of under-reporting of workplace injuries and illnesses. The net effect of a decreasing number of injuries and claims is lower total medical costs, especially if the average cost per claim remains stable. Total and average medical costs can fluctuate up or down depending on a variety of factors, including frequency and intensity in service utilization, expenses associated with disputes and denials, medical fees, use of managed care arrangements and changes in injury and claim types. The remainder of this section examines these factors influencing medical costs in the Texas workers' compensation system.

Medical Cost Trends

Medical costs are direct benefits for injured employees and represent a substantial portion of the total costs of the Texas workers' compensation system, accounting for about a third of the total system cost (or premiums paid by employers). TDI-DWC collects and maintains medical data submitted by insurers according to the Texas Labor Code §413.007. Medical bills are organized by provider bill type, including professional, hospital, dental, and pharmacy services. A claim is classified as 'lost-time' if it has more than seven days of lost time from work and receives income benefits, or 'medical-only' with seven or less days of lost time and no income benefits. Lost-time claims are roughly equivalent to 'permanent partial disability' claims reported by some states.

Professional Services

We examined the number of claims and costs of professional services by claim type and by injury year evaluated at 6, 12, and 24 months after the injury date (see Table 4.1). Medical-only claims accounted for 75 percent of all claims and 34 percent of the total cost in 2011.[11] Lost-time claims with more severe injuries accounted for the majority of total medical costs. Total costs have continued to decline since 2003 due to a variety of factors, including fewer claims being filed and reductions in medical reimbursement amounts, as well as in the utilization of services for new claims. The system's first Medicare-based professional service fee guideline took effect on August 1, 2003. While this fee guideline increased reimbursement for some categories of services, including primary care, reimbursements for specialty surgery services were significantly reduced.

[11] Injury year 2011 with 6 months maturity is evaluated with all medical treatments up to June 30, 2012. Although medical bills are updated by this date, some bills and payments may have not been settled and reported. The total cost figures for 2011 should be considered preliminary subject to future updates. Average cost is similarly affected by the data limit, but the effect of missing bills will be relatively minimal.

Overall, reimbursement rates for professional medical services in the Texas workers' compensation system went from approximately 140 percent of Medicare to approximately 125 percent of Medicare. While average costs per claim increased rapidly prior to 2003, these costs decreased after the implementation of the 2003 fee guideline. By 2007, average costs per claim were lower than any of the previous ten years. This decline coincided with the passage of HB 2600 in 2001. However, more recent data indicate that average medical costs are once again increasing, albeit at a slower rate than the double-digit increases that the system experienced in the late 1990s and early 2000s.

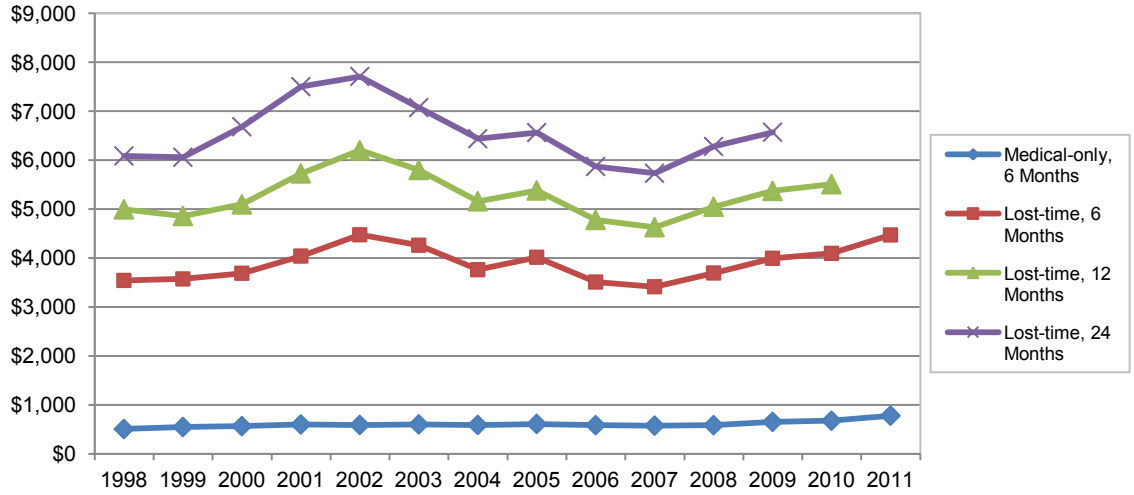
Table 4.1: Total and Average Costs by Claim Type, Professional Services, by Injury Year

Injury Year	6 Months			12 Months			24 Months		
	Total Cost (in Thousands)	Number of Claims	Average Cost per Claim	Total Cost (in Thousands)	Number of Claims	Average Cost per Claim	Total Cost (in Thousands)	Number of Claims	Average Cost per Claim
Lost-time Claims									
1998	$265,168	74,866	$3,542	$382,453	76,571	$4,995	$472,030	77,555	$6,086
1999	$251,848	70,498	$3,572	$352,822	72,606	$4,859	$448,027	73,947	$6,059
2000	$259,520	70,359	$3,689	$371,369	72,871	$5,096	$499,014	74,668	$6,683
2001	$283,894	70,270	$4,040	$416,256	72,656	$5,729	$555,145	74,000	$7,502
2002	$310,056	69,287	$4,475	$437,568	70,571	$6,200	$549,332	71,248	$7,710
2003	$265,771	62,369	$4,261	$366,755	63,227	$5,801	$457,402	64,651	$7,075
2004	$223,579	59,444	$3,761	$317,294	61,490	$5,160	$399,626	62,075	$6,438
2005	$229,789	57,226	$4,015	$312,791	58,136	$5,380	$384,715	58,612	$6,564
2006	$199,177	56,755	$3,509	$274,345	57,410	$4,779	$338,678	57,694	$5,870
2007	$196,829	57,671	$3,413	$269,650	58,235	$4,630	$335,547	58,542	$5,732
2008	$217,740	58,941	$3,694	$300,638	59,553	$5,048	$375,628	59,816	$6,280
2009	$218,584	54,728	$3,994	$296,450	55,189	$5,372	$363,808	55,357	$6,572
2010	$233,876	57,115	$4,095	$316,765	57,497	$5,509			
2011	$248,112	55,493	$4,471						
Medical-only Claims									
1998	$120,680	238,859	$505	$140,805	242,638	$580	$154,041	244,916	$629
1999	$115,659	211,592	$547	$133,767	214,636	$623	$149,207	216,798	$688
2000	$112,043	198,757	$564	$130,347	201,800	$646	$147,315	204,293	$721
2001	$114,054	190,661	$598	$132,583	193,613	$685	$148,183	195,512	$758
2002	$109,897	186,725	$589	$125,049	188,627	$663	$136,649	189,702	$720
2003	$103,303	172,266	$600	$115,805	173,637	$667	$124,784	174,750	$714
2004	$93,534	158,961	$588	$104,232	160,816	$648	$111,611	161,857	$690
2005	$103,646	170,351	$608	$113,799	171,561	$663	$121,123	172,290	$703
2006	$104,534	179,109	$584	$114,867	180,207	$637	$121,441	180,816	$672
2007	$106,475	185,315	$575	$115,907	186,351	$622	$122,543	186,960	$655
2008	$104,107	178,448	$583	$112,090	179,419	$625	$117,496	179,993	$653
2009	$103,439	158,792	$651	$110,491	159,590	$692	$115,331	160,093	$720
2010	$109,868	162,862	$675	$118,330	163,650	$723			
2011	$129,406	166,128	$779						

Source: Texas Department of Insurance, Workers' Compensation Research and Evaluation Group, 2012.

Average costs experienced distinct periods of increase and decrease (see Figure 4.3). Decreased average costs from 2002 to 2007 reflect clear impacts from the adoption of the 2003 Medicare-based professional services fee guideline and the 2005 HB 7 reforms. Recently, however, professional service costs have been increasing at an annual rate of five percent to 10 percent. Since 2007, the average cost evaluated at six months maturity increased by 36 percent for medical-only claims and by 31 percent for lost-time claims.

Figure 4.3: Average Cost per Claim by Claim Type, by Injury Year, Professional Services



Source: Texas Department of Insurance, Workers' Compensation Research and Evaluation Group, 2012.

Hospital Services

For hospital and institutional services, lost-time claims comprised 38 percent of all claims in 2011 but accounted for 81 percent of the total cost (see Table 4.2). Since 1998, total hospital payments evaluated at six months maturity increased 35 percent by 2011 for lost-time claims while it decreased by 13 percent for medical-only claims. Average hospital costs per claim increased for both lost-time and medical-only claims by 77 percent and 28 percent, respectively, although costs were flattened or decreased slightly between 2002 and 2005 (see Figure 4.4).

The increase in hospital costs was likely due to the fact that, prior to March 1, 2008, the system did not have an outpatient hospital services fee guideline and the inpatient hospital fee guideline in place was significantly outdated (adopted in 1997), causing an increasing number of inpatient hospital services to be paid at "fair and reasonable" levels. This resulted in a significant number of medical fee disputes between insurance carriers and hospitals in recent years. However, 2008 and 2009 injury year data in Figure 4.4 indicate that the new hospital fee guideline may be moderating the growth in hospital

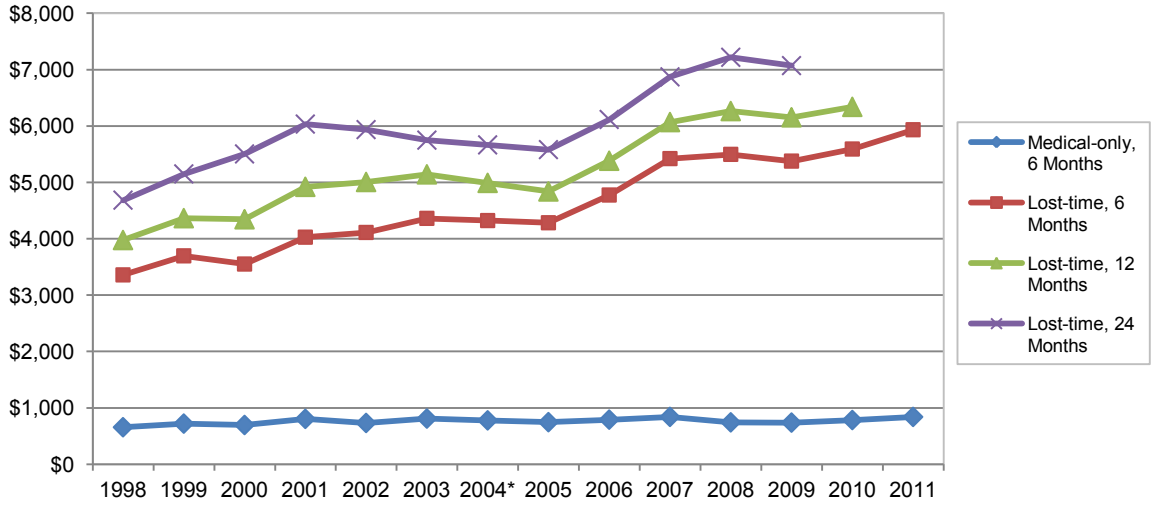
service costs, particularly in old claims (because costs for the 2009 injury year with 24 months maturity include hospital services provided in 2010 and 2011 calendar years).

Table 4.2: Total Cost by Claim Type (in Thousands), Hospital Services, by Injury Year at 6, 12, and 24 Month Post Injury

Injury Year	Lost-time Claims			Medical-only Claims		
	6 Months	12 Months	24 Months	6 Months	12 Months	24 Months
1998	$135,373	$174,662	$214,562	$49,103	$56,303	$62,519
1999	$138,010	$178,727	$221,098	$50,212	$57,183	$63,775
2000	$120,722	$165,716	$226,444	$43,544	$50,622	$58,581
2001	$145,589	$200,775	$262,642	$50,212	$57,572	$64,283
2002	$158,354	$212,576	$262,687	$44,731	$51,017	$55,815
2003	$154,364	$197,094	$227,627	$45,537	$49,785	$52,739
2004	$113,226	$137,139	$164,931	$37,172	$39,866	$42,111
2005	$117,544	$143,192	$172,372	$36,027	$38,711	$40,837
2006	$144,618	$173,407	$202,790	$43,822	$46,412	$48,779
2007	$174,019	$206,028	$240,153	$49,052	$51,597	$54,312
2008	$180,719	$217,959	$257,955	$40,847	$42,540	$44,295
2009	$160,320	$193,537	$228,069	$35,062	$36,808	$38,434
2010	$175,301	$209,359		$38,435	$40,298	
2011	$183,249			$42,668		

Source: Texas Department of Insurance, Workers' Compensation Research and Evaluation Group, 2012.

Figure 4.4: Average Cost per Claim for Hospital Services, by Claim Type by Injury Year



Note: 2004 figures are shown as an average of 2003 and 2005 due to incomplete data.

Source: Texas Department of Insurance, Workers' Compensation Research and Evaluation Group, 2012.

Pharmacy Services

Total pharmacy cost in 2011 service year was $136 million, slightly lower than $137 million in 2005 (see Table 4.3).[12] Payments for lost-time claims increased by 5 percent since 2005 while those for medical-only claims decreased by 32 percent. Lost-time claims accounted for the majority of pharmacy costs (89 percent of the total in 2011). Pharmacy costs are also concentrated in older claims (see Table 4.4). Claims with four or more years of maturity accounted for 62 percent of all costs in 2011.

Table 4.3: Total and Average Costs by Claim Type, Pharmacy Services

Service Year	Lost-time Claims			Medical-only Claims		
	Number of Claims	Total Costs (in Thousands)	Cost per Claim	Number of Claims	Total Costs (in Thousands)	Cost per Claim
2005	96,328	$114,802	$1,192	80,131	$21,759	$272
2006	93,110	$117,815	$1,265	84,666	$22,871	$270
2007	93,231	$122,750	$1,317	91,559	$23,450	$256
2008	92,751	$124,331	$1,340	88,460	$19,471	$220
2009	87,665	$123,708	$1,411	76,435	$21,133	$276
2010	87,178	$125,022	$1,434	73,298	$16,309	$222
2011	83,518	$120,819	$1,447	71,507	$14,748	$206

Source: Texas Department of Insurance, Workers' Compensation Research and Evaluation Group, 2012.

Table 4.4: Total Pharmacy Cost by Maturity (in Thousands)

Service Year	First Year Maturity	Second Year Maturity	Third Year Maturity	4+ Years Maturity
2005	$26,862	$13,251	$11,246	$85,202
2006	$27,187	$13,660	$10,207	$89,632
2007	$31,245	$13,401	$10,268	$91,286
2008	$31,294	$13,558	$9,861	$89,089
2009	$32,093	$15,075	$10,427	$87,248
2010	$30,478	$14,618	$10,062	$86,171
2011	$28,396	$13,094	$9,627	$84,448

Source: Texas Department of Insurance, Workers' Compensation Research and Evaluation Group, 2012.

[12] Payment data for pharmacy services began with the new EDI data collection process in 2005.

Utilization of Health Care

Medical costs are affected not only by the fees for individual units of service but also by the amount of medical care provided to injured employees (also known as the utilization of care). Past studies indicated that higher medical costs in Texas were primarily driven by overutilization of certain types of medical services provided to injured employees in Texas compared with other states. Specifically, Texas injured employees received more physical medicine services, surgical services, and diagnostic testing than similarly injured employees in other states. Since the adoption of the 2003 professional services fee guideline (which adopted by reference the Medicare billing rules and payment policies), there have been significant changes in the amount of certain types of medical services provided to injured employees in Texas.

The amount of medical care provided to injured employees can be measured by the percentage of injured employees receiving certain types of medical services, as well as the amount of those services received per injured employee. Table 4.5 shows that, overall, there has been little change over time in terms of the percentage of injured employees receiving professional, hospital, or pharmacy services for their work-related injuries.

Table 4.5: Percentage of Injured Employees Receiving Health Care Services, by Service Year

Service Year	Professional Services	Hospital/ Institutional Services	Pharmacy Services
1998	96.2%	31.8%	
1999	96.0%	32.2%	
2000	96.2%	30.7%	
2001	96.1%	31.5%	
2002	97.0%	32.8%	
2003	97.5%	33.1%	
2004	97.5%	31.1%	
2005	92.8%	25.8%	46.2%
2006	92.8%	28.5%	46.7%
2007	92.7%	29.5%	48.5%
2008	92.1%	29.4%	48.8%
2009	92.8%	29.0%	48.2%
2010	94.4%	29.8%	47.8%
2011	94.9%	30.5%	46.6%

Source: Texas Department of Insurance, Workers' Compensation Research and Evaluation Group, 2012.

While the percentage of injured employees across the medical types appears relatively stable, the percentage of injured employees receiving specific services such as evaluation and management (E/M) services, diagnostic, pathology and laboratory services, and other surgery services has increased slightly (see Table 4.6). Utilization of services in two service groups—"durable medical equipment, prosthetics, orthotics and supplies (DMEPOS)" and "impairment rating (IR) examination and report" services—increased substantially, while that of spinal surgery and other services declined significantly. Utilization of physical medicine services increased until 2004 but by 2010 it had decreased to its 1998 level. As expected, lost-time claims received more services than medical-only claims in all service categories.

Table 4.6: Percent of Claims Receiving Certain Professional Services by Claim Type, By Injury Year at 12 Months Post Injury

Injury Year	DMEPOS	Diag/Path/ Lab	E/M	IR Exam & Report	Other Services	Physical Medicine	Surgery - Other	Surgery - Spinal
Lost-time Claims								
1998	47.8%	80.0%	94.1%	78.3%	62.4%	58.5%	41.0%	9.8%
1999	49.6%	78.6%	93.6%	76.1%	60.4%	59.6%	40.3%	9.6%
2000	48.2%	78.4%	94.3%	76.8%	58.8%	60.3%	40.1%	10.0%
2001	48.2%	79.8%	94.9%	80.8%	60.4%	62.2%	43.0%	11.1%
2002	53.7%	83.9%	96.4%	84.4%	64.3%	64.3%	46.1%	11.2%
2003	63.5%	85.7%	96.8%	86.5%	62.8%	65.5%	48.7%	10.7%
2004	69.2%	86.0%	99.3%	90.0%	55.7%	66.5%	49.1%	9.8%
2005	65.1%	85.8%	97.0%	88.0%	54.4%	63.2%	51.2%	8.8%
2006	69.9%	86.4%	97.3%	87.6%	54.6%	60.4%	52.3%	7.7%
2007	71.7%	87.2%	97.6%	86.9%	53.8%	59.3%	52.1%	6.4%
2008	70.9%	87.5%	98.0%	88.0%	53.6%	58.6%	52.4%	5.6%
2009	71.9%	88.2%	98.4%	89.4%	53.1%	59.8%	51.8%	5.1%
2010	71.6%	88.5%	99.2%	89.6%	52.5%	59.2%	51.6%	4.8%
Medical-only Claims								
1998	21.9%	49.7%	86.4%	55.0%	38.7%	19.0%	18.4%	0.7%
1999	24.4%	50.5%	86.7%	54.4%	37.9%	20.5%	17.8%	0.7%
2000	24.7%	51.1%	89.0%	54.0%	36.1%	21.1%	17.7%	0.7%
2001	23.4%	51.6%	90.1%	58.1%	36.2%	22.6%	17.7%	0.7%
2002	24.3%	53.3%	91.8%	60.5%	38.2%	22.3%	18.0%	0.6%
2003	32.5%	55.6%	92.3%	63.1%	34.4%	22.9%	19.0%	0.5%
2004	39.9%	55.1%	92.7%	65.6%	22.9%	23.7%	18.3%	0.5%
2005	37.1%	56.4%	93.7%	65.5%	22.5%	22.2%	19.9%	0.5%
2006	41.4%	57.8%	93.9%	66.3%	23.7%	21.3%	20.4%	0.4%
2007	42.8%	59.1%	94.3%	66.0%	23.5%	20.7%	19.7%	0.3%
2008	41.3%	59.2%	94.6%	66.9%	23.5%	19.6%	19.6%	0.2%
2009	41.3%	59.5%	95.2%	69.1%	23.5%	19.6%	19.3%	0.2%
2010	40.7%	59.2%	95.5%	69.2%	23.1%	19.2%	19.5%	1.7%

Source: Texas Department of Insurance, Workers' Compensation Research and Evaluation Group, 2012.

In terms of the actual amount of per-claim services provided to injured employees in Texas, Table 4.7 shows that there have been significant reductions in the utilization of E/M services, physical medicine services, and other services since the adoption of the 2003 professional services fee guideline.[13] Spinal surgeries also decreased but at a more moderate rate. On the other hand, IR examination and report services, DMEPOS, and other surgery services increased significantly for lost-time claims since 1998.

Table 4.7: Average Number of Services per Claim Receiving Certain Professional Services by Claim Type, by Injury Year at 12 Months Post Injury

Injury Year	DMEPOS	Diag/Path/ Lab	E/M	IR Exam & Report	Other Services	Physical Medicine	Surgery - Other	Surgery - Spinal
Lost-time Claims								
1998	6.5	7.9	16.4	5.1	6.9	100.6	3.9	5.0
1999	7.2	8.0	16.8	5.2	6.6	105.3	4.0	5.0
2000	6.9	8.3	17.3	5.9	6.5	110.6	3.9	4.9
2001	7.4	9.1	18.8	7.6	7.0	125.3	4.3	5.1
2002	7.9	9.8	20.2	8.4	6.9	145.8	4.6	5.3
2003	11.4	10.1	16.8	8.8	6.1	139.0	4.5	4.8
2004	13.1	8.6	13.1	8.2	4.5	117.5	4.5	4.3
2005	13.6	9.0	12.6	9.1	4.4	106.1	5.1	5.0
2006	11.4	8.6	10.8	8.4	4.2	79.5	5.0	4.8
2007	10.8	8.6	10.1	8.2	3.9	71.4	5.0	4.6
2008	10.3	9.0	10.3	8.5	3.9	71.4	4.9	4.4
2009	9.9	8.8	10.2	8.5	3.7	69.1	4.9	4.5
2010	8.8	8.7	10.0	8.3	3.6	67.5	5.0	4.1
Medical-only Claims								
1998	3.1	2.5	3.7	2.1	3.2	34.0	1.7	3.7
1999	3.1	2.6	3.8	2.0	3.2	36.3	1.7	3.9
2000	3.0	2.6	3.8	2.3	3.1	37.9	1.7	3.6
2001	3.0	2.6	3.8	2.8	3.1	38.7	1.8	3.7
2002	3.1	2.6	3.7	2.9	3.1	38.5	1.7	3.7
2003	3.7	2.6	3.4	2.9	2.8	37.9	1.7	3.4
2004	4.1	2.5	3.0	2.9	2.2	31.7	1.6	3.2
2005	4.3	2.6	3.0	3.2	2.1	31.6	1.7	3.5
2006	4.1	2.6	2.9	3.0	2.1	27.3	1.8	3.5
2007	3.8	2.6	2.9	2.8	2.0	24.9	1.7	3.4
2008	3.6	2.5	2.8	2.8	2.0	24.3	1.7	3.0
2009	3.5	2.5	2.8	2.8	1.9	24.5	1.6	3.2
2010	3.3	2.6	2.9	2.8	1.9	25.4	1.6	2.7

Source: Texas Department of Insurance, Workers' Compensation Research and Evaluation Group, 2012.

[13] While the unit of service is a bill for most services, the unit of service for physical medicine services is a 15-minute session or other billing unit specified by TDI-DWC.

Effects of Fee Guidelines

The adoption of the 2003 professional services fee guideline not only changed the reimbursement amounts for individual categories of services but also adopted, by reference, Medicare's billing rules and payment policies. This affected how insurance carriers reviewed the medical necessity of certain types of treatments. As a result, the cost impact of the 2003 fee guideline varied considerably for individual categories of services.

From August 1, 2003, to March 1, 2008, professional medical services were paid at 125 percent of Medicare's reimbursement rates (conversion factors). From March 1, 2008, the new professional medical services guideline (Medical Fee Guideline) began to use a conversion factor fixed at $52.83 with the exception of surgery services, which used a separate fixed factor at $66.32 as a conversion factor. These factors are to be adjusted annually using the Medicare Economic Index.

After examining the average cost per claim for specific categories of professional services in Table 4.8, increased costs appear to be the result of two factors: 1) an increase in fees for these services (for example, E/M) as a result of the 2003 fee guideline adoption, or 2) an increase in the amount of services provided to injured employees (for example, DMEPOS and IR exam and report services), or both (for example, other surgical services). For other types of services, such as physical medicine services, diagnostic/pathology/ laboratory services, and spinal surgery services, lower costs per claim were the result of lower fees for these services under the 2003 fee guideline. Additionally, lower costs per claim for physical medicine services, spinal surgical services, and other services were also the result of a decrease in the amount of services provided to injured employees, as discussed earlier.

More recent data suggest that average medical costs per claim may be increasing again. From 2007, all service groups except DMEPOS and IR exam and report services showed an increase in average cost among lost-time claims, in part as a result of annual updates in the 2008 fee guideline. The average cost per claim for spinal surgical services has increased, but since surgical services tend to be provided later in the injury, more current data would be needed to draw reliable conclusions on the cost trends.

Figures 4.5 through 4.12 provide examples of how the average payment for specific types of professional services has changed over time. While the same reimbursement rate was used across the board for all professional services under the 2003 fee guideline at 125 percent of Medicare, the difference between the reimbursement rates under the 1996 and 2003 professional services fee guidelines varied considerably depending on the category of professional service. In addition, the 2008 professional services fee guideline

implemented annual adjustments for medical inflation, which resulted in increasing per-service payments for all services.

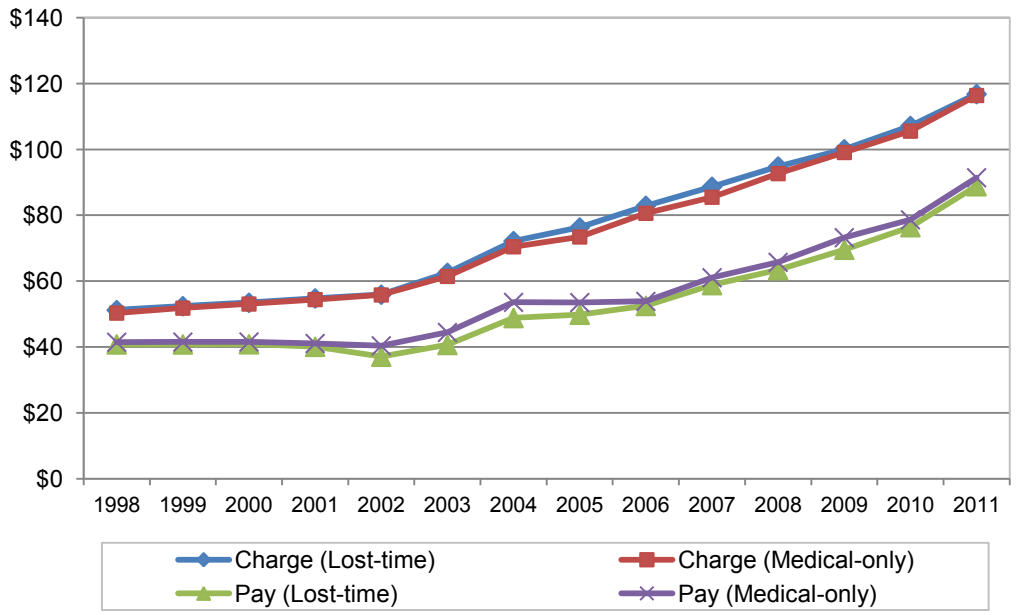
Generally, the reimbursement amounts for E/M services increased under the 2003 Medical Fee Guideline (see Figure 4.5 for an example of one of these services). However, the reimbursement amounts for certain spinal surgical services varied under the 2003 professional services fee guideline. For example, the reimbursement level for laminectomies decreased (see Figure 4.8), while the reimbursement level for other specific types of spinal fusion procedures actually increased (see Figure 4.7). Most services show an increasing trend since 2008, mainly because the current professional services fee guideline adjusts service fees for medical inflation. Fees for miscellaneous durable medical equipment increased substantially since 2005, but this category of service includes various types of equipment (see Figure 4.12). Therefore, the increase may be due to a changing mix of more expensive equipment in recent years.

Table 4.8: Average Cost per Claim by Service Type for Professional Services, by Injury Year at 12 Months Post Injury

Injury Year	DMEPOS	Diag/Path/ Lab	E/M	IR Exam & Report	Other Services	Physical Medicine	Surgery - Other	Surgery - Spinal
Lost-time Claims								
1998	$452	$721	$864	$331	$943	$2,860	$1,304	$2,881
1999	$493	$752	$891	$337	$454	$3,037	$1,325	$2,716
2000	$522	$805	$902	$345	$431	$3,306	$1,319	$2,695
2001	$577	$909	$940	$442	$466	$3,580	$1,395	$2,765
2002	$582	$957	$937	$510	$490	$3,738	$1,429	$2,763
2003	$563	$833	$873	$606	$481	$3,470	$1,160	$1,699
2004	$546	$701	$789	$632	$480	$2,984	$1,220	$1,542
2005	$659	$720	$800	$701	$514	$2,762	$1,498	$1,724
2006	$636	$649	$736	$704	$488	$2,124	$1,473	$1,591
2007	$696	$573	$748	$737	$484	$1,888	$1,489	$1,617
2008	$694	$635	$824	$728	$533	$2,030	$1,865	$1,800
2009	$683	$652	$877	$740	$540	$2,158	$2,139	$1,965
2010	$696	$643	$935	$713	$551	$2,288	$2,262	$2,019
Medical-only Claims								
1998	$112	$162	$190	$64	$126	$842	$301	$1,845
1999	$120	$172	$196	$70	$105	$925	$318	$1,935
2000	$117	$180	$197	$75	$89	$985	$324	$1,810
2001	$131	$193	$199	$90	$85	$988	$326	$1,730
2002	$120	$188	$192	$96	$78	$936	$285	$1,727
2003	$113	$165	$199	$103	$75	$901	$271	$1,017
2004	$106	$144	$214	$97	$77	$802	$283	$1,068
2005	$117	$149	$218	$107	$80	$793	$315	$1,058
2006	$110	$145	$219	$106	$80	$673	$321	$1,090
2007	$115	$134	$232	$102	$76	$625	$291	$982
2008	$111	$139	$243	$95	$73	$643	$297	$870
2009	$113	$151	$270	$105	$76	$745	$312	$1,115
2010	$108	$152	$289	$102	$83	$815	$331	$946

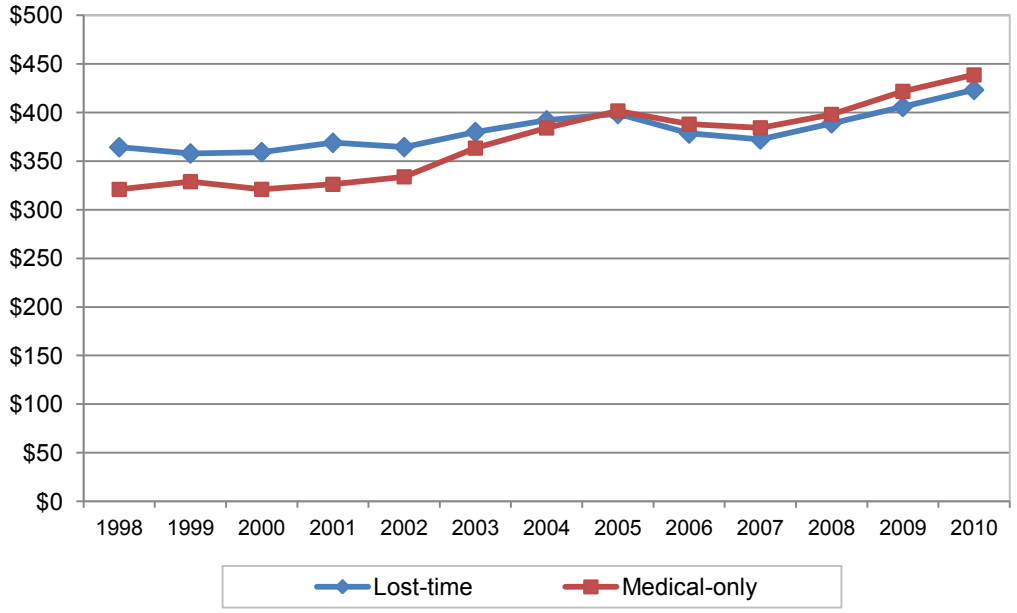
Source: Texas Department of Insurance, Workers' Compensation Research and Evaluation Group, 2012.

Figure 4.5: Average Cost per Service - Office/Outpatient Visit, Established Patient, by Injury Year at Six Months Post Injury



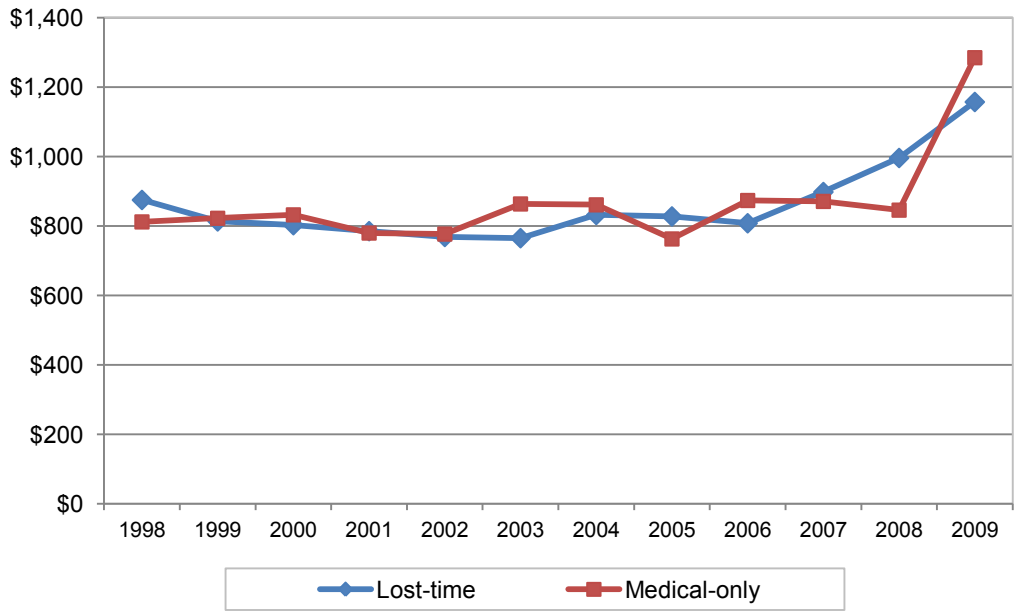
Source: Texas Department of Insurance, Workers' Compensation Research and Evaluation Group, 2012.

Figure 4.6: Average Cost per Service – Disability Examination, by Injury Year at 12 Months Post Injury



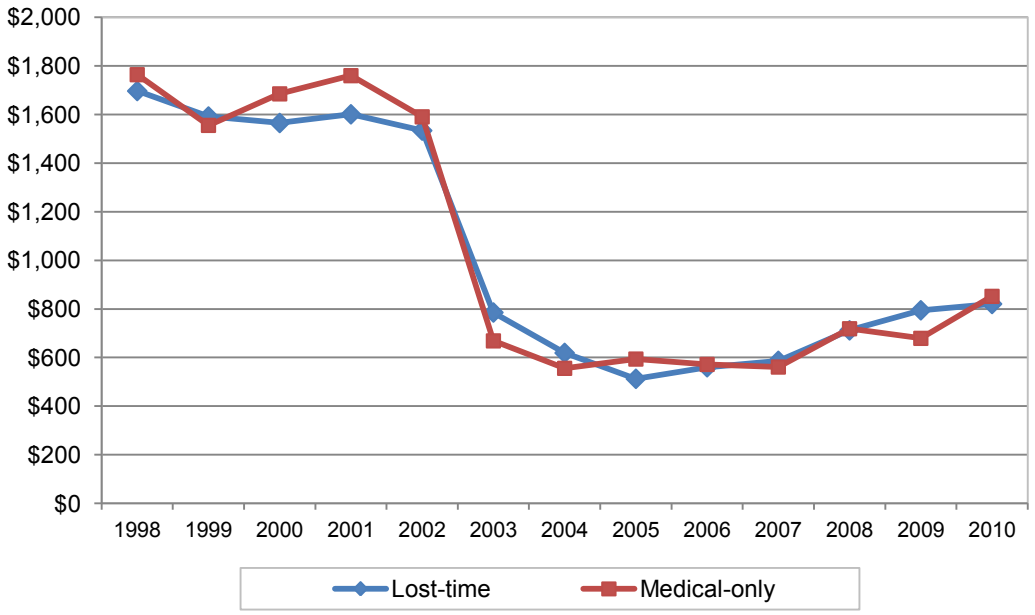
Source: Texas Department of Insurance, Workers' Compensation Research and Evaluation Group, 2012.

Figure 4.7: Average Cost per Service – Lumbar Spine Fusion, by Injury Year at 24 Months Post Injury



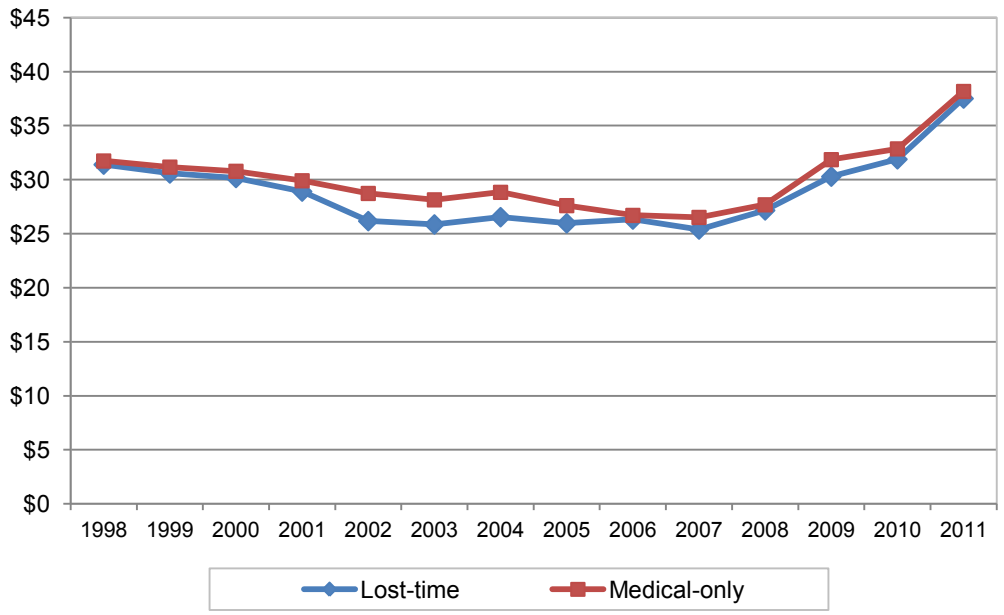
Source: Texas Department of Insurance, Workers' Compensation Research and Evaluation Group, 2012.

Figure 4.8: Average Cost per Service – Low Back Disc Surgery, by Injury Year at 12 Months Post Injury



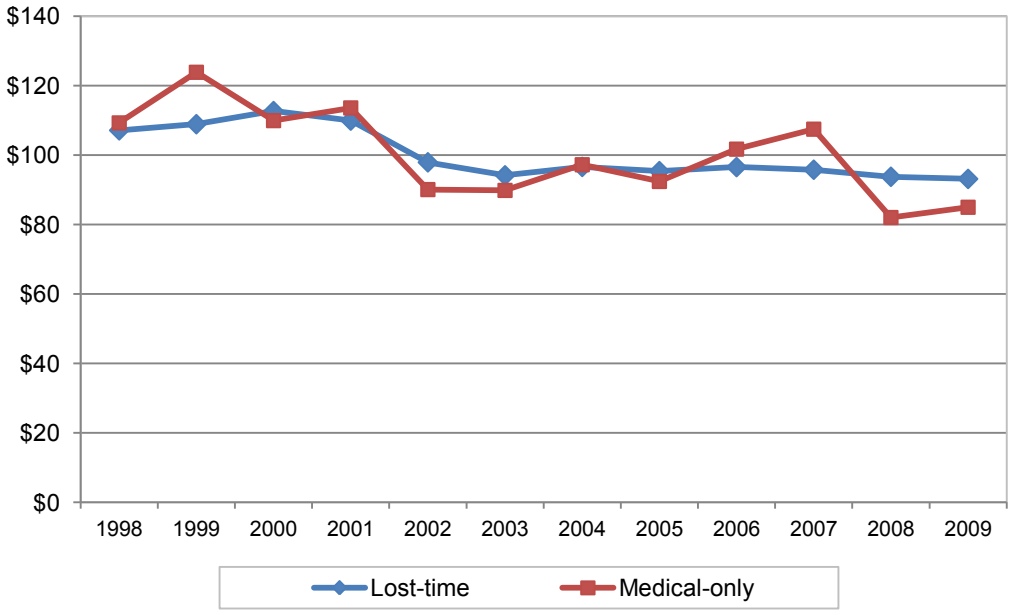
Source: Texas Department of Insurance, Workers' Compensation Research and Evaluation Group, 2012.

Figure 4.9: Average Cost per Service – Therapeutic Exercises, by Injury Year at Six Months Post Injury



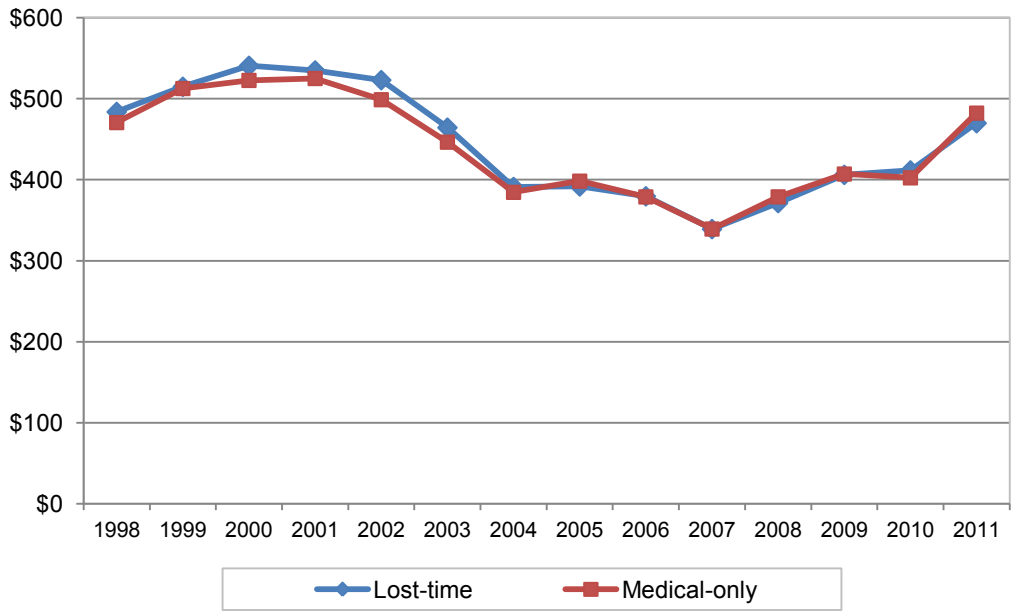
Source: Texas Department of Insurance, Workers' Compensation Research and Evaluation Group, 2012.

Figure 4.10: Average Cost per Service – Chronic Pain Management/Rehabilitation Service (with Modifier 'CP'), by Injury Year at 24 Months Post Injury



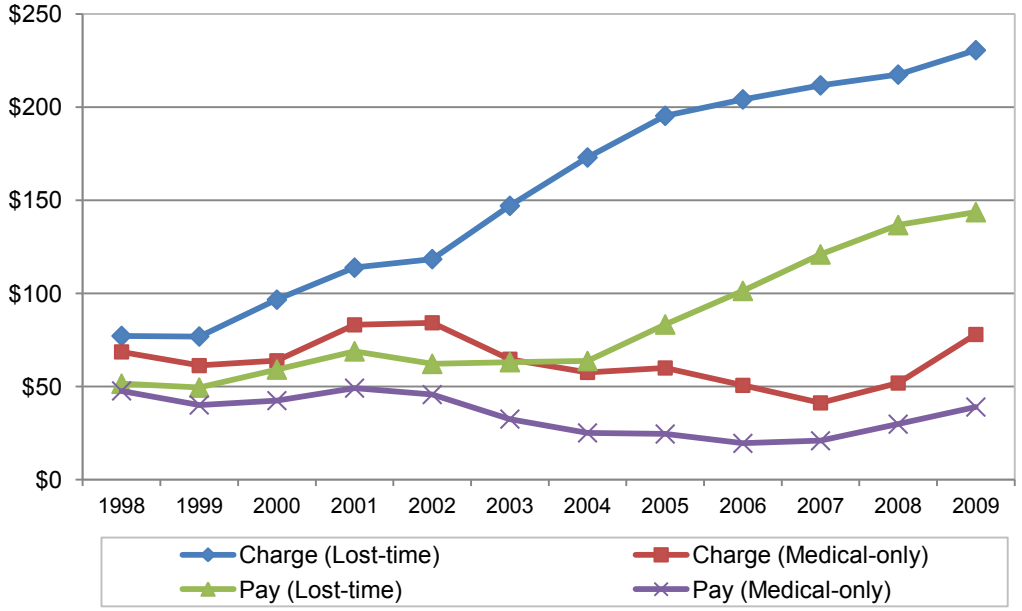
Source: Texas Department of Insurance, Workers' Compensation Research and Evaluation Group, 2012.

Figure 4.11: Average Cost per Service – MRI Joint of Lower Extremity without Dye, by Injury Year at Six Months Post Injury



Source: Texas Department of Insurance, Workers' Compensation Research and Evaluation Group, 2012.

Figure 4.12: Average Cost per Service – Durable Medical Equipment, Miscellaneous, by Injury Year at 24 Months Post Injury



Source: Texas Department of Insurance, Workers' Compensation Research and Evaluation Group, 2012.

Costs and Utilization in WC Networks

Information from the annual workers' compensation network report card produced by TDI in September 2012 provided some insight into the early implementation of networks.[14] Ten certified networks (Alliance, Chartis, Corvel, Coventry, First Health, IMO, Liberty, Texas Star, Travelers and Zurich) had sufficient claim volume to be compared with each other and with non-network claims. In addition to Alliance, the 2012 report card included a separate group of networks authorized under Chapter 504, Texas Labor Code. This group was referred to in the report as 504-Others and consisted of Dallas County Schools/Dallas ISD/DART and the Trinity Occupational Program (i.e., Fort Worth ISD). The remaining 15 certified networks that had reported treating injured employees according to the TDI's February 2012 certified network data call were combined into an "other networks" category for comparison purposes.

All of the cost and utilization findings presented in the report card had been statistically adjusted to account for differences in injury types or claim types (that is, medical-only and lost-time claims) that might have occurred in these claim populations over time. As a result, changes in costs and utilization over time cannot be attributed to changes in the types of injuries sustained by injured employees or the relative severity of those injuries. Cost and utilization differences between network and non-network outcomes as well as between the networks can be the result of a wide range of factors such as differing methods of medical care delivery and fees and utilization review.

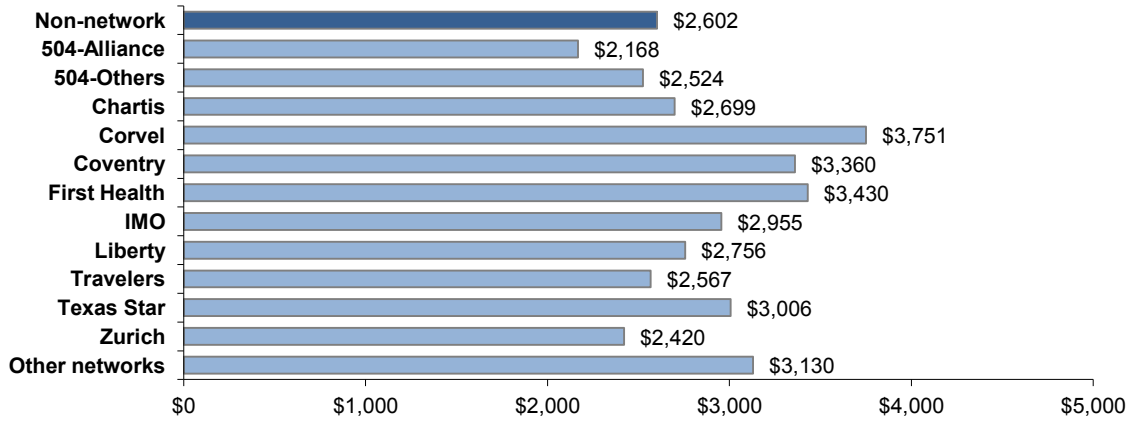
In general, differences began to emerge among individual networks. As Figure 4.13 shows, at six months post-injury, the average medical cost per claim for the certified networks was higher than non-network claims. Generally, in 2012 the average medical cost per network claim was approximately 7 percent higher than for non-network claims, down from 17 percent in 2011. Overall, most networks experienced either cost reductions or lower increases than non-network, while non-network's average costs increased by 12 percent from the 2011 results.

When medical costs are further broken down into professional, hospital, and pharmacy services, it becomes clear that the average medical cost per claim for professional and hospital services was higher for network claims than non-network claims at six months post-injury (see Figures 4.14 and 4.15). In addition to higher professional and hospital

[14] For more information about how individual networks compare with each other and with non-network claims on a variety of cost, utilization, access to care, satisfaction with care, return-to-work, and health outcomes measurements, see *2012 Workers' Compensation Network Report Card Results* by Texas Department of Insurance, Workers' Compensation Research and Evaluation Group, available online at (www.tdi.state.tx.us/reports/report9.html).

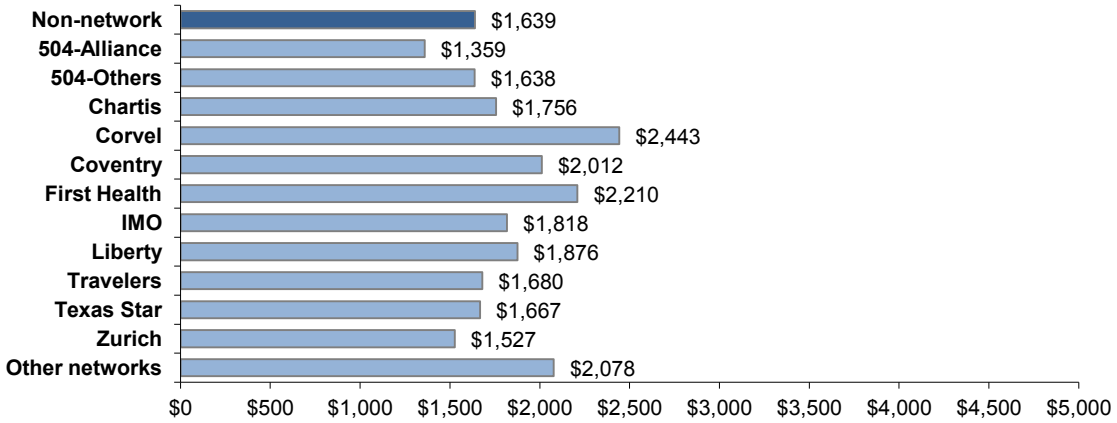
costs per claim, networks also had higher pharmacy costs per claim, with the exception of the Alliance, 504-Others, Texas Star, Travelers and other networks (see Figure 4.16). It is important to note that higher hospital costs for network claims appear to be primarily driven by higher fees paid in network for hospital services, rather than higher utilization of hospital services. In order to be certified by TDI, a network must offer hospital as well as professional services. HB 7 excluded the delivery of pharmacy services from networks (meaning that networks are not allowed to direct injured employees to an "in-network" pharmacy, but rather injured employees are able to get their prescriptions filled at any pharmacy participating in the Texas workers' compensation system). During the initial formation of many of the networks certified by TDI, networks and hospitals engaged in fierce fee negotiations, which resulted in many hospital fee contracts being reimbursed at levels that are higher than what hospitals are paid for similar services under TDI's hospital fee guidelines.

Figure 4.13: Average Medical Cost per Claim, Network and Non-network Claims, Six Months Post Injury



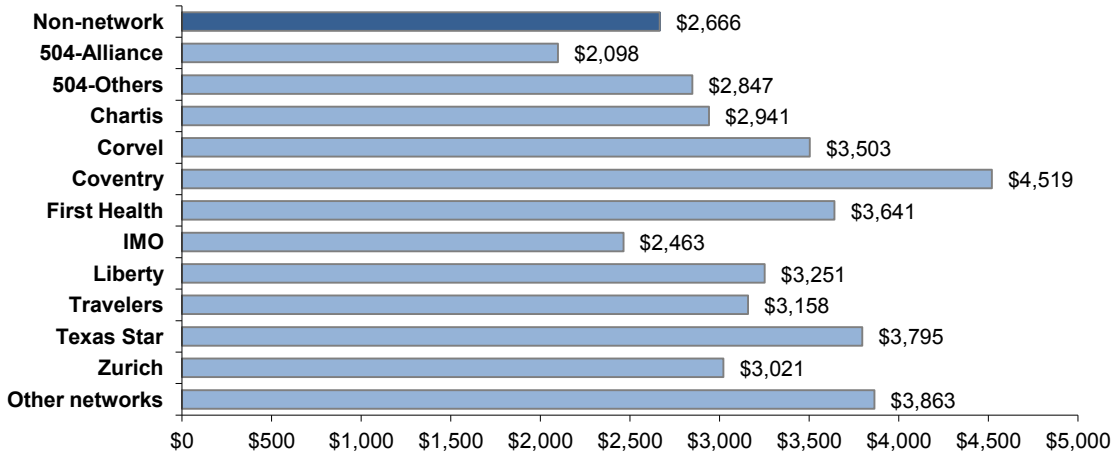
Source: Texas Department of Insurance, Workers' Compensation Research and Evaluation Group, 2012.

Figure 4.14: Average Medical Cost per Claim for Professional Medical Services, Network and Non-network Claims, Six Months Post Injury



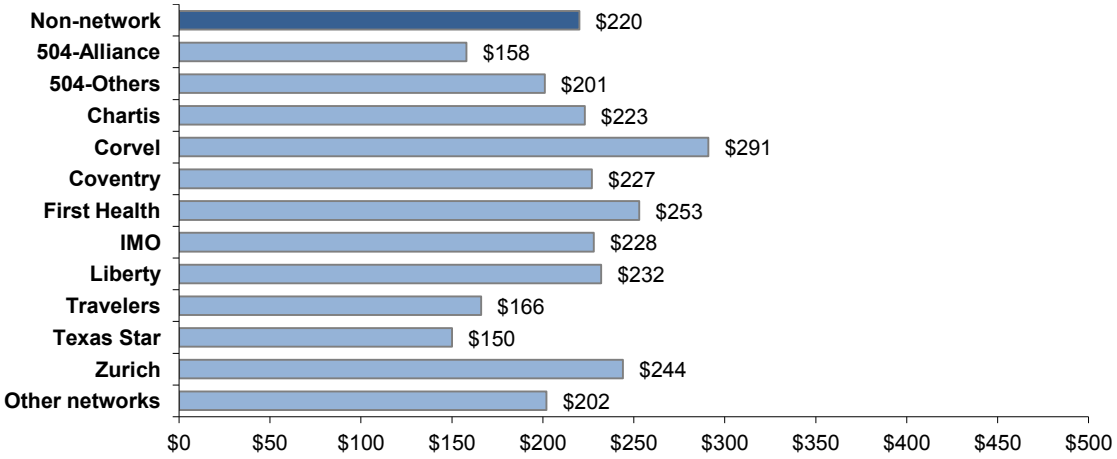
Source: Texas Department of Insurance, Workers' Compensation Research and Evaluation Group, 2012.

Figure 4.15: Average Medical Cost per Claim for Hospital Medical Services, Network and Non-network Claims, Six Months Post Injury



Source: Texas Department of Insurance, Workers' Compensation Research and Evaluation Group, 2012.

Figure 4.16: Average Medical Cost per Claim for Pharmacy Medical Services, Network and Non-network Claims, Six Months Post Injury



Source: Texas Department of Insurance, Workers' Compensation Research and Evaluation Group, 2012.

Medical cost differences between network and non-network claims at this stage in network implementation appear to be driven primarily by higher hospital fees, higher pharmacy utilization (both in the percentage of injured employees receiving pharmacy services and the number of prescriptions per injured employee), and higher utilization of certain physical medicine services and diagnostic tests than non-network claims with similar types of injuries. Table 4.9 shows the percentage of injured employees receiving professional, hospital and pharmacy services in the ten certified networks as well as non-network as highlighted in the *2012 Workers' Compensation Network Report Card*. Generally, a higher percentage of injured employees receiving medical treatment in networks received professional and pharmacy services compared with non-network

claims, while a lower percentage of network claims received hospital services (services in inpatient or outpatient hospital settings and ambulatory surgical centers).

Table 4.9: Percentage of Injured Employees Receiving Professional, Hospital, and Pharmacy Services, Six Months Post Injury

Type of Service	Non-network	504-Alliance	504-Others	Chartis	Corvel	Coventry	First Health	IMO	Liberty	Travelers	Texas Star	Zurich	Other networks
Professional	94%	99%	99%	96%	99%	98%	97%	99%	97%	98%	96%	97%	98%
Hospital	36%	36%	27%	30%	33%	28%	31%	43%	25%	26%	34%	27%	26%
Pharmacy	43%	37%	61%	41%	62%	52%	52%	40%	52%	50%	51%	39%	49%

Source: Texas Department of Insurance, Workers' Compensation Research and Evaluation Group, 2012.

When the percentage of injured employees receiving professional medical services is examined more closely, it appears that with some exceptions, a higher percentage of injured employees in networks received E/M services (e.g., office visits), physical medicine services, MRIs, other diagnostic tests, other surgical services, and other professional services than non-network claims (see Table 4.10).

Networks generally provided more pharmacy services (in terms of writing more prescriptions to a higher percentage of similarly injured employees) than non-network care (see Table 4.11). This is likely due to the statutory provision in HB 7, which allows certified networks to designate the specialties of doctors who serve as treating doctors (that is, primary care providers). As of this report, certified networks have only designated medical doctors (MDs) or Osteopaths (DOs) as network treating doctors. Chiropractors do not generally serve as network treating doctors, but rather as referral providers. This differs from non-network medical care since the Texas labor Code and TDI-DWC rules allow non-network employees to select chiropractors as well as MDs, DOs, podiatrists, dentists, and optometrists as treating doctors. As a result, the doctors who serve as treating doctors in networks are providers who have the authorization to write prescriptions and utilize pharmacy services as part of their treatment protocols.

In addition to a higher percentage of network employees receiving certain types of professional medical services, networks generally provided higher amounts of service per claim in E/M, other surgical services, and other professional services than non-network claims (see Table 4.12). Networks provide comparable amounts of service per claim in other types of professional services, such as CT scans, MRIs, nerve conduction studies, other diagnostic testing, spinal surgical services, and pathology and laboratory services, compared to non-network claims.

Table 4.10: Percentage of Injured Employees Receiving Professional Medical Services, by Type of Professional Service, Six Months Post Injury

Type of Service	Non-network	504-Alliance	504-Others	Chartis	Corvel	Coventry	First Health	IMO	Liberty	Travelers	Texas Star	Zurich	Other networks
Evaluation & Management	96%	97%*	98%*	96%	98%*	98%*	97%	98%*	97%*	97%*	97%*	97%*	96%
PM-Modalities	8%	9%*	6%	8%	11%*	10%*	11%*	6%*	10%*	10%*	8%	8%	11%*
PM-Other	26%	23%*	27%	25%	40%*	36%*	36%*	28%	35%*	30%*	29%*	31%*	36%*
DT-CT SCAN	3%	2%*	4%*	1%*	3%	2%	4%*	5%*	2%*	2%	4%*	3%	3%
DT-MRI	15%	15%	18%*	13%*	23%*	18%*	17%	17%	15%	13%*	15%*	12%*	19%*
DT-Nerve Conduction	2%	1%*	1%	3%	6%*	3%*	2%	1%	2%	2%	2%*	2%	4%*
DT-Other	58%	57%*	71%*	62%*	67%*	61%*	62%*	62%*	60%*	58%	59%*	59%	57%
Spinal Surgery	0.2%	0.1%*	0.1%	0.2%	0.4%	0.1%	0.2%	0.2%	0.3%	0.2%	0.3%	0.2%	0.3%
Other Surgery	26%	21%*	19%*	28%*	32%*	28%*	34%*	26%	28%*	27%*	30%*	26%	29%*
Path. & Lab	11%	9%*	6%*	9%*	9%*	15%*	16%*	10%	6%*	17%*	11%*	19%*	13%*
All Others	79%	80%	96%*	83%*	92%*	90%*	86%*	90%*	90%*	88%*	81%*	86%*	86%*

Note: * denotes where differences between the network and non-network are statistically significant.

Source: Texas Department of Insurance, Workers' Compensation Research and Evaluation Group, 2012.

Table 4.11: Percentage of Injured Employees Receiving Pharmacy Services, by Pharmaceutical Classification Group, Six Months Post Injury

Type of Service	Non-network	504-Alliance	504-Others	Chartis	Corvel	Coventry	First Health	IMO	Liberty	Travelers	Texas Star	Zurich	Other networks
Analgesics-Opioid	53%	47%*	63%*	54%	64%*	54%	60%*	56%	54%	44%*	58%*	54%	55%
Analgesics-Anti-inflammatory	60%	58%*	66%*	62%	68%*	66%*	59%	62%	66%*	51%*	59%	62%	65%*
Musculoskeletal Therapy Agents	34%	32%*	41%*	31%	41%*	36%*	34%	32%	38%*	24%*	32%*	35%	32%
Central Nervous System Drugs	7%	4%*	4%*	5%	9%*	7%	7%	8%	6%*	5%*	7%	6%	7%
Other	42%	40%*	30%*	45%	40%	38%*	44%	48%*	41%	38%*	44%*	40%	43%

Note: * denotes where differences between the network and non-network are statistically significant.

Source: Texas Department of Insurance, Workers' Compensation Research and Evaluation Group, 2012.

Table 4.12: Average Number of Professional Services Billed per Claim by Type of Professional Service, Six Months Post Injury

Type of Service	Non-network	504-Alliance	504-Others	Chartis	Corvel	Coventry	First Health	IMO	Liberty	Travelers	Texas Star	Zurich	Other networks
Evaluation & Management	4.3	3.8*	5.2*	4.3	6.7*	4.9*	5.4*	4.7*	4.9*	4.5	4.8*	4.4	5.0*
PM-Modalities	10.3	9.0*	5.1*	9.1	8.5*	7.9*	7.9*	8.5*	6.5*	8.7*	8.8*	8.1*	7.5*
PM-Other	36.1	31.9*	23.7*	39.4	39.7*	32.5*	40.0	30.7*	40.4*	38.4	36.5	26.4*	31.0*
DT-CT SCAN	1.6	1.5*	1.3*	1.5	1.5	1.7	1.8	1.6	1.7	1.7	1.6	1.7	1.5
DT-MRI	1.5	1.4*	1.5	1.6*	1.7*	1.3*	1.3*	1.4	1.5	1.4	1.3*	1.5	1.4
DT-Nerve Conduction	15.2	13.8	19.8	15.2	14.3	12.8*	16.6	11.3	14.4	15.3	15.9	13.5	12.7
DT-Other	2.5	2.3*	2.8*	2.2*	2.7*	2.4	2.8*	2.9*	2.3*	2.4	2.8*	2.3	2.4
Spinal Surgery	4.3	3.6	6.0	2*	3.1*	3.4	5.5	2.3*	3.4	2.5*	4.8	4.3	3.4
Other Surgery	2.9	2.8	3.3	3.2	3.8*	3.3*	3.3	3.3	3.2*	3.3*	3.2	3.0	3.2*
Path. & Lab	6.4	5.9	5.7	5.0	9.7*	9.7	6.7	6.5	4.8*	4.3*	8.1*	5.1	5.6
All Others	11.0	8.7*	9.2*	10.2	15.6*	12.7	14.9*	10.9	11.6*	11.7	11.7*	11.1	12.5*

Note: * denotes where differences between the network and non-network are statistically significant.

Source: Texas Department of Insurance, Workers' Compensation Research and Evaluation Group, 2012.

Effects of the Pharmacy Closed Formulary

TDI-DWC began implementing a closed formulary guideline in September 2011. For injuries on or after September 1, 2011, pharmacy benefits are subject to the closed formulary that requires preauthorization for drugs identified with a status of "N" (or "not recommended") in the current edition of the *Official Disability Guidelines Treatment in Workers' Comp, Appendix A – ODG Workers' Compensation Drug Formulary*, or any compound that contains an "N" status drug and any investigational or experimental drug. As of June 2012, there were 150 drugs on the "N" list. Legacy claims—injuries which occurred prior to September 1, 2011—will become subject to the closed formulary beginning September 1, 2013.

In general, N-drug usage is higher in older claims. In 2011, N-drugs accounted for 20 percent of the total cost of $51 million among newer claims with three years or less maturity, and 33 percent of $84 million among older claims with more than three years maturity (see Table 4.13). Since 2005, the number of claims receiving N-drugs declined faster than the number receiving non-N drugs. The average cost per prescription for N-drugs was twice that of other drugs. It was also higher for older claims, indicating differences in the type of drugs for old injuries. More significantly, the average cost per

claim was more than five times higher for older claims because of higher utilization and per-prescription price.

Because the pharmacy closed formulary became effective for new injuries on September 1, 2011, its effects on cost and utilization can only be partially assessed at this time. As a preliminary study, REG compared a group of new claims with injury dates between September 1, 2011, and November 30, 2011, with comparable groups of claims from 2009 and 2010 injury years before the closed formulary.[15]

Accounting for the first 6 months of service from the injury date, Table 4.14 shows a significant drop in the cost and utilization of N-drugs among the post-adoption group. Total N-drug costs dropped by 81 percent, and its share in all pharmacy costs decreased by 75 percent (from 19 percent to 4.4 percent) after the adoption of the closed formulary. The total number of prescriptions decreased by 68 percent and the average cost per prescription dropped by 40 percent.

Table 4.13: Total and Average Costs, by N-Drug Status by Maturity

Service Year	N-drug					Other				
	Total Cost (in Thousands)	Number of Rx	Number of Claims	Average Cost per Rx	Average Cost per Claim	Total Cost (in Thousands)	Number of Rx	Number of Claims	Average Cost per Rx	Average Cost per Claim
0 to 3 Years Maturity										
2005	$8,665	103,106	27,087	$84	$320	$42,694	783,591	140,571	$54	$304
2006	$9,287	107,922	28,314	$86	$328	$41,767	829,980	142,428	$50	$293
2007	$9,434	102,336	27,951	$92	$338	$45,480	862,565	150,367	$53	$302
2008	$10,428	99,566	29,869	$105	$349	$44,284	790,980	147,653	$56	$300
2009	$12,291	101,305	30,004	$121	$410	$45,304	722,202	132,466	$63	$342
2010	$12,520	96,466	28,649	$130	$437	$42,639	690,535	130,815	$62	$326
2011	$10,087	79,966	23,817	$126	$424	$41,031	680,982	127,879	$60	$321
More than 3 Years Maturity										
2005	$28,890	188,770	18,485	$153	$1,563	$56,312	613,786	36,417	$92	$1,546
2006	$32,274	197,146	18,013	$164	$1,792	$57,358	651,639	35,002	$88	$1,639
2007	$33,004	186,569	17,577	$177	$1,878	$58,282	605,057	33,597	$96	$1,735
2008	$31,144	167,641	16,038	$186	$1,942	$57,945	564,981	31,948	$103	$1,814
2009	$30,406	154,849	14,860	$196	$2,046	$56,842	517,525	30,081	$110	$1,890
2010	$29,654	145,758	13,881	$203	$2,136	$56,517	500,203	27,804	$113	$2,033
2011	$27,502	129,026	12,547	$213	$2,192	$56,945	486,355	25,852	$117	$2,203

Note: Rx = prescription.

Source: Texas Department of Insurance, Workers' Compensation Research and Evaluation Group, 2012.

[15] See REG's report titled *Impact of the Texas Pharmacy Closed Formulary: A Preliminary Report, 2012* available at www.tdi.texas.gov/reports/report9.html.

While the closed formulary had significant reduction effects on N-drug cost and utilization, it also led to slight decreases in the cost and utilization for other drugs. This indicates that the formulary did not simply shift N-drug usage into non-N drugs. TDI-DWC and REG plan to update this study as more data become available.

Table 4.14: Cost and Utilization of N-drugs in Sample Cohorts before and after the Closed Formulary

Injury Year	2009	2010	2011	2010–2011 Percentage Change
Total cost of N-drug prescriptions	$972,198	$1,032,395	$191,302	-81%
Total cost of other prescriptions	$4,056,907	$4,302,431	$3,769,869	-12%
Number of N-drug prescriptions	8,345	9,515	2,952	-68%
Number of other drug prescriptions	88,200	95,753	89,262	-7%
N-drug cost as a percentage of total costs	19.30%	19.30%	4.40%	-75%
Average cost per N-drug prescription	$117	$109	$65	-40%
Average N-drug cost per claim	$225	$221	$102	-54%

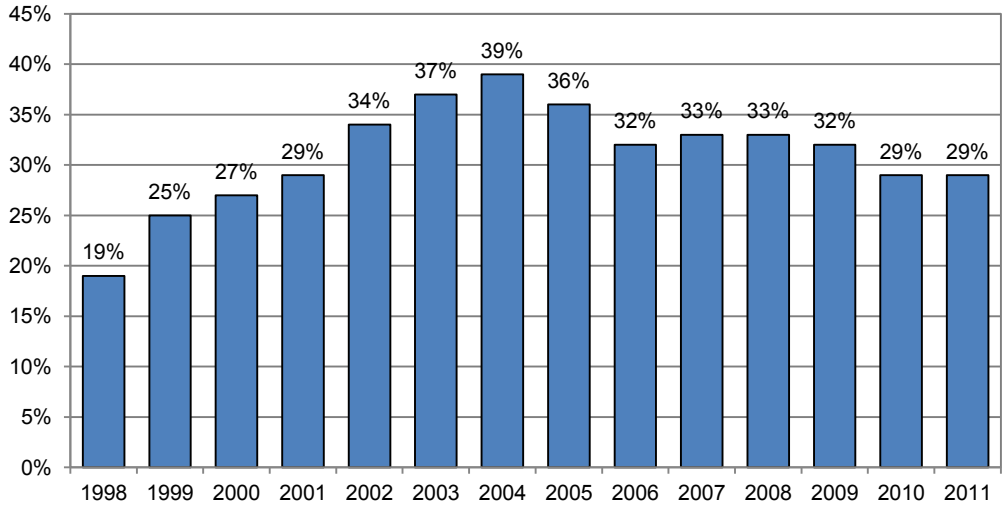
Source: Texas Department of Insurance, Workers' Compensation Research and Evaluation Group, 2012.

Effects of Denial and Disputes on Medical Cost

One possible reason why medical costs have begun to stabilize in Texas can be found by examining insurance carrier denials of both workers' compensation claims and medical services over time. Since 2001, both the percentage of reportable claims and the percentage of professional medical services initially denied/disputed have increased (see Figures 4.17 and 4.18). In particular, denials of professional medical services increased significantly after the adoption of the 2003 professional service fee guideline, which included the adoption, by reference, of the Medicare billing rules and payment policies into the Texas workers' compensation system.

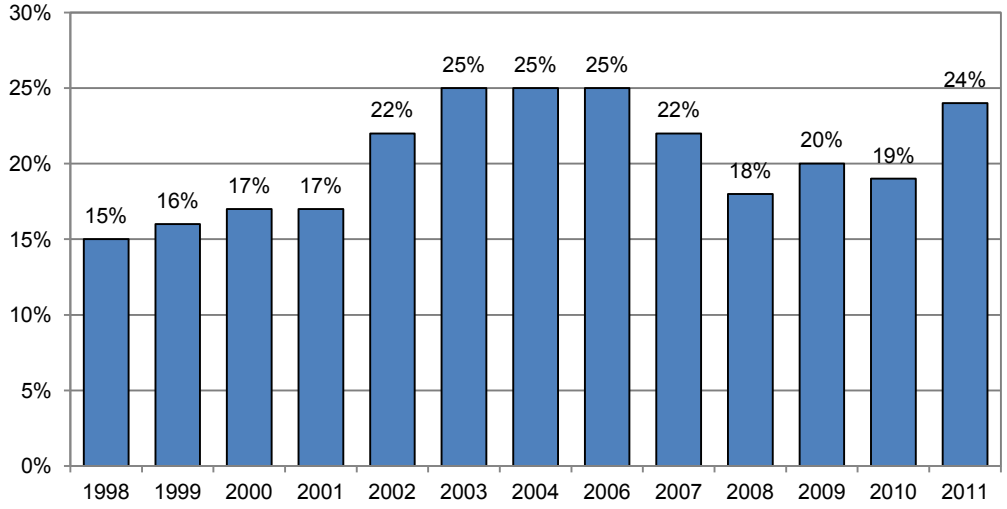
The effects of denials and disputes on medical costs may be larger than the billing data show because these professional medical denials represent only the denials for medical treatments and services that have already been rendered. Preauthorization denials are not included in these numbers since denied services at the preauthorization stage will not have bills submitted, and their effects would have further reduced medical costs. Both claim and medical service denials have decreased in recent years.

Figure 4.17: Percentage of Reportable Claims That Are Initially Denied/Disputed for the Top 25 Workers' Compensation Insurance Carriers, Injury Years 1998–2011[16]



Source: Texas Department of Insurance, Workers' Compensation Research and Evaluation Group, 2012.

Figure 4.18: Percentage of Professional Medical Services Denied for the Top 25 Workers' Compensation Insurance Carriers, Service Years 1998–2011



Note: Denial rates for 2005 were excluded due to missing data.

Source: Texas Department of Insurance, Workers' Compensation Research and Evaluation Group, 2012.

[16] The top 25 insurance carriers represented approximately 84.5 percent of the workers' compensation premiums in 2011 and accounted for 60 percent to 70 percent of the total amount of medical payments made in recent years. For the purpose of this analysis, the same 25 insurance carriers were used in each year to calculate both the claim and medical billing denial rates.

Summary

Overall, the average medical cost per claim decreased significantly from the peak in 2002 until 2007, but has been increasing since 2008. Stabilized costs and the substantial reduction in utilization of care between 2001 and 2007 were directly related to various reform measures of HB 2600 and HB 7, especially the passage of the 2003 professional services fee guidelines and the expanded preauthorization requirement for physical medicine services. Over this same time period, much of the reduction in total medical payments occurred because of reductions in injury rates and the total number of reportable claims filed with TDI-DWC.

Also, increased scrutiny by insurance carriers in terms of compensability and medical necessity issues, as well as changes in reimbursement amounts, the adoption of the Medicare payment policies in 2003, the introduction of health care networks, and new treatment guidelines have helped reduce overutilization and medical cost inflation in Texas. However, a combination of decreasing number of claims, increasing utilization in some professional and hospital services, and the 2008 professional service fee guideline's annual adjustments for inflation resulted in increasing average costs since 2008.

During the 2005 legislative session, as well as during the adoption of network rules and certification processes at TDI, various system participants expressed concerns about whether the implementation of a new "managed care" health care delivery model in the Texas workers' compensation system would result in employees receiving significantly less medical care and/or poor quality medical care. Six year after the implementation of the first network in 2006, it appears that injured employees are receiving as much medical care, and in some cases more medical care, than non-network claims with similar types of injuries. In addition, injured employees in networks report higher access-to-care rates and better health outcomes than non-network injured employees, which will be discussed in the next section.

Data indicate that networks' attempts to lower medical costs through the negotiation of lower fees with health care providers have not produced lower medical costs, but rather increased the amount of certain types of medical care being billed by network providers, especially in the first six months after the injury. However, most networks that front-load appropriate care in the first six months post-injury tend to realize lower average medical costs per claim in the following months than claims with non-network care. The gap between network and non-network average medical cost narrowed in 2012. Non-network average medical cost increased by 12 percent over 2011 while most networks experienced either lower average cost increases than non-network, or measurable cost decreases from 2011.

TDI-DWC will continue to monitor the implementation of networks as well as the new medical fee guidelines (effective March 1, 2008), the treatment guidelines (effective May 1, 2007), and the pharmacy closed formulary (effective September 1, 2011) on medical costs and utilization of care outcomes for Texas injured employees. TDI-DWC will also monitor what differences, if any, in the utilization of medical care between network and non-network claims affect income benefit costs and return-to-work rates.

5. Access to Care, Satisfaction with Care, and Health-Related Outcomes

Ensuring high quality medical care for injured employees at reasonable costs for Texas employers continues to be a challenge for the Texas workers' compensation system. As the number of claims decrease and costs begin to stabilize in the system, additional pressure is placed on ensuring that every dollar spent on claims is "value-added," meaning that the benefits being provided to injured employees enhance their ability to return to work as quickly and safely as possible. Section 4 highlighted how medical costs and medical utilization have changed over time. This section examines quality of care issues and whether the system has seen improvements in these issues over the past few years. While some elements of HB 7, including the pharmacy closed formulary, are still too new to be fully evaluated, this section provides results from the sixth annual network report card on the impact of health care networks on access to care, satisfaction with care, and health-related outcomes.

Survey Design and Data Collection

TDI conducted two injured employee surveys to compare injured employee experiences with their medical care (access to care, satisfaction with care, and health-related outcomes), as well as to collect information regarding their experiences returning to work after their work-related injuries post-HB 7 implementation. The first survey was conducted in the spring of 2012 and the second survey was conducted in the summer of 2012. For both surveys, TDI drew a random probability sample of employees who received at least one Temporary Income Benefit (TIBs) payment (i.e., those employees with more than 7 days of lost time). The sample was further stratified by injury type and employees were surveyed at approximately 6 months post-injury.[17] The survey instrument used for both of these surveys utilized standardized questions from the Consumer Assessment of Health Plans Study, Version 3.0; the Short Form 12, Version 2; the URAC Survey of Worker Experiences; and previous surveys conducted by the Texas Department of Insurance, Workers' Compensation Research and Evaluation Group.

Selection of Treating Doctors Recommended by Employers

Prior to the passage of HB 7 in 2005, injured employees had the ability to select a treating doctor from the list of doctors who registered and received approval from the Division of Workers' Compensation (TDI-DWC) to participate on TDI-DWC's Approved Doctor List (ADL). The ADL contained approximately 14,000 medical doctors (MDs),

[17] A total of 3,876 injured employees were surveyed in 2012 by the University of North Texas, Survey Research Center.

osteopaths (DOs), chiropractors (DCs), and other doctors (i.e., dentists, podiatrists, etc.) who agreed to participate at some level in the Texas workers' compensation system. In an effort to improve access to care for non-network claims and to reduce administrative burdens for doctors treating injured employees, HB 7 eliminated the ADL.[18] At the same time, HB 7 paved the way for certified health care networks to treat injured employees.

Under the new certified health care network model, injured employees, whose employers had agreed to participate in these networks and who lived in the networks' service area and received notice of the networks' requirements, were required to select a treating doctor from the networks' list of contracted doctors.

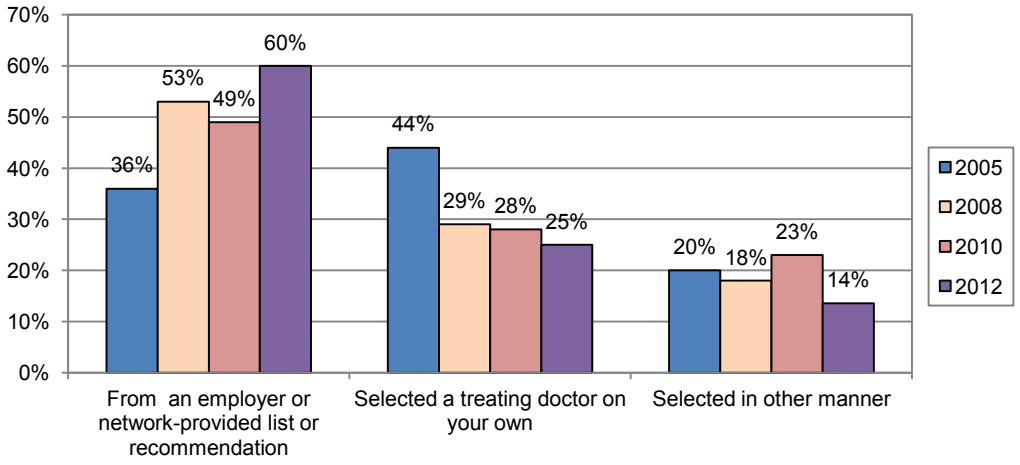
While injured employees were allowed to select their own treating doctors prior to the passage of HB 7, a significant percentage of employees reported (in this and in previous studies in Texas) that they selected a doctor recommended to them by their employer or insurance carrier. As Figure 5.1 shows, a higher percentage of injured employees surveyed in 2012 (60 percent) reported that they selected a treating doctor who was recommended to them by their employer or part of their network's list of treating doctors, compared to employees surveyed in 2005 (36 percent). This finding is not surprising given the rising usage of workers' compensation health care networks in Texas during this time.

The Workers' Compensation Act and Rules allows a variety of medical specialties, including MDs, DOs, DCs, dentists, podiatrists and optometrists to serve as treating doctors for non-network claims. However, HB 7 allowed certified health care networks to select or designate certain medical specialties to serve as treating doctors for network claims. In 2012, 82 percent of injured employees surveyed reported that they selected an MD as their first treating doctor compared with 57 percent in 2005. With the increased usage of networks, the percentage reporting that they selected a DC as their treating doctor has slipped from 16 percent in 2005 to 11 percent in 2012, while the percentage reporting that they selected a DO or other type of doctor as their treating doctor fell from 27 percent in 2005 to 7 percent in 2012 (see Figure 5.2).[19]

[18] Even though the ADL expired on August 31, 2007, TDI-DWC continues to regulate health care providers treating injured employees in the system. Doctors must continue to disclose financial interest in other providers, practitioners and facilities, etc. to TDI-DWC, as well as obtain training and testing for the assignment of impairment ratings and maintain a medical license in good standing in the jurisdiction where care is being provided.

[19] As of November 1, 2012, none of the workers' compensation health care networks certified by TDI utilize chiropractors as treating doctors.

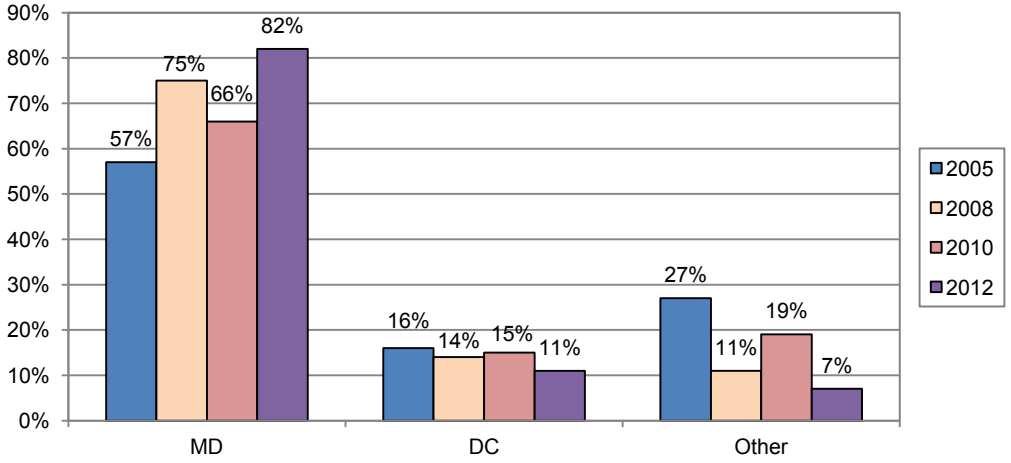
Figure 5.1: Methods Injured Employees Reported Using to Select Their Treating Doctor



Note: "Selected in other manner" includes recommendations from family or friends or other coworkers, among others.

Source: Texas Department of Insurance, Workers' Compensation Research and Evaluation Group, Survey of injured employees 2005, 2008, 2010, and 2012.

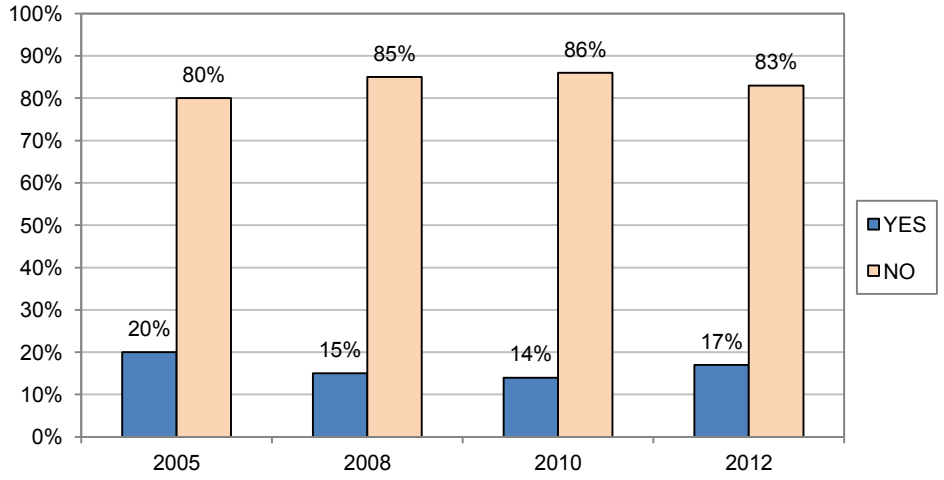
Figure 5.2: Type of First Non-emergency Treating Doctor Selected by Injured Employees



Source: Texas Department of Insurance, Workers' Compensation Research and Evaluation Group, Survey of injured employees 2005, 2008, 2010, and 2012.

A higher percentage of employees surveyed in 2012 (83 percent) indicated that the doctor they saw for their workers' compensation medical care was not the doctor they normally saw for their routine medical care compared with 2005 (80 percent). This change may be the result of more employees seeking medical care through workers' compensation health care networks, which to date, are not generally associated with group health plans that provide routine medical care (see Figure 5.3).

Figure 5.3: Was the Doctor Who Saw You for Your Work-related Injury or Illness the Doctor That You Normally See for Your Routine Medical Care?



Source: Texas Department of Insurance, Workers' Compensation Research and Evaluation Group, Survey of injured employees 2005, 2008, 2010, and 2012.

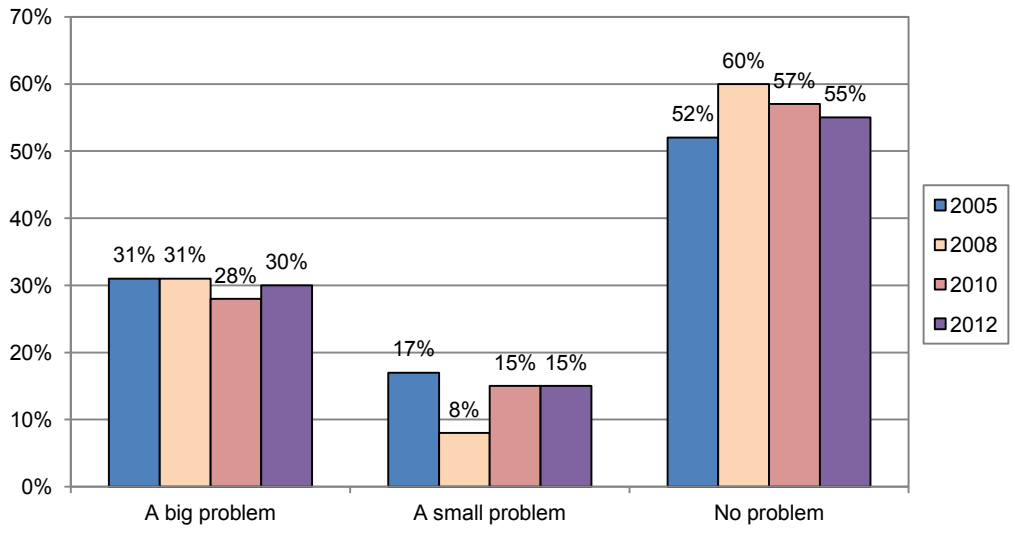
Improvements and Perceptions in Access to Care in Networks

Before the 2005 legislative session, concerns were rising about injured employees' access to care within the Texas workers' compensation system. Doctors, particularly surgical specialists such as neurosurgeons and orthopedic surgeons, were refusing to take new workers' compensation patients because of administrative burdens related to treating workers' compensation cases and inadequate reimbursement levels resulting from the Texas Workers' Compensation Commission's adoption of the 2003 Medicare-based professional services fee guideline.[20] In an attempt to increase health care provider participation in the Texas workers' compensation system, DWC adopted a new professional services fee guideline (effective March 1, 2008), which raised reimbursement levels for doctors and added an annual inflation adjustment based on the annual Medicare Economic Index, the weighted average of price changes for goods and services used to deliver physician services. Additionally, changes made by HB 7, including the adoption of evidence-based treatment guidelines (effective May 1, 2007) and the elimination of ADL registration requirements (effective September 1, 2007) were made to increase certainty regarding the medical necessity of treatments that would be reimbursed in the system and to reduce administrative burdens.

[20] On August 1, 2003, the system's first Medicare-based professional service fee guideline took effect. While this fee guideline increased reimbursement for some categories of services, including primary care, reimbursements for specialty surgery services were significantly reduced. On the whole, the reimbursement rates for professional medical services in the Texas workers' compensation system went from approximately 140 percent of Medicare to approximately 125 percent of Medicare.

Based on the results of recent injured employee surveys, a higher percentage (55 percent) of employees surveyed in 2012 reported "no problem" in getting the medical care they felt they needed for their work-related injury compared to 52 percent of employees surveyed in 2005; however, this was down from 60 percent in 2008 (see Figure 5.4). The availability of doctors who are accepting workers' compensation patients is an issue that TDI-DWC has and will continue to monitor closely.[21]

Figure 5.4: Percentage of Injured Employees Who Reported Having Problems Getting Medical Care for Their Injury



Source: Texas Department of Insurance, Workers' Compensation Research and Evaluation Group, Survey of injured employees 2005, 2008, 2010, and 2012.

As Tables 5.1 illustrates, injured employees who received medical care from workers' compensation networks generally reported higher perceptions regarding their access to care experience in 2012, despite restrictions on choosing their own treating doctor. However, on the question regarding the ability to see specialists, injured employees in networks reported poorer perceptions than non-network injured employees.

A slightly higher percentage of injured employees surveyed in 2012 (19 percent) reported that their ability to schedule a doctor's appointment was worse than their normal health care, compared to 12 percent of employees surveyed in 2005 (see Figure 5.5). This is likely the result of differences in injured employees' perceptions about difficulties scheduling doctor's appointments for network and non-network claims. As Table 5.3

[21] For detailed report on the access to medical care, see REG's *Access to Medical Care in the Texas Workers' Compensation System, 2012 Results* available at REG's reports page (www.tdi.texas.gov/reports/report9.html).

shows, with the exception of two networks, a higher percentage of employees receiving medical care in networks reported that their ability to schedule a doctor's appointment was better than or about the same as employees receiving medical care outside of networks.

Table 5.1: Since You Were Injured, How Often Did You Get Care as Soon as You Wanted When You Needed Care Right Away?

How often did you get care?	Non-network	504-Alliance	504-Others	Corvel	Coventry	First Health	IMO	Liberty	Travelers	Texas Star	Zurich	Other networks
Always	48%	66%*	58%	51%	56%*	41%	52%	53%*	62%*	54%*	49%	56%*
Usually	20%	17%*	20%	13%	19%	23%	18%	20%	13%*	16%*	18%	19%
Sometimes/Never	31%	18%*	23%	36%	25%*	36%	30%	27%*	25%*	30%*	32%	25%*

Notes: Asterisks (*) indicate that the differences between the network and non-network are statistically significant. The figures presented above are adjusted for risk factors such as injury type, type of claim, and age differences that may exist between the groups. Percentage for each network may not add up to 100 percent because of rounding.

Source: Texas Department of Insurance, Workers' Compensation Research and Evaluation Group, 2012.

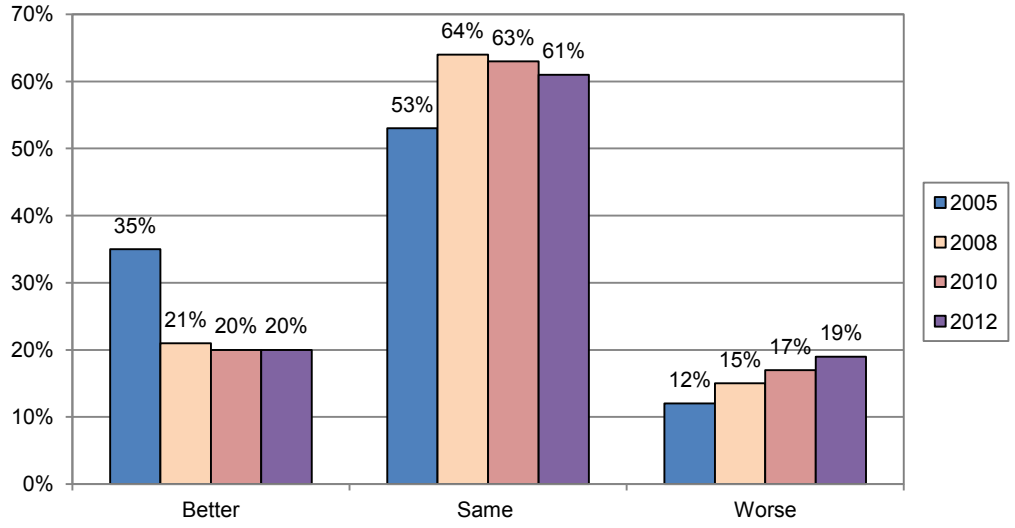
Table 5.2: Overall for Your Work-related Injury or Illness, How Much of a Problem, If Any, Was It to Get a Specialist You Needed to See? Was It…

How much of a problem?	Non-network	504-Alliance	504-Others	Corvel	Coventry	First Health	IMO	Liberty	Travelers	Texas Star	Zurich	Other networks
Not a problem	71%	75%*	60%*	67%	61%	72%*	59%	68%*	68%*	69%*	68%*	73%*
A small problem	12%	10%*	16%*	8%	15%*	12%*	11%*	12%*	13%*	13%*	11%*	10%*
A big problem	18%	16%*	24%*	25%*	24%*	16%*	30%*	20%*	19%*	19%*	21%*	16%*

Notes: Asterisks (*) indicate that the differences between the network and non-network are statistically significant. The figures presented above are adjusted for risk factors such as injury type, type of claim, and age differences that may exist between the groups. Percentage for each network may not add up to 100 percent because of rounding.

Source: Texas Department of Insurance, Workers' Compensation Research and Evaluation Group, 2012.

Figure 5.5: Compared to the Medical Care You Usually Receive When You Are Injured or Sick, Your Ability to Schedule a Doctor's Appointment for Your Work-related Injury or Illness Was:



Source: Texas Department of Insurance, Workers' Compensation Research and Evaluation Group, Survey of injured employees 2005, 2008, 2010, and 2012.

Table 5.3: Injured Employees' Perceptions Regarding Their Ability to Schedule a Doctor's Appointment for Their Work-related Injuries Compared to the Medical Care They Normally Receive When Injured or Sick

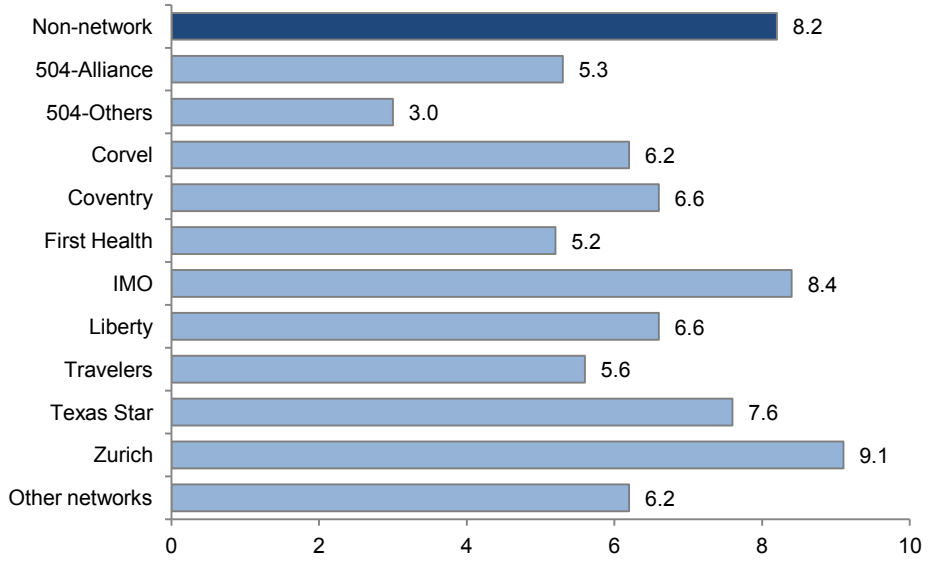
Ability to schedule a doctor's appointment	Non-network	504-Alliance	504-Others	Corvel	Coventry	First Health	IMO	Liberty	Travelers	Texas Star	Zurich	Other networks
Better	24%	22%	14%*	24%	14%*	32%	13%*	18%*	26%	27%	24%	26%
About the same	59%	69%*	75%*	58%	71%*	56%	66%	73%*	66%*	59%*	63%	61%
Worse	17%	9%*	11%	18%	15%*	12%	20%	9%*	8%*	13%*	13%	13%*

Notes: Asterisks (*) indicate that the differences between the network and non-network are statistically significant. The figures presented above are adjusted for risk factors such as injury type, type of claim, and age differences that may exist between the groups. Percentage for each network may not add up to 100 percent because of rounding.

Source: Texas Department of Insurance, Workers' Compensation Research and Evaluation Group, 2012.

Despite poorer perceptions about the ability for employees receiving medical care from networks to get specialist care, nine network entities are able to get an injured employee in to see a non-emergency doctor sooner than non-network claims (see Figure 5.6).

Figure 5.6: Average Number of Days from Date of Injury to Date of First Non-emergency Treatment, 6 Months Post Injury



Source: Texas Department of Insurance, Workers' Compensation Research and Evaluation Group, 2012.

Treating Doctor Choice and Satisfaction

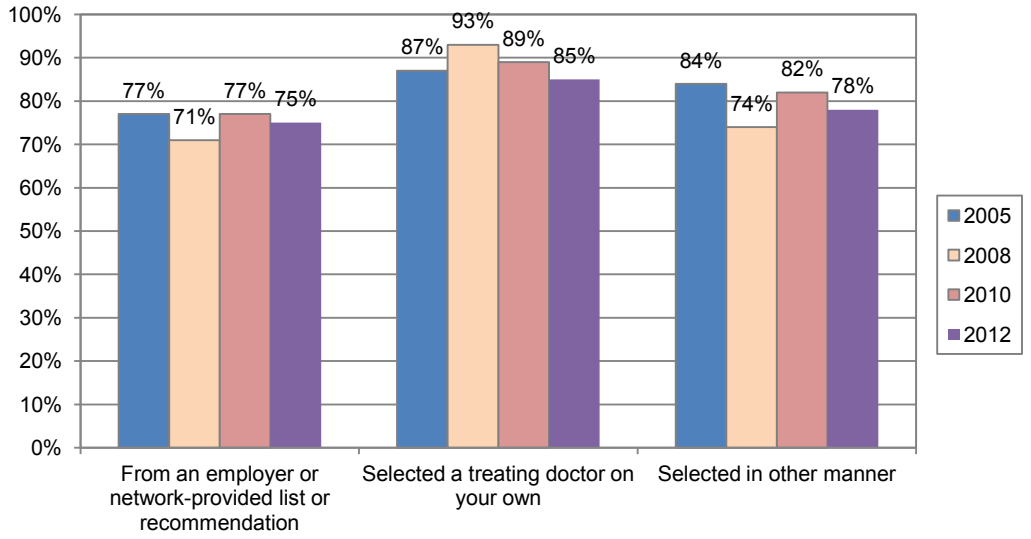
Previous studies conducted by TDI show that injured employees' perceptions regarding the quality of their medical care are closely associated with their ability to choose their own treating doctor.[22] Not surprisingly then, as workers' compensation health care networks expand their coverage in Texas and employees are increasingly required to choose their treating doctor from a designated list of doctors, satisfaction levels may be impacted. As Figure 5.7 shows, employees generally reported slightly lower satisfaction levels in 2012 when compared to 2005. For employees who reported that they selected their own treating doctor, satisfaction levels decreased slightly from 2005 to 2012 (85 percent surveyed in 2012 reported that the doctor they saw most often provided them good medical care compared to 87 percent surveyed in 2005). Meanwhile, satisfaction levels decreased in 2012 compared to 2005 for employees who indicated that they selected a doctor recommended by their employer or network. Satisfaction levels for employees who selected a doctor some other way decreased from 84 percent in 2005 to 78 percent in 2012. In general, though, satisfaction levels remain high for a majority of injured employees.

Additionally, a slightly higher percentage (25 percent) of employees surveyed in 2012 reported that the medical care they received for their work-related injury was worse than

[22] See REG's report titled *Medical Costs and Quality of Care Trends in the Texas Workers' Compensation System*, 2004.

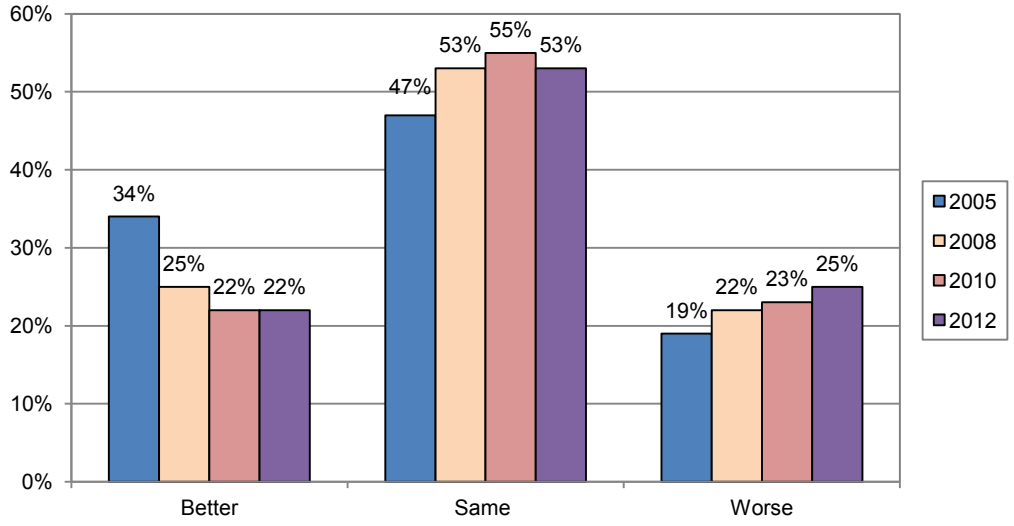
their routine medical care when compared to employees surveyed in 2005 (19 percent) (see Figure 5.8).

Figure 5.7: Percentage of Injured Employees Indicating Agreement That the Doctor They Saw Most Often Provided Them with Good Medical Care by Doctor Selection Method for First Non-emergency Doctor



Source: Texas Department of Insurance, Workers' Compensation Research and Evaluation Group, Survey of injured employees 2005, 2008, 2010, and 2012.

Figure 5.8: Compared to the Medical Care You Usually Receive When You Are Injured or Sick, Would You Say the Care You Received for Your Work-related Injury or Illness Was:



Source: Texas Department of Insurance, Workers' Compensation Research and Evaluation Group, Survey of injured employees 2005, 2008, 2010, and 2012.

It is important to note that while injured employees who received medical care from networks were generally less satisfied with the quality of the care than non-network claims, there are differences in satisfaction levels among individual networks profiled in the 2012 Workers' Compensation Network Report Card (see Tables 5.4 and 5.5). HB 7 included mechanisms to promote quality of care monitoring, including the requirement that every network produce and annually submit to TDI a Quality Improvement Plan. The plan must include the network's goals and plans for measuring health care provider and employee satisfaction, as well as the requirement that the network respond to complaints timely and maintain a complaint log that allows the network to track complaint trends and address those issues in real-time.[23]

Table 5.4: The Treating Doctor for Your Work-related Injury or Illness Overall Provided You with Very Good Medical Care That Met Your Needs…

Treating doctor provided you with very good medical care	Non-network	504-Alliance	504-Others	Corvel	Coventry	First Health	IMO	Liberty	Travelers	Texas Star	Zurich	Other networks
Strongly agree/Agree	80%	82%*	82%	73%*	76%*	72%*	72%*	82%	82%	80%	71%*	77%*
Not sure	1%	1%	1%	2%	4%*	4%*	0%*	2%	1%	2%*	2%	4%*
Strongly disagree/Disagree	19%	16%*	17%	25%*	20%	25%*	28%*	16%	17%	18%	26%*	19%

Notes: Asterisks (*) indicate that the differences between the network and non-network are statistically significant. The figures presented above are adjusted for risk factors such as injury type, type of claim, and age differences that may exist between the groups. Percentage for each network may not add up to 100 percent because of rounding.

Source: Texas Department of Insurance, Workers' Compensation Research and Evaluation Group, 2012.

Table 5.5: Injured Employees' Perceptions Regarding Medical Care for Their Work-related Injuries Compared to the Medical Care They Normally Receive When Injured or Sick

Satisfaction of medical care	Non-network	504-Alliance	504-Others	Corvel	Coventry	First Health	IMO	Liberty	Travelers	Texas Star	Zurich	Other networks
Better	26%	24%	13%*	30%	16%*	20%*	21%	19%*	28%	30%	30%	26%
Same	51%	59%*	55%	41%*	59%*	61%*	51%	61%*	54%	51%*	48%	54%
Worse	23%	17%*	32%	29%*	25%	20%	28%	20%	19%	19%*	21%	20%

Note: Asterisks (*) indicate that the differences between the individual network and non-network are statistically significant. The figures presented above are adjusted for risk factors such as injury type, type of claim, and age differences that may exist between the groups. Percentage for each network may not add up to 100 percent because of rounding.

Source: Texas Department of Insurance, Workers' Compensation Research and Evaluation Group, 2012.

[23] See Texas Administrative Code, Section 10.81.

Typically, TDI requests that each network address the deficiencies highlighted in the Network Report Card and submit an updated Quality Improvement Plan. TDI works to ensure that networks adequately address complaints as well as implement their improvement plans.

Health Outcomes Improve in 2012

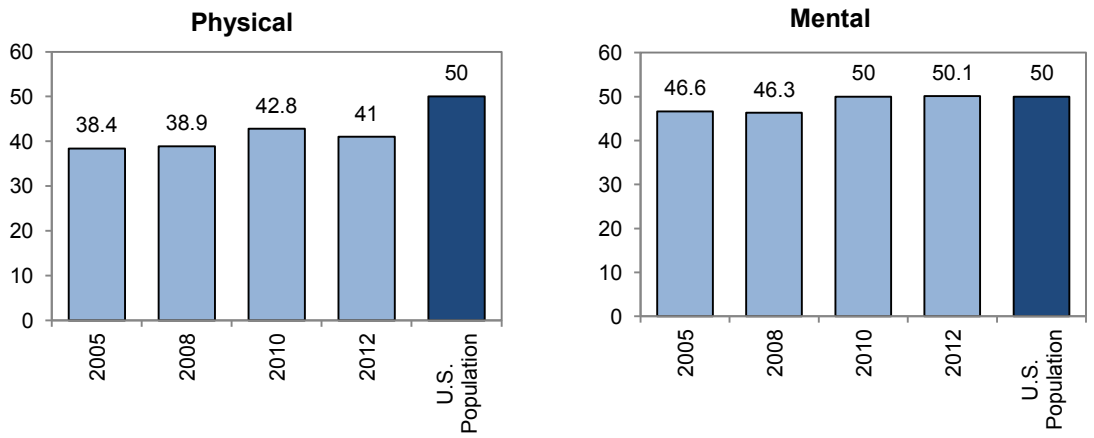
Along with significant changes in the Texas workers' compensation system over the past few years in terms of the amount of medical care provided to injured employees as well as the introduction of new health care networks, injured employees' perceptions regarding their physical and mental functioning have improved since the passage of HB 7.

Physical functioning is used to measure whether an injured employee gets better or physically recovers from the injury, while mental functioning is used to measure whether an injured employee is likely to experience issues such as depression after the injury.

To measure the physical and mental functioning of injured employees, TDI utilized a standardized set of questions, referred to as the Short Form 12 (SF-12) survey instrument, which asks employees to rate their current mental health as well as their current abilities to perform certain daily life activities. The results are calculated into two overall scores: the physical component summary and the mental component summary, which have a range of scores from 0 to 100 and a mean score of 50 in a sample of the U.S. general population. Scores greater than 50 represent above average health status, and scores at 40 or lower represent people who function at a level lower than 84 percent of the population (one standard deviation).

As Figure 5.9 indicates, injured employees in Texas have improved their physical and mental functioning status measurably since 2005. The mental functioning score of 50.1 for injured employees are higher than the physical functioning scores (41), but also higher than the mental functioning scores of the general U.S. population.

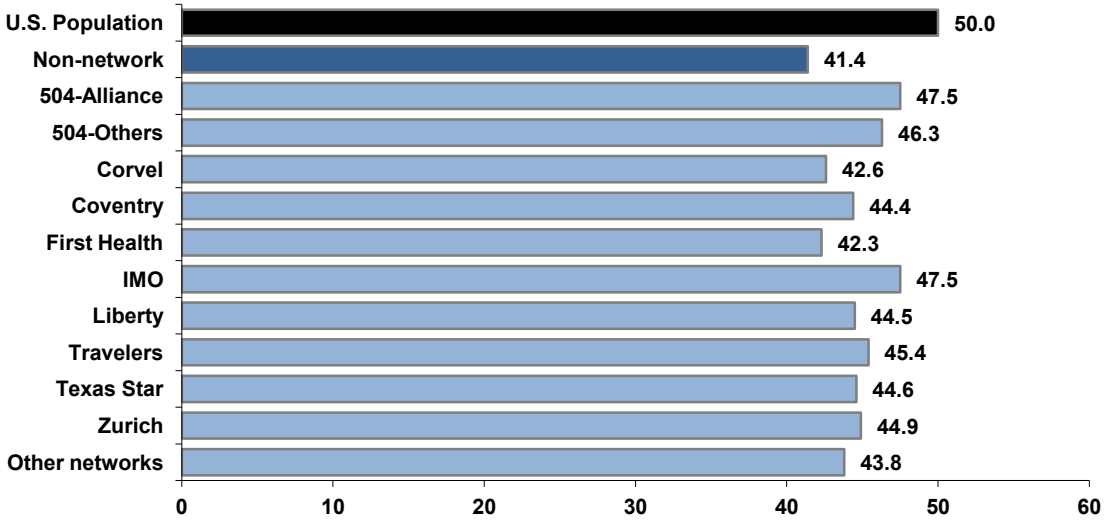
Figure 5.9: Comparison of Injured Employee Self-reported Physical and Mental Functioning Scores, 17–21 Months Post Injury



Source: Texas Department of Insurance, Workers' Compensation Research and Evaluation Group, 2012.

Overall, the physical functioning scores for networks (see Figure 5.10) are significantly higher than those of non-network claims.[24] Injured employees from all network entities reported higher physical functioning scores than non-network injured employees, with two networks reporting scores more than six points higher than non-network.

Figure 5.10: Comparison of Injured Employee Self-reported Physical Functioning Scores, 17–21 Months Post Injury

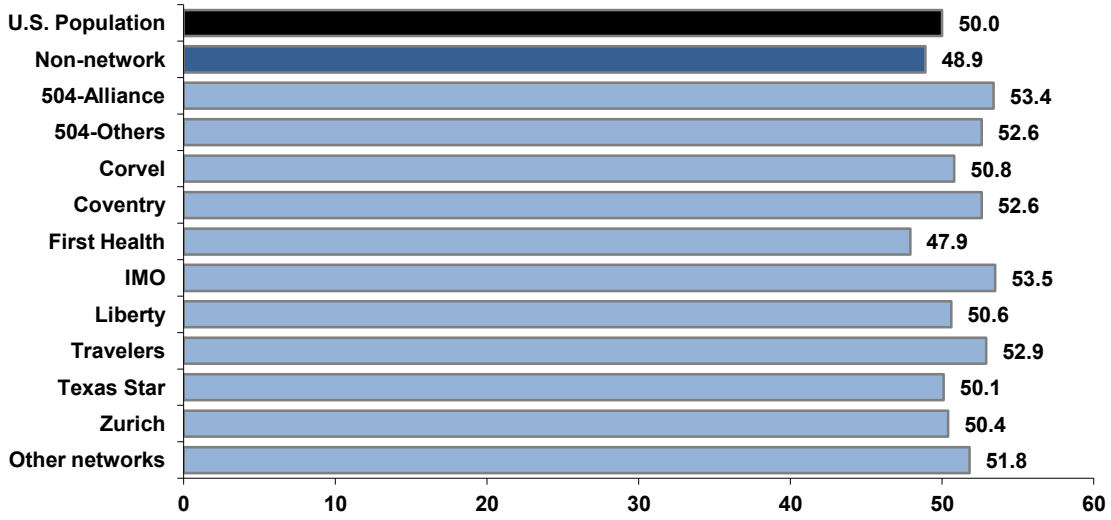


Source: Texas Department of Insurance, Workers' Compensation Research and Evaluation Group, 2012.

[24] For more detailed information about comparisons between individual health care networks and non-network claims, see REG's report titled *2012 Workers' Compensation Network Report Card Results*, 2012, which can be viewed at www.tdi.state.tx.us/reports/report9.html.

Similarly, the mental functioning scores for networks (see Figure 5.11) are higher than those of non-network claims. With the exception of one network, injured employees from network entities reported higher mental functioning scores than non-network injured employees and the general U.S. population.

Figure 5.11: Comparison of Injured Employee Self-reported Mental Functioning Scores, 17–21 Months Post Injury



Source: Texas Department of Insurance, Workers' Compensation Research and Evaluation Group, 2012.

6. Return-to-Work Outcomes in the Texas Workers' Compensation System

An important goal of the Texas workers' compensation system is to return injured employees to a safe and productive employment. Effective return-to-work programs can help alleviate the economic and psychological impact of a work-related injury on an injured employee, and reduce income benefit payments and increase worker productivity for Texas employers.

Studies conducted by the former Research and Oversight Council on Workers' Compensation and the Workers' Compensation Research Institute indicated that in comparison to similarly injured employees in other states, Texas injured employees were generally off work for longer periods of time and were more likely to report that their take-home pay was less than their pre-injury pay.[25] Policymakers acknowledged the importance of return-to-work efforts in HB 7 by including the following requirements:

- the adoption of return-to-work guidelines
- the institution of a return-to-work pilot program geared toward businesses with less than 50 employees
- better coordination of injured employee referrals for vocational rehabilitation services between TDI-DWC and the Department of Assistive and Rehabilitation Services
- the referral of injured employees to the Texas Workforce Commission and local workforce development centers for employment opportunities
- improving system participant return-to-work outreach efforts, and
- the adoption of rules to implement changes in the work-search requirements for injured employees who qualify for Supplemental Income Benefits (SIBs), as well as disability management rules that include the coordination of treatment plans and return-to-work planning.

Return-to-Work Rates Slightly Lower for 2010 Injuries

When workers' compensation income benefit data is compared with employee wage information from the Texas Workforce Commission, it is clear that the percentage of injured employees receiving income benefits who went back to work within six months of sustaining a work-related injury rose steadily from 75 percent in injury year 2006 to 81

[25] See Research and Oversight Council on Workers' Compensation, *Returning to Work: An Examination of Existing Disability Duration Guidelines and Their Application to the Texas Workers' Compensation System: A Report to the 77th Legislature*, 2001; and Workers' Compensation Research Institute, *CompScope Benchmarks for Texas, 6th Edition*, 2006.

percent in Injury Year 2009, but then declined to 78 percent in Injury Year 2010. This change in return-to-work rates between 2009 and 2010 injuries is likely a reflection of the downturn in the U.S. economy, which began in late injury year 2007 or early 2008 in most states, and continuing higher unemployment rates nationwide and in Texas. Case mix, or injury type and severity of claims, may also play a part in lower return-to-work rates.

Table 6.1: Initial Return-to-Work Rates – Percentage of Injured Employees Receiving TIBs Who Have Initially Returned to Work (6 Months to 3 Years Post Injury)

Injury Year	Within 6 Months Post Injury	Within 1 Year Post Injury	Within 1.5 Years Post Injury	Within 2 Years Post Injury	Within 3 Years Post Injury
2006	75%	86%	90%	92%	94%
2007	76%	87%	91%	93%	96%
2008	78%	88%	93%	94%	94%
2009	81%	89%	90%	91%	
2010	78%	88%	90%		

Note 1: The study population is a subset of 225,256 employees injured in 2006–2010 who also received TIBs.

Note 2: The third year of 2009, and the second and third years of 2010 are excluded due to insufficient data.

Source: Texas Department of Insurance, Workers' Compensation Research and Evaluation Group, 2012.

While measuring injured employee initial return-to-work outcomes is an important indicator of a state's ability to return employees back to work after a work-related injury, the ability of a state to promote sustained employment among injured employees provides a more complete measure of the system's ability to promote safe and timely return to work. The sustained return-to-work rate is defined as the percentage of injured employees receiving TIBs who have remained employed for at least three successive quarters (or nine months) after a work-related injury. As Table 6.2 indicates, the sustained return-to-work rate six months post-injury improved from Injury Years 2006 through 2009, but the rate for injuries sustained in 2010 has declined to 72 percent. However, injury year 2010 sustained return-to-work rates at the one year, and one and one-half year milestones are essentially unchanged. This reduction in the sustained return-to-work rate from Injury Year 2009 to Injury Year 2010 is likely a reflection of the U.S. economic downturn and continuing higher unemployment rates, or the type and severity of injuries sustained during 2010. TDI will continue to monitor the impact of the U.S. economic environment and the subsequent economic recovery on return-to-work rates for workers' compensation claims in future reports.

Although the initial and sustained return-to-work rates have recently been affected by a downturn in the U.S. economy, Texas continues to see a reduction in the number of lost work days per lost time claim. Since Injury Year 2004, the average number of lost work days among TIBs recipients has decreased from 97 days in Injury Year 2004 to 62 in Injury Year 2010. It should be noted, however, that the average days away from work for Injury Year 2010 is composed of injured employees that returned to work relatively early, and is therefore subject to revision as employees with more severe injuries return to work. The median number of days away from work for all claims has remained stable at 21 days since Injury Year 2008, which is a slight decline from Injury Years 2006 and 2007 (22 days away from work) (See Table 6.3).

Table 6.2: Sustained Return-to-Work Rates – Percentage of Injured Employees Receiving TIBs Who Have Initially Returned to Work and Remained Employed for Three Successive Quarters (6 Months to 3 Years Post Injury)

Injury Year	Within 6 Months Post Injury	Within 1 Year Post Injury	Within 1.5 Years Post Injury	Within 2 Years Post Injury	Within 3 Years Post Injury
2006	70%	77%	81%	83%	86%
2007	71%	77%	81%	84%	87%
2008	75%	79%	82%	84%	83%
2009	76%	78%	80%	82%	
2010	72%	78%	79%		

Note 1: The study population is a subset of 225,256 employees injured in 2006–2010 who also received TIBs.

Note 2: The third year of 2009, and the second and third years of 2010 are excluded due to insufficient data.

Note 3: Sustained return-to-work and the number of days off work for 2010 are subject to change as more wage data is made available for injuries occurring in the latter quarters of 2010.

Source: Texas Department of Insurance, Workers' Compensation Research and Evaluation Group, 2012.

Table 6.3: Mean and Median Days Off Work for Injured Employees Who Returned to Work at Some Point Post Injury, Injury Years 2004–2010

Injury Year	Mean Days off Work	Median Days off Work
2004	97	26
2005	90	24
2006	87	22
2007	84	22
2008	85	21
2009	85	21
2010	62	21

Note 1: The study population is a subset of 336,063 employees injured in 2004–2010 who also received TIBs.

Note 2: The number of days off work for 2010 is subject to change as claims for that injury year mature, and the days off work for more serious injuries are added to the calculations.

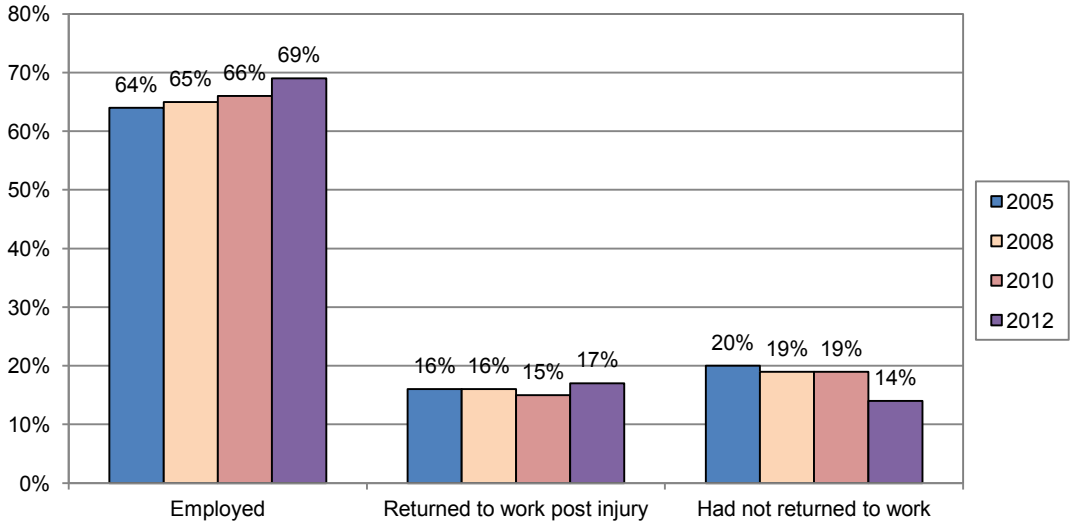
Source: Texas Department of Insurance, Workers' Compensation Research and Evaluation Group, 2012.

Comparison of Injured Employee Survey Results Pre- and Post-HB 7 Implementation

While it is too early to determine the long-term impact of certain elements of HB 7 such as TDI-DWC's adoption of return-to-work guidelines (effective May 1, 2007) and health care networks on return-to-work outcomes, it is clear from both the return-to-work rates shown in Tables 6.1 and 6.2 and recent injured employee survey findings that improvements in return-to-work rates have continued since the 2005 passage of HB 7.

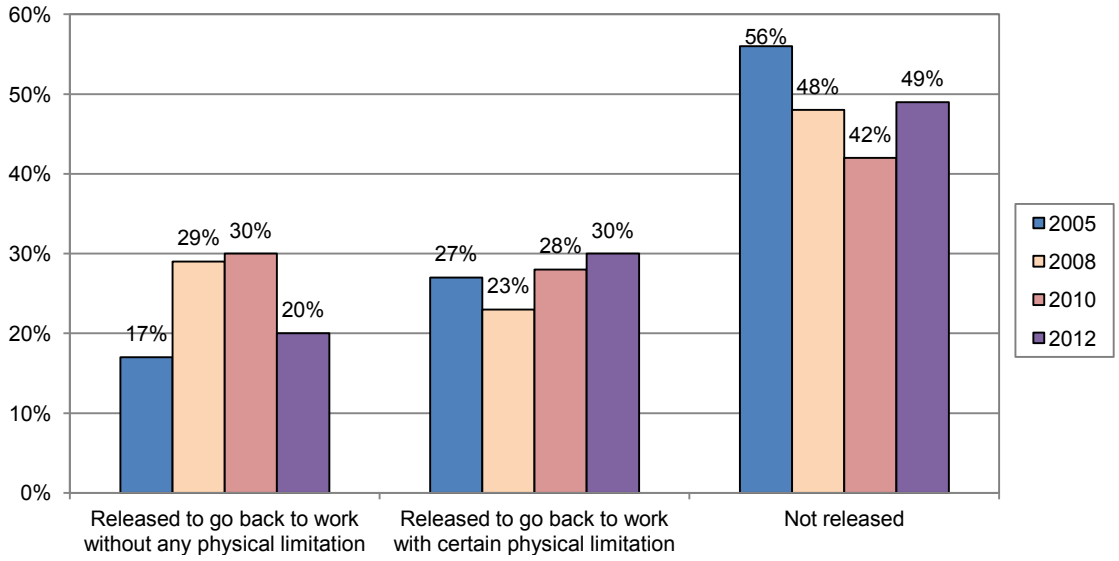
As Figure 6.1 shows, 69 percent of employees surveyed in 2012 reported that they were currently employed at the time of the survey, compared with 64 percent in 2005. Only 14 percent of employees surveyed in 2012, compared with 20 percent in 2005, reported that they had not yet returned to work 17-21 months after their injuries. Figure 6.2 shows that a higher percentage (50 percent) of injured employees surveyed in 2012 reported that they were released by their treating doctor to go back to work with no or some physical restrictions. Of the employees surveyed in 2005, only 44 percent reported they were released by their treating doctor. This may indicate that certain HB 7 provisions, including the adoption of return-to-work guidelines, and other factors may have promoted discussions among health care providers, injured employees and employers about the importance of getting the worker back to work as quickly and safely as possible.

Figure 6.1: Return-to-Work Experiences of Injured Employees (18–22 Months Post Injury)



Source: Texas Department of Insurance, Workers' Compensation Research and Evaluation Group, Survey of Injured Employees, 2005, 2008, 2010, and 2012.

Figure 6.2: Percentage of Injured Employees Surveyed Who Reported Being Released to Go Back to Work by Their Doctor



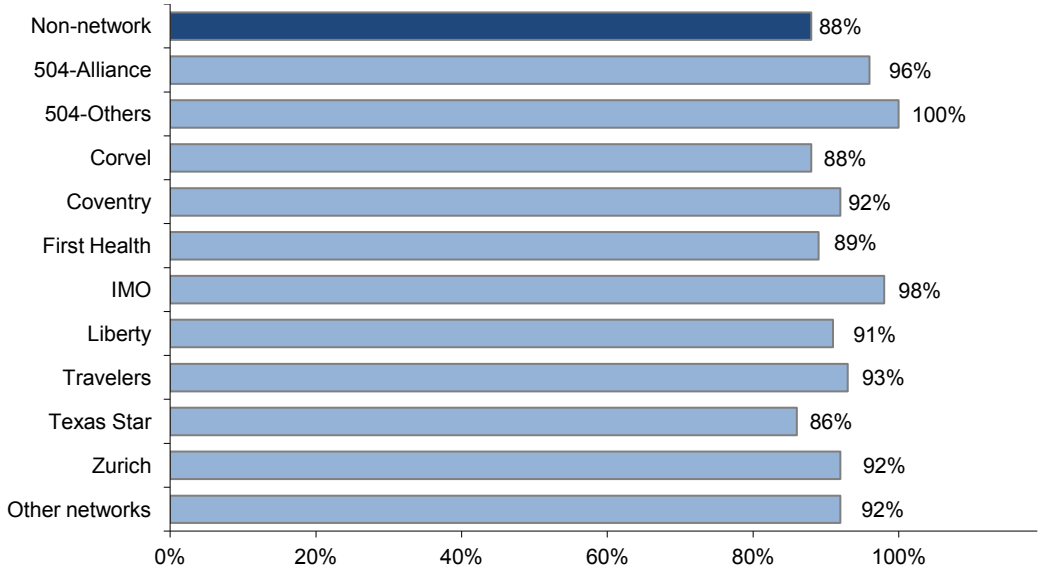
Source: Texas Department of Insurance, Workers' Compensation Research and Evaluation Group, Survey of Injured Employees, 2005, 2008, 2010, and 2012.

Comparisons between Network and Non-network Claims

Return-to-work rates have improved in the Texas workers' compensation system since 2001, a trend that has continued since the passage of HB 7. One important aspect of HB 7 – the formation of certified health care networks – has seen recent improvements in return-to-work outcomes for network claims when compared to non-network claims. Legislators increased the focus on disability management in this new health care delivery model by requiring certified networks to adopt return-to-work guidelines and increase the use of case management. Additionally, legislators envisioned that networks would be better positioned to facilitate communication between treating doctors and employers about employees' physical abilities to return to work and employers' job requirements or the availability of alternative duty assignments.

Results from the TDI's *2012 Workers' Compensation Network Report Card* indicate that with one exception, the same or a higher percentage of injured employees from ten network entities (including the Other Networks group of 15 smaller networks) reported that they had returned to work at some point after their injury compared to non-network injured employees (see Figure 6.3).

Figure 6.3: Percentage of Injured Employees Who Indicated That They Went Back to Work at Some Point after Their Injury

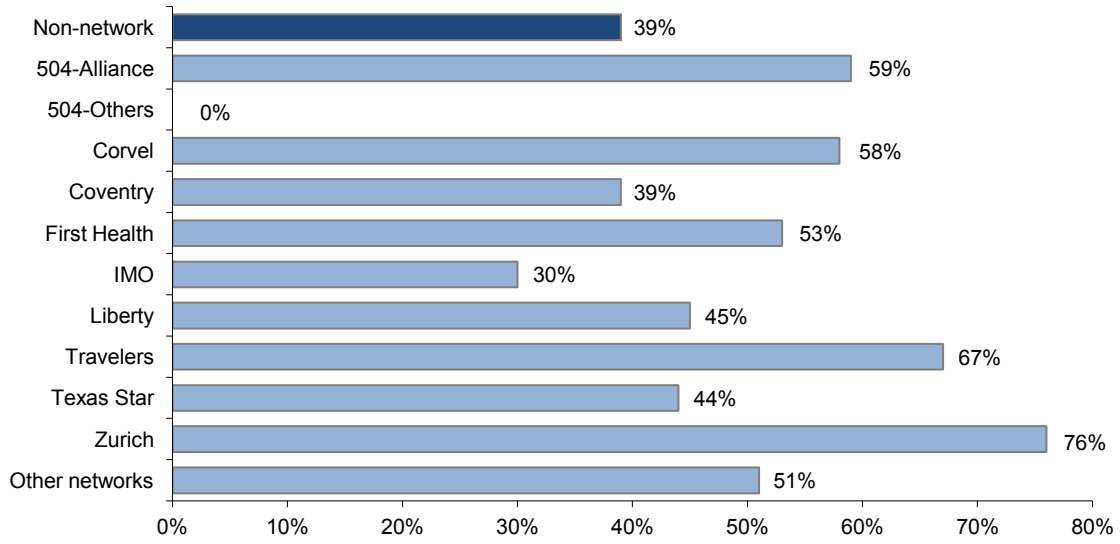


Source: Texas Department of Insurance, Workers' Compensation Research and Evaluation Group, 2012.

Understanding whether injured employees have received a medical release by their treating doctor to go back to work is an important factor when analyzing return-to-work outcomes. Without a medical release, many employers are reluctant to take injured employees back to work and many injured employees are reluctant to return over concerns about exacerbation of their existing injuries or new injuries. Since their creation in HB 7, networks have always outperformed non-network claims in this area. As Figure 6.4 illustrates, with few exceptions, a higher percentage of network injured employees who had not returned to work reported that they had been released to go back to work by their treating doctor.

It should be noted, however, that these return-to-work outcomes are heavily affected by whether the employers of these employees have effective return-to-work programs and are able to bring employees back to safe and appropriate employment. The improved performance of most networks over non-network claims may be the result of coordination between system participants, including network treating doctors, case managers, injured employees and employers to return injured employees to work.

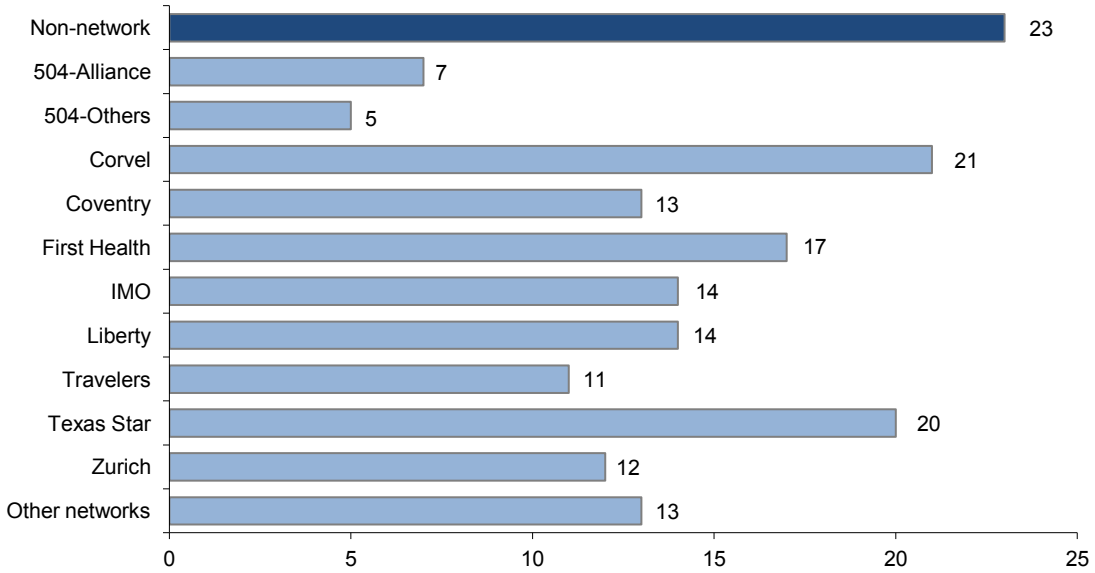
Figure 6.4: Percentage of Injured Employees Who Had Not Returned to Work and Who Reported that Their Doctor Had Released Them to Work with or Without Limitations



Source: Texas Department of Insurance, Workers' Compensation Research and Evaluation Group, 2012.

In addition to a higher percentage of injured employees being released to return to work by their doctors, report card results indicate that all eleven network entities were more effective at returning employees back to work sooner when compared to non-network claims (see Figure 6.5).

Figure 6.5: Average Number of Weeks Injured Employees Reported Being off of Work Because of Their Work-Related Injury



Source: Texas Department of Insurance, Workers' Compensation Research and Evaluation Group, 2012.

Improvements in Return-to-Work Rates and Lower Income Benefit Costs

Improved return-to-work rates in the Texas workers' compensation system have also resulted in a reduction in the number of weeks that TIBs are paid to injured employees in Texas. By statute, TIBs are paid to injured employees while they are off work for a maximum of 104 weeks from the date that these benefits begin to accrue (on the 8th day of disability). As Table 6.4 shows, the median number of weeks of TIBs paid to injured employees has declined from a high of 8.6 weeks per claim for 2002 injuries to 6.0 weeks per claim for 2010 injuries. Average TIBs payments per claim increased from $1,924 for injuries sustained in 2006 to $2,298 for 2010 injuries, which is most likely explained by a combination of wage inflation over time as well as the statutory increase in the TIBs maximum benefit amount (from a set $540 a week in 2006 to $773 a week in 2010), which became effective during the last quarter of injury year 2006. Case mix may also be a driver of higher average TIBs payment per claim.

It is important for TDI to continue to monitor return-to-work outcomes to track the impact of various HB 7 initiatives, including the implementation of treatment and return-to-work guidelines, as well as the impact of workers' compensation health care delivery networks. While system-wide return-to-work rates continue to improve, the increased focus on disability management under the HB 7 reforms seems to have resulted in modest return-to-work improvements in some networks over non-network claims. Interestingly, these improvements continued to occur in Texas even during the recent economic recession. As networks mature, TDI will continue to monitor the long-term impacts of improved return-to-work outcomes on system costs.

Table 6.4: Median Temporary Income Benefit (TIBs) Payment and Duration, Injury Years 2000–2010

Injury Year	Median TIBs Payment per Claim	Median Number of Weeks of TIBs Paid
2000	$2,030	7.0
2001	$2,488	8.0
2002	$2,564	8.6
2003	$2,478	8.0
2004	$2,156	7.3
2005	$1,995	7.0
2006	$1,924	6.0
2007	$2,128	8.4
2008	$2,268	6.0
2009	$2,662	7.0
2010	$2,298	6.0

Source: Texas Department of Insurance, Workers' Compensation Research and Evaluation Group, 2012.

7. Medical Dispute Resolution and Complaint Trends

One of the key goals of the workers' compensation system reforms laid out in HB 7 is that each injured employee "shall have access to a fair and accessible dispute resolution process."[26] The Sunset Advisory Commission, in its analysis of the former Texas Workers' Compensation Commission, noted that the medical dispute process prior to HB 7 was lengthy and lacked appropriate oversight and transparency in the regulation of Independent Review Organizations (IROs). IROs are panels of doctors who are certified by TDI to review medical necessity disputes. The Sunset Advisory Commission also recommended that the regulatory model for group health insurance should serve as a model for the workers' compensation system. As a result, HB 7 mandated a few changes: requiring that all IRO decisions meet certain statutory standards;[27] clarifying that TDI is not a party in the medical dispute; making the decision of the IRO binding pending appeal; and requiring that appeals of medical dispute decisions go directly to district court (removing the appeal of medical dispute decisions to the State Office of Administrative Hearings or SOAH).

On November 1, 2006, a Travis County District Court determined in HCA Healthcare Corp. v. Texas Department of Insurance and Division of Workers' Compensation, Cause No. D-1-GN-06-000176, that the medical dispute resolution process as revised by HB 7 did not provide due process to parties and determined that the removal of SOAH was facially unconstitutional. As a result, the 80th Legislature passed HB 724 in 2007, which requires appeals of non-network medical fee disputes (with disputed amounts not more than $2,000), all non-network preauthorization (medical necessity) disputes, and non-network retrospective medical disputes (with disputed amounts not more than $3,000) to be heard in a Contested Case Hearing (CCH) in TDI-DWC's local field offices.

During the 82nd Legislative session, the administrative appeal process for medical fee disputes underwent additional changes. Effective June 1, 2012, HB 2605 requires parties involved in an administrative appeal of a medical fee dispute decision to attempt resolution through a benefit review conference prior to requesting a CCH at SOAH. As an alternative to requesting a SOAH CCH, parties may now request binding arbitration. Additionally, HB 2605 allows TDI-DWC to recover the costs of SOAH CCH's from the non-prevailing party at SOAH, unless the non-prevailing party is the injured employee. If the parties to the dispute, which are generally the health care provider and the insurance carrier, are not satisfied with the SOAH appeal, either party may request

[26] See Texas Labor Code, Section 402.021.
[27] Under HB 7, IRO decisions must contain all of the following elements: the qualifications of the doctor reviewer, a description of the clinical criteria used in making the decision, a list of the medical evidence reviewed, and an analysis and explanation of the decision. See Texas Labor Code, Section 413.032.

judicial review.

It should be noted, however, that the medical fee dispute process is somewhat different for medical services provided in workers' compensation health care networks. Under HB 7, fee disputes that arise between health care providers and workers' compensation health care networks are resolved internally through the network's complaint process rather than by TDI-DWC.

In terms of medical necessity disputes, HB 2605 made several changes to align the process to appeal an IRO decision for network and non-network claims. After June 1, 2012, all appeals of IRO medical necessity decisions for network and non-network claims (as well as claims handled by political subdivisions who are delivering medical benefits under Section 504.053(b)(2), Texas Labor Code) are now handled through a CCH at TDI-DWC local field offices, regardless of the amount of money in dispute. Parties who are unsatisfied with the CCH decision may request judicial review.

This section of the report examines how the frequency, duration and outcomes of medical disputes have changed since the adoption of HB 7 in 2005. This section also examines the number of complaints received by TDI during this time, including complaints regarding the focal point of HB 7 – namely workers' compensation health care networks.

Number and Timeframe to Resolve Medical Disputes

Generally, there are three types of medical disputes raised in the workers' compensation system:

- fee disputes (which may include a dispute over the application of the TDI-DWC's fee guidelines or a dispute over the fee for a service that is not covered in TDI-DWC's fee guidelines)
- preauthorization disputes[28] (i.e., disputes regarding the medical necessity of certain medical treatments and services that were denied prospectively by the insurance carrier), and
- retrospective medical necessity disputes (i.e., disputes regarding the medical necessity of medical treatments and services that have already been rendered and billed by the health care provider).

[28] Texas Labor Code, Section 413.014, and Texas Administrative Code, Chapter 28, Section 134.600 include a list of medical treatments and services that require preauthorization by the insurance carrier before they can be provided to an injured employee. Workers' compensation health care networks are not subject to these preauthorization requirements and may establish their own lists of medical treatments and services that require preauthorization. See Texas Insurance Code, Section 1305.351.

Declining claim frequency, the creation of workers' compensation health care networks in 2006, the adoption of TDI-DWC's medical treatment guidelines in 2007 and the TDI-DWC's adoption of new professional, inpatient and outpatient hospital and ambulatory surgical center fee guidelines in 2008 have resulted in fewer medical disputes being filed with TDI. As Table 7.1 indicates, approximately 13,257 medical disputes were received by TDI in 2005, compared with 7,596 in 2010 and 7,795 in 2011.[29]

Table 7.1: Number and Distribution of Medical Disputes Submitted to TDI-DWC, by Type of Medical Dispute, 2002–2011 (as of October, 2012)

Year Dispute Received	Pre-authorization	Fee Disputes	Retrospective Medical Necessity Disputes	Total
2002	15%	58%	27%	8,906
2003	11%	70%	19%	17,433
2004	13%	60%	27%	14,291
2005	13%	68%	19%	13,257
2006	16%	70%	14%	9,706
2007	27%	72%	1%	8,810
2008	22%	75%	3%	12,244
2009	24%	74%	2%	12,293
2010	41%	58%	1%	7,596
2011	35%	63%	2%	7,795

Source: Texas Department of Insurance, Workers' Compensation Research and Evaluation Group, 2012.

Additionally, the percentage of medical disputes associated with preauthorization denials has increased from 13 percent of all medical disputes in 2005 to 35 percent in 2011, while the percentage of retrospective medical necessity disputes has declined steeply from 19 percent in 2005 to 2 percent in 2011, which is most likely the result of the adoption of TDI-DWC's medical treatment guideline rule in May 2007. This rule requires preauthorization for all medical services that are outside of the guideline's recommendations in addition to the existing preauthorization requirements laid out in TDI-DWC's preauthorization rule – 28 TAC §134.600.

In an effort to more closely align the process for resolving workers' compensation medical necessity disputes with the process for resolving these same types of disputes in the group health system, TDI-DWC adopted a rule in January 2007 to streamline the intake of medical disputes, including preauthorization and retrospective medical necessity

[29] From August 2008 to August 2009, one health care provider filed approximately 6,000 pharmacy fee disputes against one insurance carrier. TDI-DWC upheld a great majority of these disputes in favor of the insurance carrier (approximately 60 percent of all fee disputes decisions made during those years), and the requestor eventually withdrew all the disputes during the appeal process.

disputes. Part of that process streamlining included requiring the insurance carrier's utilization review agent to send all of the medical evidence used to make the medical necessity decision to the IRO assigned by TDI directly instead of sending multiple copies to TDI to compile for the IRO's review. Another part of this process was to align internal TDI processes for assigning IROs so that IROs for workers' compensation disputes are now assigned by TDI instead of TDI-DWC and are assigned within 24 hours of the receipt of an IRO request. Additionally, fewer incoming fee disputes, combined with TDI-DWC's efforts to improve the efficiency of fee dispute resolution have resulted in more timely resolution of fee disputes.

As a result of TDI's process improvement efforts, the mean and median timeframes to resolve a medical dispute have declined significantly since 2005 for all dispute types (see Table 7.2). The average preauthorization dispute duration fell from 59 days in 2005 to 20 days in 2011 (a 66 percent decrease); the average fee dispute duration fell from 335 days in 2005 to 120 days in 2009 (a 64 percent decrease), but has increased to 197 days in 2011; and the average retrospective medical necessity dispute duration decreased from 123 days in 2005 to 31 days in 2011 (a 75 percent decrease).

The number of active fee disputes that needed to be resolved by TDI-DWC reached a peak of approximately 17,000 in August 2009. Issues involving previous inpatient hospital fee guidelines and previous pharmacy fee guidelines accounted for approximately 85 percent of those disputes. Litigation between health care providers and individual insurance carriers over the interpretations of these fee guideline rules prolonged the final resolution of many of these disputes; however, the combination of the aggressive adjudication of backlog disputes by TDI-DWC, the adoption of new professional and hospital fee guidelines effective March 2008, and the marked decrease in the volume of disputes have resulted in the resolution of over 11,000 backlog fee disputes since 2009. The number of new fee disputes received by TDI-DWC has decreased as well from approximately 12,000 new fee disputes in fiscal year 2007 to approximately 4,500 new fee disputes for fiscal year 2011.

The total number of active fee disputes that still need to be resolved by TDI-DWC as of October 19, 2012, was approximately 4,654 disputes. However, it should be noted that the number of medical necessity disputes filed with TDI also declined significantly during the same time period (see Table 7.1).

Table 7.2: Mean and Median Number of Days to Resolve Medical Disputes, by Type of Medical Dispute, 2002–2011 (as of October, 2012)

Year Dispute Received	Pre-authorization Disputes		Fee Disputes		Retrospective Medical Necessity Disputes	
	Mean	Median	Mean	Median	Mean	Median
2002	107	84	265	220	252	223
2003	58	48	582	592	205	168
2004	53	43	478	413	172	128
2005	59	53	335	184	123	79
2006	55	51	309	219	132	95
2007	22	21	205	193	32	26
2008	19	20	197	113	36	34
2009	20	20	120	87	36	37
2010	19	20	166	60	26	22
2011	20	20	197	122	31	27

Note: From August 2008 to August 2009, approximately 6,000 pharmacy fee disputes were received by DWC from one doctor against one insurance carrier. They were all subsequently upheld in favor of the insurance carrier

Source: Texas Department of Insurance, Workers' Compensation Research and Evaluation Group, 2012.

Over the past few years, the proportion of medical disputes decided in favor of the insurance carrier or the health care provider has changed depending on the type of dispute (see Table 7.3). For fee disputes, decisions in favor of the health care provider decreased from 72 percent in 2005 to 37 percent in 2011. For retrospective medical necessity disputes, the percentage of decisions in favor of the insurance carrier increased sharply from 17 percent in 2006 to 76 percent in 2011. Since 2007, insurance carriers continue to prevail in approximately 75 percent of the decisions over preauthorization disputes.

While these dispute outcomes may suggest that insurance carriers are utilizing TDI-DWC's evidence-based treatment guidelines when making medical necessity decisions, and that IROs are also basing their medical necessity determinations on these treatment guidelines (as required by §413.031(e-1), Labor Code), they may also indicate that TDI needs to examine whether IROs are receiving all of the medical documentation relevant to the dispute from the insurance carrier.

Trends in Complaints Filed

While the number of workers' compensation claims decreased measurably since the passage of HB 7 in 2005, the number of complaints received by TDI-DWC has not generally followed the same trend. As Table 7.4 shows, the number of complaints has fluctuated during the past few years. While TDI-DWC received a total of 7,433 complaints in 2004, that number fluctuated between 3,820 in 2006 and 6,174 in 2011, the

second lowest number of disputes TDI-DWC received since 2006. Of those complaints closed in 2011, 2,390 (almost 39 percent) were "monitoring complaints," meaning that TDI-DWC did not investigate the complaint for a violation of the Act or Rules but did send a letter to the party that was the subject of the complaint asking them to resolve the complaint and reminding them of their compliance duties; 1,737 (almost 17 percent) were "unjustified," meaning that there was not a violation of the Act or Rules or a violation could not be substantiated; 1,040 complaints were "justified" complaints that were violations of the Act or Rules and warranted further investigation. The remaining complaints were closed in 2012 and not included in the overall closure numbers.[30]

Table 7.3: Percentage of Concluded Medical Disputes Decided in Favor of Insurance Carrier or Health Care Provider, by Type of Medical Dispute, 2002–2011 (as of October, 2012)

Year Dispute Received	Pre-authorization Disputes		Fee Disputes		Retrospective Medical Necessity Disputes	
	Carrier	Provider	Carrier	Provider	Carrier	Provider
2002	69%	31%	41%	59%	43%	57%
2003	77%	23%	32%	68%	33%	67%
2004	76%	24%	31%	69%	31%	69%
2005	71%	29%	28%	72%	17%	83%
2006	65%	35%	28%	72%	17%	83%
2007	77%	23%	19%	81%	72%	28%
2008	75%	25%	79%	21%	57%	43%
2009	78%	22%	92%	8%	65%	35%
2010	73%	27%	58%	42%	69%	31%
2011	77%	23%	63%	37%	76%	24%

Note 1: These dispute resolution outcomes were only calculated for disputes that had been concluded as of October 2012 – disputes that were withdrawn or dismissed were excluded from the analysis. Hospital disputes, disputes submitted without the DWC-60 form and disputes with incorrect jurisdiction were also excluded.

Note 2: From August 2008 to August 2009, approximately 6,000 pharmacy fee disputes were received by DWC from one doctor against one insurance carrier. They were all subsequently upheld in favor of the insurance carrier

Source: Texas Department of Insurance, Workers' Compensation Research and Evaluation Group, 2012.

The most frequent types of complaints received by TDI-DWC in 2011 include complaints about communication issues (e.g., timely filing of required forms), complaints from health care providers about medical benefit s (e.g., prompt payment), and complaints regarding the failure of a system participant to attend a required exam or hearing.

[30] Complete results from TDI-DWC's System Monitoring and Oversight section are available at www.tdi.state.tx.us/wc/pbo/index.html.

Table 7.4: Total Number of Complaints Received by the Texas Department of Insurance, Division of Workers' Compensation, January, 2004–December, 2011

Complaint Year	2004	2005	2006	2007	2008	2009	2010	2011
Number of Complaints	7,433	5,883	3,820	6,715	8,621	6,516	6,808	6,174

Note: Complaint counts for 2005 and 2006 should be viewed with caution since these numbers are incomplete due to the transition of the functions of the former Texas Workers' Compensation Commission to the newly created Division of Workers' Compensation. During the transition, the Division's complaints were placed into TDI's existing complaint tracking system, which initially did not track complaints received through referrals from TDI-DWC field office staff. Complaints received through internal referrals are now tracked as part of the system.

Source: Texas Department of Insurance, Division of Workers' Compensation, 2012.

Overall, TDI[31] has received relatively few complaints about certified workers' compensation networks since 2005 (368 total complaints – of which approximately 30 percent were deemed justified) given that almost 327,373 injured employees have been treated in networks as of February 1, 2012. The most frequent types of complaints raised by health care providers were complaints about rejections of provider applications to participate in networks, complaints about network fees or payment of medical bills and complaints from providers who said they were improperly listed as being network providers.

The most frequent types of complaints raised by injured employees included complaints about the employer's failure to provide a copy of the network's requirements, complaints about the availability and/or types of network doctors who were willing to accept new patients, and concerns about not receiving an up-to-date and complete directory of network providers. Chapter 1305, Insurance Code, as well as TDI's network rules (Chapter 10 of the Texas Administrative Code) require certified networks to resolve complaints, including disputes over network fees, internally and to maintain a detailed complaint log that is subject to TDI's examination.

The administration of workers' compensation disputes and complaints is a critical component of TDI's mission. Since the adoption of HB 7 the number of complaints continues to fluctuate while the number of disputes has decreased and effective streamlining has led to steep reductions in the average durations to resolve disputes timeframes. TDI will continue to monitor disputes and complaints, and to improve processes where feasible.

[31] The TDI Managed Care Quality Assurance program certifies workers' compensation health care networks and resolves complaints filed about networks.

8. Employer Participation in the Texas Workers' Compensation System

Introduction

Since the Texas workers' compensation law was first enacted in 1913, private sector employers have been allowed to either obtain workers' compensation coverage or opt out of the Texas workers' compensation system.[32] Prior to the 1970's, many states had elective workers' compensation laws. Since the 1972 publication of the National Commission on State Workmen's Compensation Laws' essential recommendations, 22 states have made workers' compensation coverage mandatory for most private-sector employers. Several states with mandatory workers' compensation laws provide statutory exemptions to allow small employers or employers from select industries to opt out of their workers' compensation systems.[33]

Texas is the only state that permits private-sector employers (regardless of employer size or industry) the option of not obtaining workers' compensation coverage and thus, becoming "nonsubscribers" to the workers' compensation system.[34] Employers who do not choose to obtain workers' compensation coverage (either through purchasing an insurance policy or becoming a certified self-insured employer or a member of a certified self-insurance group of employers) lose the protection of statutory limits on liability and may be sued for negligence by their injured employees.

Since 1993, the state has periodically monitored the percentage of employers that are nonsubscribers and the percentage of employees employed by nonsubscribers, as well as the types of alternative occupational benefit programs utilized by nonsubscribers and the reasons employers choose or do not choose to participate in the Texas workers' compensation system. Nonsubscription rates remain an important indicator of the relative "health" of the workers' compensation system since these roughly measure employers' perspectives regarding whether the benefits of participating in the workers' compensation system are greater than the costs of obtaining coverage. For this reason, the 79th Legislature required TDI to monitor and report the effect of HB 7 on employer

[32] Texas governmental entities, including the state and its political subdivisions are currently required to provide workers' compensation insurance coverage to their employees.
[33] Florida, for example, exempts non-construction employers with less than four employees. New Mexico exempts non-construction employers with less than three employees, but allows some service and ranch employers the option to purchase coverage.
[34] In New Jersey all employers are required to have workers' compensation coverage or be self-insured. Non-compliant employers are fined and their injured employees receive income and medical benefits through the Uninsured Employers' Fund.

participation in the Texas workers' compensation system as part of this biennial report.

The first study of employer participation in the Texas workers' compensation system was published in 1993 by Texas A&M University for the Texas Workers' Compensation Research Center. In 1996, the Research Center's successor agency, the Research and Oversight Council on Workers' Compensation (ROC) assumed the responsibility of calculating nonsubscription rates using the same methods. In 2004, TDI acquired this responsibility and currently manages the survey.

Survey Design and Data Collection

A random probability sample, stratified by industry and employment size, was drawn from all year-round private-sector employers in the state using the Texas Workforce Commission's Unemployment Insurance database.[35] To address changing issues in the workers' compensation system, the original survey instrument designed by the Research Center has been modified slightly over the years. Specifically, TDI's Workers' Compensation Research and Evaluation Group (REG) included questions in the 2012 survey to measure the impacts of the HB 7 legislative reforms on business decisions affecting economic development as well as questions to collect information about the use of arbitration agreements by nonsubscribing employers.

During the months of July through August 2012, the Public Policy Research Institute (PPRI) at Texas A&M University, on behalf of TDI, surveyed more than 2,500 Texas employers. The results of the survey serve as the basis for the estimates provided in this report.[36] This report presents highlights of the findings from this survey, including:[37]

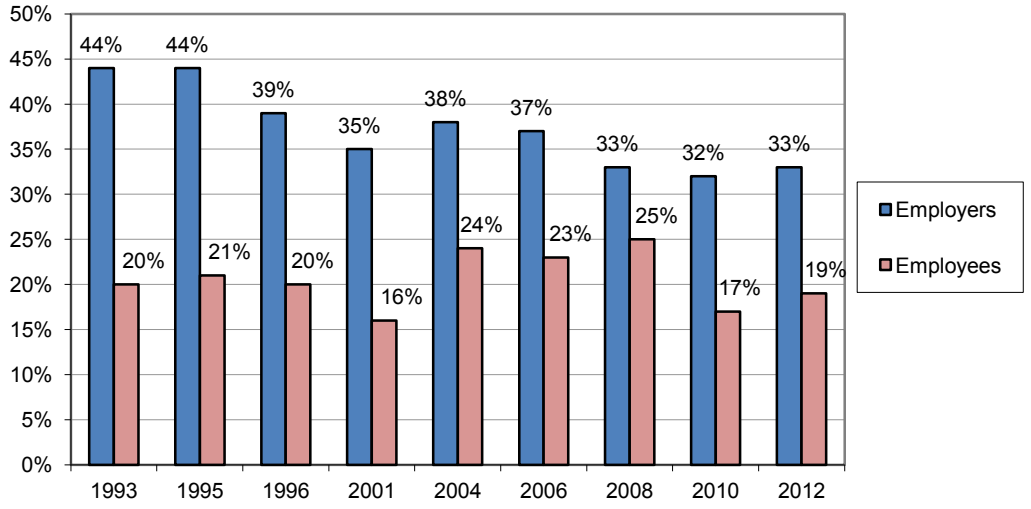
- overall employer nonsubscription rates and the percentage of Texas employees employed by nonsubscribers
- the reasons employers gave for purchasing workers' compensation coverage or becoming nonsubscribers to the workers' compensation system
- Texas employers' recent experiences with workers' compensation premium costs
- employer satisfaction levels for subscribers and nonsubscribers, and
- employers' perceptions regarding the impact of the HB 7 legislative workers' compensation reforms on economic development.

[35] For the purposes of this study, "year-round" employers are employers with reported wages for four consecutive quarters. Employers with only seasonal employees were excluded from this analysis.
[36] The response rate for this survey was 41 percent.
[37] Additional findings from this survey, including information regarding the types of alternative occupational benefit programs offered by nonsubscribers, can be viewed on TDI's website at www.tdi.state.tx.us/reports/report9.html.

Employer Participation and Employee Coverage

The percentage of year-round private Texas employers that are nonsubscribers to the workers' compensation system increased from 32 percent in 2010 to 33 percent in 2012– tied with 2008 with the second lowest percentage since 1993 (an estimated 113,000 employers in 2012). However, in terms of employees covered, an estimated 19 percent of Texas non-public employees (representing approximately 1.7 million employees in 2012) worked for non-subscribing employers – an increase of two percent since 2010, but the third lowest percentage since 1993 (see Figure 8.1). It should be noted that the employee coverage rates in 2012 were affected somewhat by the decision of one of the largest Texas employers to become a nonsubscriber this year.

Figure 8.1: Percentage of Texas Employers That Are Nonsubscribers and the Percentage of Texas Employees That Are Employed by Nonsubscribers



Source: Survey of Employer Participation in the Texas Workers' Compensation System, 1993 and 1995 estimates from the Texas Workers' Compensation Research Center and the Public Policy Research Institute (PPRI) at Texas A&M University; 1996 and 2001 estimates from the Research and Oversight Council on Workers' Compensation and PPRI; and 2004-2012 estimates from the Texas Department of Insurance, Workers' Compensation Research and Evaluation Group and PPRI.

Results from the 2004 through 2012 employer surveys highlighted the trend of larger employers choosing to opt out of the Texas workers' compensation system for reasons that centered primarily on high workers' compensation premium costs and the ability to adequately control medical costs for their injured employees.

However this trend for large employers reversed after 2008. An increased percentage of large employers, especially those with more than 500 employees, chose to purchase workers' compensation coverage in 2010 and to a slightly lesser degree in 2012. The

nonsubscription rates among large employers fell from 26 percent in 2008 to 15 percent in 2010 and 17 percent in 2012 (see Table 8.1). Medium-sized employers increased their nonsubscription rates moderately, while small employers stabilized at the 2008 levels. The decline in nonsubscription rates for large employers after 2008 coincides with a significant economic downturn, and is also at the lowest level since the 2001 recession when the nonsubscription rate was 14 percent. It is possible that tight economic conditions play an influential role in large employers' decisions to purchase coverage in the Texas workers' compensation system since workers' compensation coverage provides additional protection for employers from employee lawsuits that may result from a work-related injury.

Table 8.1: Percentage of Texas Employers That Are Nonsubscribers by Employment Size, 1995–2012

Employment Size	1995	1996	2001	2004	2006	2008	2010	2012
1-4 Employees	55%	44%	47%	46%	43%	40%	41%	41%
5-9 Employees	37%	39%	29%	37%	36%	31%	30%	29%
10-49 Employees	28%	28%	19%	25%	26%	23%	20%	19%
50-99 Employees	24%	23%	16%	20%	19%	18%	16%	19%
100-499 Employees	20%	17%	13%	16%	17%	16%	13%	12%
500+ Employees	18%	14%	14%	20%	21%	26%	15%	17%

Source: Survey of Employer Participation in the Texas Workers' Compensation System, 1995 estimates from the Texas Workers' Compensation Research Center and the Public Policy Research Institute (PPRI) at Texas A&M University; 1996 and 2001 estimates from the Research and Oversight Council on Workers' Compensation and PPRI; and 2004–2012 estimates from the Texas Department of Insurance, Workers' Compensation Research and Evaluation Group and PPRI.

Nonsubscription Rates by Industry

Four of the eight primary industry sectors experienced increases in their nonsubscription rates in 2012. The Other Services sector had the steepest increase from 42 percent of employers reporting that they were nonsubscribers in 2010 to 49 percent in 2012, the highest nonsubscription rate of all the sectors (see Table 8.2). They were followed by the Agriculture/Forestry/Fishing/Hunting sector, with an increase from 25 percent nonsubscription rate in 2010 to 29 percent in 2012. Employers in the Wholesale Trade/ Retail Trade/Transportation sector decreased their nonsubscription rate from 32 percent in 2010 to 26 percent in 2012, the second lowest nonsubscription rate among the industry sectors.

Table 8.2: Percentage of Texas Employers That Are Nonsubscribers by Industry, 2004–2012 Estimates

Industry Type	Non-subscription Rate				
	2004	2006	2008	2010	2012
Agriculture/Forestry/Fishing/Hunting	39%	25%	27%	25%	29%
Mining/Utilities/Construction	32%	21%	28%	19%	22%
Manufacturing	42%	37%	31%	31%	29%
Wholesale Trade/ Retail Trade/Transportation	40%	37%	29%	32%	26%
Finance/Real Estate/Professional Services	32%	33%	33%	33%	32%
Health Care/Educational Services	41%	44%	39%	32%	35%
Arts/Entertainment/Accommodation/Food Services	54%	52%	46%	40%	40%
Other Services Except Public Administration	39%	42%	36%	42%	49%

Source: Survey of Employer Participation in the Texas Workers' Compensation System, Public Policy Research Institute at Texas A&M University, and the Texas Department of Insurance, Workers' Compensation Research and Evaluation Group, 2012.

Note: Industry classifications were based on the 2002 North American Industry Classification System (NAICS) developed by the governments of the U.S., Canada and Mexico, which replaced the Standard Industrial Classification (SIC) system previously used in the U.S. As a result of this change in industry classifications, industry nonsubscription rates for 2004–2012 cannot be compared to previous years.

Reasons Employers Opt Out of the Workers' Compensation System

The 2012 survey results showed a significant shift in the primary reasons why employers said they do not purchase workers' compensation insurance. The three top primary reasons employers cited (17 percent each) included their perception that they had too few employees, they had few-on-the-job injuries, and that they were not required to have workers' compensation insurance by law (see Table 8.3). The most significant change occurred with employers' perception that workers' compensation insurance premiums were too high. The percentage of employers who gave this reason fell from 32 percent in 2010 to 15 percent in 2012.

When these reasons were examined by employer size, the importance of individual reasons varied. For example, 24 percent of large employers with more than 500 employees reported the primary reason for opting out of the system was that they felt medical costs were too high, up from 10 percent in 2010. Another 23 percent of large employers reported that their reason for opting out of the workers' compensation system was that premiums were too high, but this is down significantly from 50 percent in 2010. An additional 20 percent of large employers (down from 29 percent in 2010) reported their perception that they could do a better job than the Texas workers' compensation system of ensuring that injured employees receive appropriate benefits.

Table 8.3: Most Frequent Reasons Non-subscribing Employers Gave for Not Purchasing Workers' Compensation Coverage

Primary Reasons Given by Surveyed Employers	Percentage of Non-subscribing Employers			
	2006	2008	2010	2012
Workers' compensation insurance premiums were too high	35%	26%	32%	15%
Employer had too few employees	21%	26%	25%	17%
Employers not required to have workers' compensation insurance by law	9%	11%	13%	17%
Medical costs in the workers' compensation system were too high	4%	4%	5%	10%
Employer had few on-the-job injuries	9%	9%	12%	17%

Source: Survey of Employer Participation in the Texas Workers' Compensation System, Public Policy Research Institute at Texas A&M University, and the Texas Department of Insurance, Workers' Compensation Research and Evaluation Group, 2012.

Reasons Employers Gave for Purchasing Workers' Compensation Coverage

The two most frequent reasons cited by Texas employers for participating in the Texas workers' compensation system in 2012 was that they were concerned with lawsuits (21 percent) and because the employer was able to participate in a health care network (20 percent) (see Table 8.4 and Section 3 of this report for more information about network participation in the Texas workers' compensation system).

For large employers (i.e., those with 500 or more employees), the ability to participate in a workers' compensation health care network (20 percent in 2012) continues to be the primary reason given since 2008 for participating in the Texas workers' compensation system. This finding indicates a level of employer interest in workers' compensation health care networks which may impact employers' decisions to remain a subscriber, enter, or re-enter the Texas workers' compensation system. Other key reasons large subscribers gave for purchasing workers' compensation coverage included concern about lawsuits and the ability to reduce workers' compensation insurance costs through deductibles, certified self insurance, group self-insurance or other premium discounts.

Table 8.4: Most Frequent Reasons Subscribing Employers Gave for Purchasing Workers' Compensation Coverage

Primary Reasons Given by Surveyed Employers	Percentage of Subscribing Employers			
	2006	2008	2010	2012
Employer thought having workers' compensation was required by law	22%	25%	22%	19%
Employer was able to provide injured employees with medical care through a workers' compensation health care network	20%	24%	27%	20%
Employer was concerned about lawsuits	20%	14%	18%	21%
Employer needed workers' compensation coverage in order to obtain government contracts	6%	3%	6%	9%
Workers' compensation insurance rates were lower	NA	2%	2%	11%

Source: Survey of Employer Participation in the Texas Workers' Compensation System, Public Policy Research Institute at Texas A&M University, and the Texas Department of Insurance, Workers' Compensation Research and Evaluation Group, 2012.

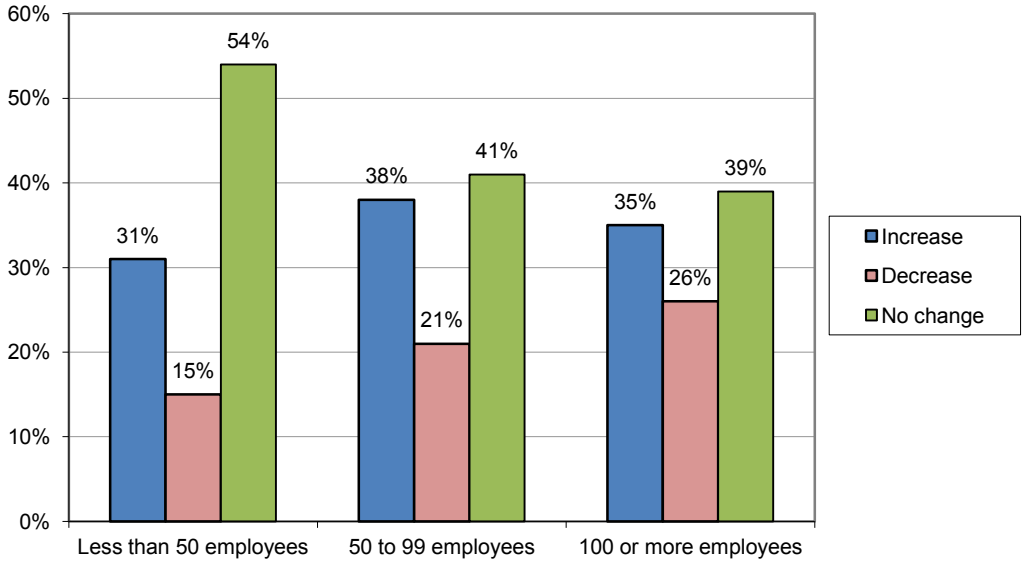
Modest Premium Pressure in 2012

There are indications that in 2012 Texas employers faced modest premium pressures when compared to the declines between 2004 and 2008. While the majority of subscribing employers of all sizes experienced decreases or no changes in their premiums in 2012 (see Figure 8.2), the percentage of those employers reporting increases in their workers' compensation premium has grown after 2008. As Figure 8.3 shows, more than 30 percent of subscribing employers of all sizes experienced premium increases in 2012, compared to 26 percent in 2010 and less than 25 percent in 2008.

Overall, approximately 60 percent of all subscribers experienced either decreases or no changes in their premium in 2012, compared to 74 percent in 2010.

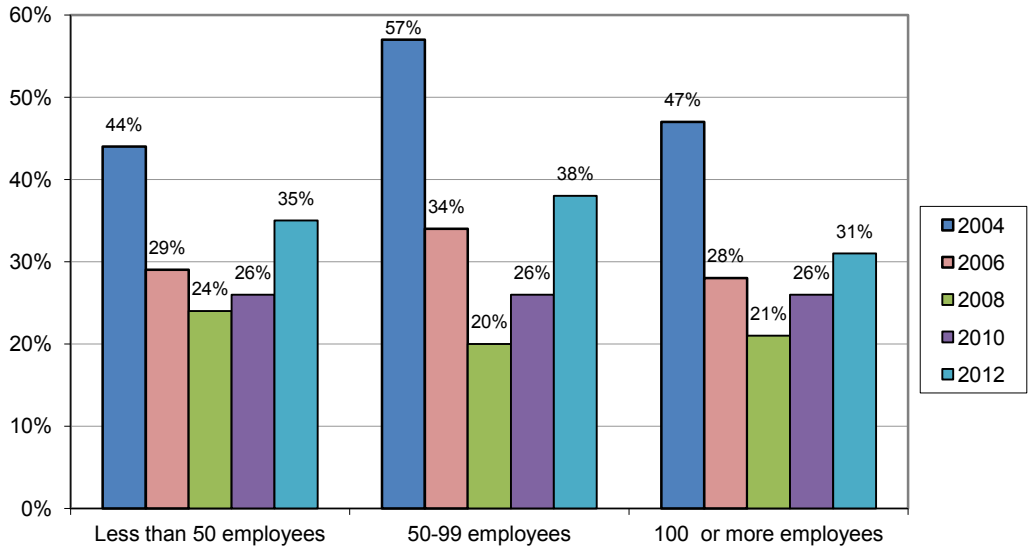
It is not clear from the survey if these premium increases reported are the result of increased workers' compensation rates or the result of payroll increases resulting from the ongoing economic recovery in Texas or both. However, it should be noted that mid-2006, some insurance companies started offering premium credits for participating in their workers' compensation health care network. See Section 2 of this report for information regarding the range of premium credits filed by numerous insurance companies, and whether premium credits are on the decline.

Figure 8.2: Percentage of Subscribers That Experienced an Increase, Decrease, or No Change in Their Premium, by Employer Size



Source: Survey of Employer Participation in the Texas Workers' Compensation System, 1995 estimates from the Texas Workers' Compensation Research Center and the Public Policy Research Institute (PPRI) at Texas A&M University; 1996 and 2001 estimates from the Research and Oversight Council on Workers' Compensation and PPRI; and 2004–2012 estimates from the Texas Department of Insurance, Workers' Compensation Research and Evaluation Group and PPRI.

Figure 8.3: Percentage of Subscribing Employers That Experienced an Increase in Their Workers' Compensation Premiums Compared to Previous Policy Years, by Employer Size



Source: Survey of Employer Participation in the Texas Workers' Compensation System, 1995 estimates from the Texas Workers' Compensation Research Center and the Public Policy Research Institute (PPRI) at Texas A&M University; 1996 and 2001 estimates from the Research and Oversight Council on Workers' Compensation and PPRI; and 2004–2012 estimates from the Texas Department of Insurance, Workers' Compensation Research and Evaluation Group and PPRI.

Other Types of Insurance Coverage Carried by Texas Employers

Although employer participation in the Texas workers' compensation system is the focus of this section of the report, it is important to note that there may be a general difference in the propensity of certain employers to carry various types of insurance coverage. As Table 8.5 indicates, in 2012 a slightly higher percentage of large subscribers than large (i.e., employers with 500 or more employees) nonsubscribers reported offering disability and commercial auto insurance benefits to their employees while a slightly higher percentage of large nonsubscribers provided general health insurance and voluntary accidental death and dismemberment insurance coverage to their employees.

However, this reflects a sharp increase in the percentage of large nonsubscribers that offered each of the insurance coverages to their employees. The percentage of nonsubscribers offering disability insurance to their employees increased from 57 percent in 2008 to 84 percent in 2012, while the percentage of subscribers offering the same coverage increased from 77 percent to 87 percent over the same period.

Industry differences affect the likelihood of an employer offering certain insurance benefits to employees or purchasing various types of insurance coverage, but it is important to note that employers' decisions to be nonsubscribers are likely part of broader decisions these employers make regarding their insurance needs.

Table 8.5: Other Types of Insurance Coverage Carried by Large (500 or more Employees) Texas Employers

Type of Insurance Coverage	2008		2010		2012	
	Subscriber	Non-subscriber	Subscriber	Non-subscriber	Subscriber	Non-subscriber
General health insurance for employees (excluding dental or vision insurance coverage)	86%	68%	90%	91%	95%	97%
Life insurance for employees	83%	56%	87%	83%	92%	91%
Disability insurance for employees (short-term or long-term or both)	77%	57%	84%	78%	87%	84%
Voluntary accidental death and dismemberment insurance (A, D &D)	73%	62%	72%	70%	83%	85%
General liability insurance (to protect your company against liability for bodily injuries that might occur on your premises)	92%	76%	87%	91%	95%	87%
Property insurance	83%	75%	84%	91%	90%	94%
Commercial auto insurance	79%	60%	80%	76%	84%	81%

Source: Survey of Employer Participation in the Texas Workers' Compensation System, Public Policy Research Institute at Texas A&M University, and the Texas Department of Insurance, Workers' Compensation Research and Evaluation Group, 2012.

HB 7 Reforms and Employers' Perceptions of Economic Development in Texas

A required element of TDI evaluation of the impact of the HB 7 reforms on the affordability and availability of workers' compensation insurance is an analysis of the reforms' effect on economic development. Given the low level of employer knowledge about these reforms seen in previous years, it is not surprising that a great majority (between 74 and 79 percent) of Texas employers in 2012 said the reforms had no impact on their business decisions (see Table 8.6).

However, the percentage of employers reporting that the reforms had a positive effect on their economic decisions has doubled since 2010. The percentage of employers who reported that the reforms positively affected their decisions to hire more employees increased from 5 percent in 2010 to 13 percent in 2012. Likewise the percentage of employers who reported that the reforms positively affected their decisions to expand operations in Texas (13 percent) and to purchase or maintain workers' compensation coverage (18 percent) showed measureable increases over the 2010 results.

The economic-development impact of the HB 7 reforms appears to be primarily dependent on employer knowledge about the key component of these reforms, particularly workers' compensation health care networks.

In 2010, 60 percent of Texas employers reported they were not knowledgeable about the availability of workers' compensation health care networks. Previous surveys also showed that employers who reported they were extremely knowledgeable about the availability of workers' compensation health care networks under HB 7 were much more likely to report that they would be more willing to hire more employees, expand business operations in Texas, and to purchase or maintain workers' compensation coverage than employers who were somewhat or not knowledgeable at all about the workers' compensation health care network provisions in HB 7.

While TDI will continue to monitor the impact of the HB 7 reforms in future reports, recent survey results indicate that expanded employer education efforts about key aspects of the HB 7 reforms can positively impact employers' business decisions in Texas.

Table 8.6: Impact of the 2005 Workers' Compensation Reforms on Texas Employers' Business Decisions

Employers' Decisions	Percent of All Employers Surveyed								
	Positive			Negative			No Change		
	2008	2010	2012	2008	2010	2012	2008	2010	2012
Employer's plan to hire more employees	6%	5%	13%	2%	3%	8%	92%	92%	79%
Employer's plan to expand business operations in Texas	9%	6%	13%	7%	2%	3%	89%	91%	78%
Employer's decision to purchase or maintain its workers' compensation coverage	14%	10%	18%	10%	2%	8%	84%	87%	74%

Source: Survey of Employer Participation in the Texas Workers' Compensation System, Public Policy Research Institute at Texas A&M University, and the Texas Department of Insurance, Workers' Compensation Research and Evaluation Group, 2012.

Nonsubscribers' and Subscribers' Satisfaction with Their Programs

While the gap in overall satisfaction levels between nonsubscribers and subscribers narrowed after 2006, for the first time in recent surveys and across all measures, subscribing employers in 2012 reported higher satisfaction levels with their workers' compensation coverage than nonsubscribers with their alternative occupational benefit programs (see Table 8.7).

On their perceptions of benefit adequacy and value, subscribers reported satisfaction levels as much as 15 percentage points higher than nonsubscribers. Seventy-two percent of subscribers reported that they were overall, extremely or somewhat satisfied compared to 63 percent for nonsubscribers.[38]

Overall, employer satisfaction levels vary by employer size. Gaps in satisfaction between nonsubscribers and subscribers became more pronounced as the size of the employer increased. Sixty-three percent of nonsubscribers with 100 or more employees indicated that they were extremely or somewhat satisfied with their experience as nonsubscribing employers, compared to 71 percent of large subscribers (see Figure 8.4). This satisfaction gap between large nonsubscribers and large subscribers might partially explain the increase in subscription rates among large employers who opted into the workers' compensation system since 2008 (see Table 8.1). However, satisfaction alone may not be the overriding factor in employers' decisions to be subscribers or nonsubscribers in the workers' compensation system.

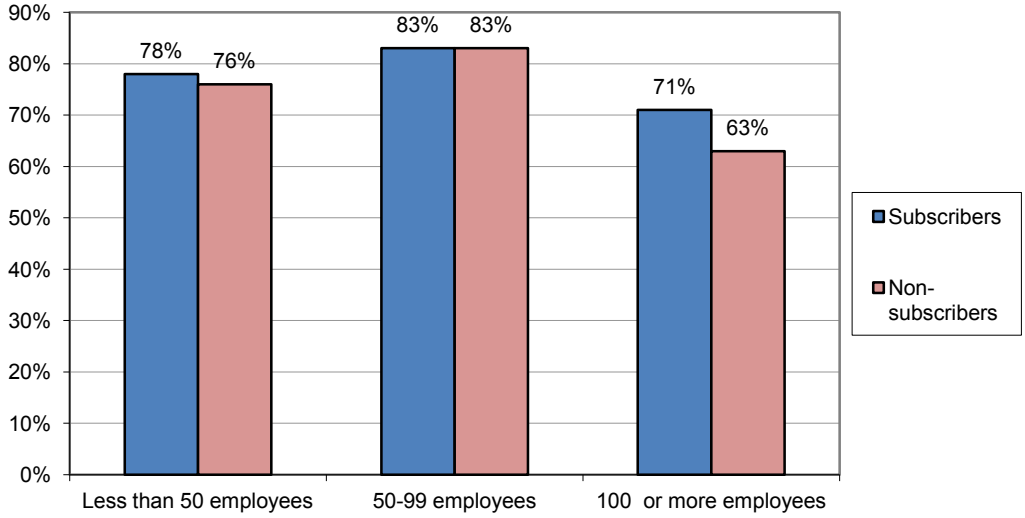
[38] Complete results from the *Employer Participation in the Texas Workers' Compensation System: 2012 Estimates* are available at www.tdi.state.tx.us/reports/report9.html.

Table 8.7: Percentage of Employers That Indicated They Were Extremely or Somewhat Satisfied with Their Programs

Areas of Satisfaction	2006		2008		2010		2012	
	Sub-scriber	Non-sub-scriber	Sub-scriber	Non-sub-scriber	Sub-scriber	Non-sub-scriber	Sub-scriber	Non-sub-scriber
Overall Satisfaction	56%	70%	61%	69%	59%	68%	72%	63%
Adequacy of occupational benefits paid to injured workers	53%	66%	53%	62%	54%	60%	61%	47%
Whether workers' compensation or occupational benefits plan is a good value for company	54%	73%	56%	69%	58%	68%	73%	58%
Ability to manage medical and wage replacement costs	50%	63%	50%	68%	48%	65%	62%	54%

Source: Survey of Employer Participation in the Texas Workers' Compensation System, Public Policy Research Institute at Texas A&M University, and the Texas Department of Insurance, Workers' Compensation Research and Evaluation Group, 2012.

Figure 8.4: Percentage of Employers That Indicated They Were Extremely or Somewhat Satisfied, by Employer Size



Source: Survey of Employer Participation in the Texas Workers' Compensation System, Public Policy Research Institute at Texas A&M University, and the Texas Department of Insurance, Workers' Compensation Research and Evaluation Group, 2012.

Summary

Overall, the 2012 employer survey reflects slight changes to the subscription rates in the Texas workers' compensation since 2010. The subscription rate among employers decreased one percent to 67 percent, while the percent of employers covered in the workers' compensation system decreased two percent, from 83 percent to 81 percent.

These 2012 rates are among the highest subscription rates for employers and employees since Texas conducted the first survey in 1993.

Subscribers cite the option to participate in workers' compensation networks and their concerns about lawsuits among their primary reasons for opting into the system. However premium experience might also contribute to subscribing trends. While 32 percent of nonsubscribers cite high premiums as their primary reason for opting out in 2010, that percentage fell to 23 percent in 2012. Almost 70 percent of subscribers continue to experience either premium decreases or no premium changes from previous years.

While subscribers report that the network option under HB 7 was their primary reason for subscribing, previous surveys show that less than 10 percent of Texas employers are knowledgeable about the 2005 legislative reforms, including the availability of workers' compensation health care networks. There is some evidence that employers knowledgeable about the reforms view them as having a positive impact on their decisions to hire more employees, expand business operations in Texas, and purchase or obtain workers' compensation coverage. Over all, the percentage of employers reporting that the reforms had a positive effect on their economic decisions has doubled since 2010.

Given the uncertain economic climate and pending federal health care reforms that employers face, it is difficult to isolate fully the impact of the recent HB 7 reforms on employer decisions to obtain workers' compensation coverage or opt out of the system. Yet, subscribing employers report favorably on the network option and their satisfaction levels with key areas has improved since 2006. For the first time in recent surveys, subscribing employers report higher overall satisfaction levels than nonsubscribers.