

Impairment Rating Trends in the Texas Workers' Compensation System

**Research and Oversight Council
on Workers' Compensation**

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Executive Summary

One of the key changes effected by the 1989 workers' compensation reform in Texas was the way that benefits are determined for a worker who sustains a permanent partial disability. Under the new law, these benefits are known as Impairment Income Benefits (IIBs) and are based on: 1) the injured worker's degree of physical impairment, and 2) the worker's pre-injury weekly wage. The degree of physical impairment is expressed as an "impairment rating" that is determined by a health care provider.

Although most permanently impaired workers receive only one impairment rating, multiple ratings can occur if the initial rating is disputed or if there is disagreement over other claim issues (e.g., whether the worker has reached Maximum Medical Improvement). Differences in impairment ratings for the same injury can affect the amount of income benefits the injured worker receives, and/or whether the worker is eligible for other benefits (i.e., Supplemental Income Benefits, which may be available to workers with a 15 percent impairment rating or higher). Besides the cost issues involved in these determinations, multiple impairment ratings generate additional administrative costs to the workers' compensation system as a whole.

This study examines the impairment rating process to assess the prevalence of multiple impairment ratings for the same injury, disparities in multiple impairment ratings, and the length of time between the first and last rating given to injured workers. Key findings include:

- Most workers (80.5 percent) in the study population of 807,537 workers received only one impairment rating.
- The number of claims with multiple impairment ratings has been declining during recent years.

- A significant number of the cases with multiple impairment ratings for the same injury showed disparities of 5 percent or greater:
 - almost one-quarter (24 percent) of the injured workers with multiple impairment ratings had no difference between the first and last impairment rating;
 - one-third (29 percent) had a difference of 5-10 percentage points between the first and last impairment rating; and
 - 14 percent had a difference of 10 percentage points or more.

Disparities of this magnitude are especially significant considering that an impairment rating of 15 percent or higher may qualify the injured worker for SIBs.

- The largest differences between first and last impairment ratings occur when an insurance carrier's doctor assigns the first rating.
- In cases of multiple impairment ratings, the average length of time between the first and last impairment rating examination is 177 days (almost six months).
- Variations exist in the differences between the first and last impairment rating assigned to an injured worker over time. The doctor-type combination with the least fluctuation over time was the treating/"other" doctor combination, while the combination with the most fluctuation over time was the insurance/designated doctor combination.

Although multiple impairment ratings occurred infrequently in the study population and appear to be declining over time, a significant percentage of claims with multiple impairment ratings examined in this study (over 40 percent) had a greater than 5 percentage point difference in the first and last impairment rating assigned. These discrepancies in impairment ratings are magnified even further when different types of doctors assign these ratings (particularly when the insurance doctor performs the first impairment rating examination).

Unnecessary multiple impairment rating examinations and discrepancies in impairment ratings can result in significant costs for all system participants, including injured workers, who rely on accurate impairment ratings as the basis of their IIBs. Further research and examination of the impairment rating process may be necessary to identify specific recommendations for improving the accuracy of impairment ratings and reducing the number of multiple impairment rating examinations as well as the timeframe for these examinations. However, specific improvements to the process can be achieved currently:

- Quality reviews of impairment ratings assigned to injured workers could be initiated now to identify individual examining doctors who may warrant additional monitoring and scrutiny.
- Communication could be improved between the injured worker, treating doctor, and insurance doctor to eliminate unnecessary examinations based on a lack of information.
- Insurance carriers could be encouraged to use the designated doctor process for additional impairment rating opinions rather than requesting additional required or independent medical examinations.
- Data collection could be improved to reduce the number of duplicative TWCC-69 forms (“Report of Medical Evaluation”) submitted to TWCC and identify which impairment rating was determined to be the “final” rating for the worker.

Section I: Introduction

Prior to the workers' compensation reforms of 1989, income benefits for injured workers with permanent partial disability were determined by either an established benefits schedule for specific types of injuries or a calculation of the worker's loss of wage earning capacity (i.e., an injured worker's ability to work taking into account factors such as the worker's age and occupation). However, the subjective nature of determining an injured worker's loss of wage earning capacity was thought by many to increase system costs through higher levels of litigation and variation in benefits.¹

In contrast to the pre-reform system, permanent partial benefits (referred to as Impairment Income Benefits or IIBs) under the current law are based on the injured worker's degree of physical impairment and pre-injury weekly wages. Physical impairment under the current law is determined by relying on objective medical evidence through the use of the American Medical Association's *Guides to the Evaluation of Permanent Impairment* (third edition, second printing, 1989) (*AMA Guides*).² This calculation is known as an impairment rating. Impairment ratings are, in turn, used to calculate the amount of IIBs an injured worker receives.

¹ Under the old law, workers could have been determined to have a large or total loss of earning capacity even though they had gone back to work. Difficulty in returning to work at the same pay and/or enhanced possibility of future job loss could be considered when determining loss of wage earning capacity. See Peter S. Barth, Richard B. Victor and Stacey M. Eccleston, *Workers' Compensation in Texas: Administrative Inventory*, Workers' Compensation Research Institute (1989) and Peter S. Barth and Stacey M. Eccleston, *Revisiting Workers' Compensation in Texas*, Workers' Compensation Research Institute (1995).

² House Bill 2510, passed by the 76th Legislature (1999), gave the Texas Workers' Compensation Commission (TWCC) the authority, by rule, to move from the third edition (second printing) of the *AMA Guides* to the fourth edition.

Even with the emphasis on objective medical evidence, problems still exist in the determination of impairment within the Texas workers' compensation system. Research has demonstrated that in claims involving multiple impairment ratings, there are significant variations in impairment ratings given by treating doctors, insurance carrier doctors conducting independent or required medical examinations (IMEs or RMEs), and designated doctors assigned by the Texas Workers' Compensation Commission (TWCC).³ The research found that on average, insurance doctors assign lower impairment ratings than designated and treating doctors for the same injury.

Multiple impairment ratings and discrepancies in impairment ratings among doctor types can affect all participants in the Texas workers' compensation system. Insurance carriers may incur additional expenses and pass the costs on to employers through higher premiums; injured workers may be assigned inaccurate impairment ratings, which could affect the amount of income benefits they receive; and the workers' compensation administrative dispute resolution system may be required to resolve impairment rating disputes which could increase system administration costs and delay an injured worker's receipt of income benefits.

The purpose of this analysis is to examine the impairment rating process in the Texas workers' compensation system with the goal of identifying possible areas for improvement. This analysis will attempt to accomplish this task by answering the following questions:

³ See Research and Oversight Council on Workers' Compensation, *An Analysis of Texas Workers with Permanent Impairment* (1996); and "Discrepancies in Impairment Ratings by Types of Doctors," *Texas Monitor* 1, No. 4 (1996). In technical terms, if an insurance carrier requests that an injured worker be examined by its doctor and the injured worker agrees, the examination is called an "independent medical examination" or IME. If the injured worker does not agree to see the insurance doctor, the insurance carrier can request that TWCC order the injured worker to see its doctor. This ordered examination is

- To what extent do multiple impairment ratings and disparities in impairment ratings occur in the system?
- What is the average length of time between the first and last impairment rating examination for workers with multiple impairment ratings?

Data and Methodology

Information on impairment ratings was obtained from the TWCC Research database. The study population consisted of 807,537 injured workers with impairment ratings. The workers in this population sustained injuries between 1991 through 1998. Information on the type of doctor assigning an impairment rating has been collected by TWCC only since July 1, 1994; consequently, the portion of this report concerning doctor types is limited to 320,384 injured workers with impairment ratings established from July 1, 1994 to January 1, 1997 (to allow sufficient time for these claims to reach the statutory limit for maximum medical improvement).

In addition to data analysis, system participants with extensive knowledge of the impairment rating process (TWCC Benefit Review Officers, Contested Case Hearing Officers, and other informed parties) were utilized to gain insight into the impairment rating process and how it might be improved.

Report Organization

Section I provides an introduction to the impairment rating process in Texas.

called a “required medical examination” or RME. However, for the purposes of this report, an examination by the insurance doctor is referred to as an RME.

Section II examines trends in multiple impairment ratings and disparities in impairment ratings.

Section III summarizes the report and provides policymakers with recommendations for further improving the impairment rating process in the Texas workers' compensation system.

Section II: Trends in Multiple Impairment Ratings and Disparities in Impairment Ratings

Overview of the Impairment Rating Process

The impairment rating process begins once an injured worker reaches maximum medical improvement (MMI). MMI is defined as the earlier of:

- “the earliest date after which, based on reasonable medical probability, further material recovery from or lasting improvement to an injury can no longer reasonably be anticipated; or
- the expiration of 104 weeks from the date on which benefits begin to accrue.”⁴

Once the injured worker has reached MMI, the doctor performing the examination assigns the injured worker an impairment rating using the *AMA Guides*. There are several types of doctors who can assign an impairment rating in the Texas workers’ compensation system:

1. **Treating doctor.** The treating doctor is the primary caregiver for injured workers, and is responsible for managing the injured worker’s health care. In Texas, an injured worker can select his or her treating doctor.
2. **Required Medical Examiner (RME).** The RME doctor is selected by either the insurance carrier or Texas Workers’ Compensation Commission (TWCC) to resolve

⁴ See *Texas Labor Code*, Section 401.011. Income benefits begin to accrue for an injured worker on the eighth day of disability. “For injuries occurring on or after January 1, 1998, the date of maximum medical improvement may be extended for injured workers who have had or will have spinal surgery within 12 weeks of the expiration of the 104-week period.” See *Texas Labor Code*, Section 408.104.

questions regarding the appropriateness of health care, degree of impairment, maximum medical improvement or similar issues.

3. **Designated doctor.** In the event of a dispute about an injured worker’s level of impairment or MMI status, TWCC directs the worker to be examined by a designated doctor, chosen by mutual agreement of the parties involved. If there is not mutual agreement, TWCC will appoint one. Among other requirements, a doctor must complete training in the use of the *AMA Guides* to be on TWCC’s designated doctor list. The designated doctor’s decision carries “presumptive weight.”⁵
4. **“Other” doctor.** This category refers to consulting, referral, or other doctors licensed and authorized to examine injured workers for compensable injuries.

If the injured worker receives an impairment rating greater than 0 percent, the injured worker will receive three weeks of Impairment Income Benefits (IIBs) for each percentage point of whole body impairment. For example, if an injured worker receives an impairment rating of 8 percent, then that injured worker would receive IIBs for 24 weeks. Weekly IIBs are calculated at 70 percent of the worker’s average weekly wage before the injury. The maximum weekly benefit for IIBs is 70 percent of the state average weekly wage.⁶ In addition to receiving IIBs, an injured worker with an impairment rating of at least 15 percent may qualify for the next level of income benefits, Supplemental Income Benefits (SIBs), if he or she meets additional eligibility requirements.⁷

⁵ See TWCC Rule 126.10 and 130.6.

⁶ The state average weekly wage equals the annual average of the average weekly wage for manufacturing production workers in the state. See *Texas Labor Code*, Section 408.047.

⁷ SIBs are available to injured workers with an impairment rating of at least 15 percent who have not returned to work or have returned earning less than 80 percent of their pre-injury average weekly wage; have not elected to receive their IIBs in a lump-sum payment; and have made a “good faith effort” to find work. See *Texas Labor Code*, Section 408.142(a).

Number of Impairment Rating Examinations per Injured Worker

Past research conducted by the Research and Oversight Council on Workers' Compensation (ROC) showed that most injured workers with impairment ratings receive only one impairment rating.⁸ This study reaffirms that finding (see Table 1).

Overall, the majority of injured workers in the study population for this report (80.5 percent) received only one impairment rating during the course of their injury. Not surprisingly, however, injured workers receiving income benefits were more likely to have undergone several impairment rating examinations than injured workers who received only medical treatment.

Table 1: Number of Impairment Ratings Received for Claims with at Least One Impairment Rating for Injury Years 1991 to 1998

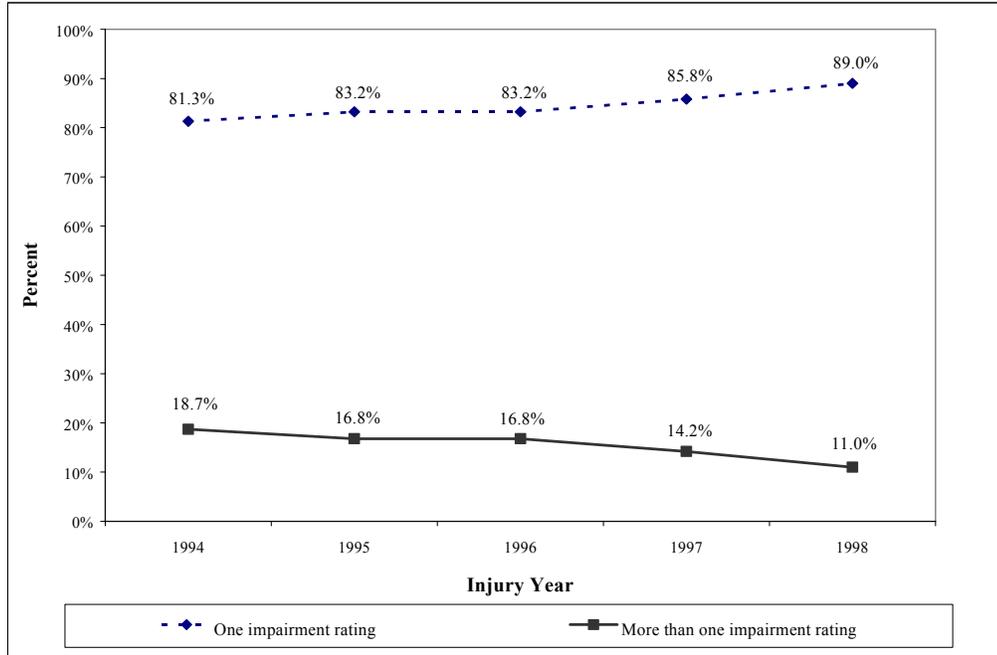
Number of Impairment Ratings Received	All Claims	Income Benefits	Medical-Only
1	80.5 %	71.0 %	98.1%
2	14.3 %	21.0 %	1.8 %
3	4.0 %	6.0 %	0.1 %
4	1.0 %	1.4 %	0 %
5 or More	0.2 %	0.6 %	0 %

Source: Texas Workers' Compensation Commission Research database, as of December 1998.

The data also show that the proportion of injured workers with multiple impairment ratings is on the decline, from almost 19 percent of all claims with impairment ratings in 1994 to 11 percent in 1998 (see Figure 1).

⁸ See Research and Oversight Council on Workers' Compensation, *An Analysis of Texas Workers with Permanent Impairments* (1996). The study population included injured workers with impairment ratings of 8-14 percent.

Figure 1: Trends in the Frequency of Multiple Impairment Ratings by Year of Injury



Source: Texas Workers' Compensation Commission Research database, as of December 1998.

Note: 1991-1993 results were not included due to possible data entry errors.

Explanations for Multiple Impairment Ratings

Several possible explanations exist for the occurrence of multiple impairment ratings in the Texas workers' compensation system:

Impairment Rating Disputes. The most obvious reason for claims to have multiple impairment ratings is a dispute concerning the initial impairment rating. For example, an insurance carrier may dispute the impairment rating assigned to an injured worker by his or her treating doctor. As part of the dispute, the carrier may make its own reasonable assessment of the correct impairment rating using the worker's existing medical records or other medical evidence. The carrier may also request an RME examination.⁹ The

⁹ See TWCC Rule 130.5 (d).

carrier may also request that a designated doctor (chosen by either a mutual agreement between the injured worker and the insurance carrier or by TWCC) calculate the injured worker's impairment rating.

Disputes Regarding Maximum Medical Improvement (MMI). Multiple impairment rating examinations may also occur when there is a dispute concerning the injured worker's MMI date. For example, if an injured worker does not agree with the treating or insurance doctor's opinion that the injured worker is at MMI, the worker may request a designated doctor examination. An insurance carrier may also select a designated doctor if the carrier disputes the injured worker's MMI date and not the worker's impairment rating.¹⁰

Extraneous TWCC-69 forms. Some observers have noted a problem concerning the submission of duplicative TWCC-69 forms ("Report of Medical Evaluation"). The TWCC-69 form is completed by a doctor (i.e., treating, "other," RME, or designated) who is evaluating an injured worker's impairment rating or MMI status. The filing of extra copies does not actually generate an additional impairment rating, but rather the appearance of one in the data.

¹⁰ If the insurance carrier does dispute the worker's impairment rating and decides to make its own reasonable assessment of the worker's impairment by either requesting an RME exam or examining the injured worker's existing medical records, the carrier will also make a determination of the injured worker's MMI status as part of the assessment. A dispute over this MMI determination can be resolved by requesting a designated doctor examination. See TWCC Rule 130.6.

Impairment Rating Examinations by Doctor Type

The vast majority of injured workers in the study population received their first impairment rating from their treating doctor (85 percent), followed by “other” consulting/referral doctors (10 percent), and Required Medical Examiners (5 percent).¹¹

Seventy-eight percent of injured workers in the study population received their last impairment rating from their treating doctor, followed by designated doctors (12.2 percent), “other” consulting/referral doctors (7.4 percent), and Required Medical Examiners (2.5 percent) (see Table 2).¹²

Designated doctors become involved in determining impairment when there is disagreement between parties concerning the worker’s MMI status and/or the level of impairment. “Other” doctors can become involved in the impairment rating process when a treating doctor lacks the training or experience to calculate whole body impairment, and refers the worker to a specialist or more experienced doctor for the determination of impairment.

¹¹ For injury year 1996, injured workers were first rated by their treating doctor in 75,000 claims, compared to the “other” consulting or referral doctor (12,308 claims), and either an insurance carrier-selected or a TWCC-appointed RME (5,544 claims).

¹² For injury year 1996, injured workers received their last impairment rating from their treating doctor in 68,545 claims, compared to the designated doctor (12,553 claims), “other” consulting or referral doctor (8,836 claims), and either an insurance carrier-selected or a TWCC-appointed RME (2,918 claims).

Table 2: Distribution of First and Last Impairment Rating Assigned to Injured Workers by Doctor Type for Injury Years 1991-1998

First Impairment Rating Assigned			Last Impairment Rating Assigned		
Doctor Type	All Claims	Income Benefit Claims	Doctor Type	All Claims	Income Benefit Claims
Treating Doctor	85.3%	76.6%	Treating Doctor	78.0 %	64.8 %
Designated Doctor	0%	0%	Designated Doctor	12.2 %	20.3%
“Other” Doctor	10.2%	16.2%	“Other” Doctor	7.4 %	11.3 %
RME-Insurance Selected	4.4%	7.0%	RME-Insurance Selected	2.2 %	3.3%
RME-TWCC Selected	0.1%	0.2%	RME-TWCC Selected	0.3 %	0.4 %

Source: Texas Workers’ Compensation Commission Research database, as of December 1998.

As the data show, designated doctors and “other” doctors in the Texas workers’ compensation system more often play a role in claims involving income benefits, most likely due to impairment rating disputes and the complexity of the injuries.¹³

Average Difference Between First and Last Impairment Ratings

The average difference between the first and last impairment rating assigned to an injured worker was calculated for claims with multiple impairment ratings to examine how these ratings may differ for the same injury.

Overall, almost a quarter of claims with multiple impairment ratings had no difference between the first and last impairment rating for the same injury; a third (33 percent) had a 1-4 percentage point difference; almost a third (29 percent) had a 5-10 percentage point

¹³ There are essentially two types of claims in the Texas workers’ compensation system -- claims involving income replacement benefits, and medical-only claims. Medical-only claims are those in which the injured worker receives only medical treatment for the injury, and does not miss enough work (i.e., more than seven days) to qualify for income replacement benefits.

difference; and 14 percent had greater than a 10 percentage point difference between the first and last impairment rating (see Table 3).¹⁴

Table 3: Average Difference between the First and Last Impairment Ratings Received by Injured Workers with Multiple Impairment Ratings

Average Difference between First and Last Impairment Rating	Percent of Claims with Multiple Impairment Ratings
No difference	24%
1 to 4% difference	33%
5 to 10% difference	29%
Greater than 10% difference	14%

Source: Texas Workers' Compensation Commission Research database, as of December 1998.

Note: These differences are presented as absolute numbers. The analysis does not assume that the last impairment rating is always higher or lower than the first impairment rating. All claims in this analysis have two or more impairment ratings.

The order in which doctors assign impairment ratings appears to play an important role in determining the amount of difference between the first and last impairment rating. The largest differences occur when the insurance doctor is the first doctor to assign an impairment rating to the injured worker (see Table 4). Interestingly, when the treating doctor is the first to assign an impairment rating, the differences in impairment rating between doctor types decrease significantly. It is also important to remember that while discrepancies do occur when the insurance doctor assigns the first impairment rating, insurance carrier involvement is infrequent in the assignment of the first and last impairment rating relative to other doctor types in the Texas system.

¹⁴ The population for this analysis is the set of 320,384 claims established between July 1, 1994 and January 1, 1997.

Table 4: Average Difference in First and Last Impairment Rating by Doctor Type

First Doctor Type	Last Doctor Type	Average Difference	1994	1995	1996
Insurance	Other Doctor Type	-5.0%	-5.3%	-4.5%	-5.6%
Insurance	Designated Doctor	-4.6%	-5.2%	-2.5%	-5.6%
Insurance	Treating Doctor	-4.6%	-4.8%	-4.6%	-4.5%
Treating	Other Doctor Type	-3.0%	-3.0%	-2.9%	-3.1%
Treating	Designated Doctor	-0.5%	-1.4%	-0.8%	-1.3%
Treating	Insurance	0.3%	0.2%	0.8%	-0.3%

Source: Texas Workers' Compensation Commission Research database, as of December 1998.

Note: All claims in this analysis have two or more impairment ratings. Highlighted sections indicate the doctor-type combinations with the highest and lowest variations over time. A negative value indicates that the first impairment rating was lower than the last.

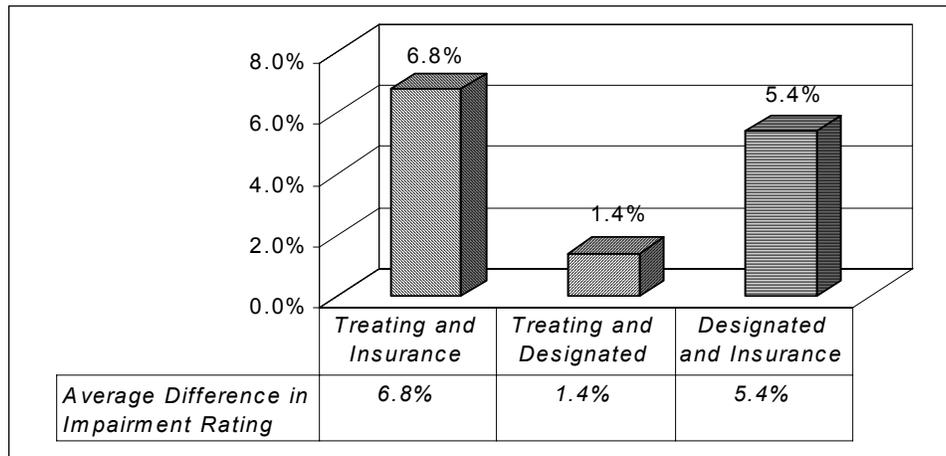
Previous research has demonstrated that differences exist in impairment ratings assigned by designated, treating, and insurance doctors for the same injury in the Texas workers' compensation system.¹⁵ The data from this study support that finding. Generally, treating and designated doctors tend to assign similar impairment ratings for the same injury, and tend to assign higher impairment ratings on average than insurance doctors. Treating doctors rate the same injury on average nearly 7 percentage points higher than insurance doctors, while designated doctors tend to rate the same injury roughly 5 percentage points higher on average than insurance doctors (see Figure 2). As previously mentioned, each percentage point represents three weeks of IIBs for the injured worker.

From injury year 1994 to injury year 1995, the data show a slight decrease in the difference between the first and last impairment rating assigned by doctor type, and a slight increase from injury year 1995 to injury year 1996 (with the exception of the treating/insurance doctor and the insurance/treating doctor combinations) (see Table 4).

¹⁵ This analysis included claims having impairment ratings from three doctor types: treating doctors, RME doctors, and designated doctors. See Research and Oversight Council on Workers' Compensation, "Discrepancies in Impairment Ratings by Types of Doctors," *Texas Monitor* 1, No. 4 (1996).

The least fluctuation over time occurred in cases where the treating doctor assigned the first rating and the “other” doctor assigned the last. The greatest fluctuation over time occurred when the insurance doctor assigned the first rating and the designated doctor assigned the last.

Figure 2: Average Differences in Impairment Ratings Among Treating, Insurance, and Designated Doctors



Source: Texas Workers' Compensation Commission Research database, as of December 1998.

Explanations for Differences in Impairment Ratings Among Doctor Types

There are several possible explanations for the patterns in impairment rating differences between doctor types. However, it should be noted that some variation may be due to differences in medical opinion between doctor types.

Experience Level. Doctors who are inexperienced or unfamiliar with the impairment rating process or the *AMA Guides* may be more likely to assign inaccurate impairment ratings than more experienced doctors. Texas does not require treating doctors or RME doctors to receive specific training in the use of the *Guides* before using them to evaluate an injured worker's level of physical impairment. Doctors are required, however, to

attend impairment rating training classes before serving as a designated doctor in a claim.¹⁶

Usage of AMA Guides. Discrepancies between impairment ratings may also be the result of a lack of specificity in certain areas of the *Guides*. Medical research has shown that different examiners using the *AMA Guides* to evaluate the impairment of an injured worker may calculate different impairment ratings for the same injury.¹⁷

Insurance Carrier RME Evaluations. The data show that the largest differences in impairment ratings occur when the insurance doctor is first to assign an impairment rating. Insurance companies may request an examination early in the benefit process for several reasons. The worker's medical records may show that the worker's medical condition has stabilized and the worker is either ready to return to work or is physically unable to return to any form of work; or there may be a lack of communication between the treating and insurance doctors regarding the medical progress of an injured worker. In contrast, some injured workers and treating doctors report that the carrier evaluation of impairment is often premature and could be significantly different than that of the treating doctor whose knowledge of the injury may be more complete. Some system participants suggest that premature evaluations may be caused by pressure on adjusters to close claims as soon as possible and to keep claim costs down.

¹⁶ See *Texas Labor Code*, Section 408.122 (b). It is important to note that some insurance carrier RME doctors and treating doctors also serve as designated doctors, and as a result many have received required training.

¹⁷ See Melissa McCarthy, et al. "Correlation between the Measures of Impairment According to the Modified System of the American Medical Association, and Function," *The Journal of Joint and Bone Surgery*, Vol. 80-A, No. 7 (July 1998); James R. Langworthy. "Evaluation of Impairment Related to Low Back Pain," *Journal of Medical Systems*, Vol. 17, Nos. 3/4 (1993); Wylie D. Lowery et al. "Impairment Evaluation Based on Spinal Range of Motion in Normal Subjects," *Journal of Spinal Disorders*, Vol. 5, No. 4 (1992); and Julie E. Nitschke et al. "Reliability of the American Medical Association Guides' Model for Measuring Spinal Range of Motion," *Spine*, Vol. 24, No. 3 (1999).

Financial Incentive to Assign Impairment Ratings. Another factor to consider in explaining impairment rating discrepancies is the role the doctor plays in determining income benefits for the worker. Some treating doctors may be inclined to assign higher impairment ratings to injured workers because they understand that a higher impairment rating results in more income benefits for the injured worker. Conversely, some carrier doctors may lean toward a lower impairment rating because it results in savings for the insurance company that hires them to conduct such evaluations.

Professional Differences. Differences in medical opinion between doctors as to the extent of a worker's injury may also lead to rating variations. One doctor who rates a worker suffering from a severe back sprain coupled with a degenerative disc condition might rate the impairment as limited to the effect of the sprain only, while another doctor might rate the impairment based on the combined effect of the two conditions. These rating differences could simply be the result of professional differences of medical opinion rather than any type of bias or deficiency in procedure.

The Average Length of Time from First to Last Impairment Rating

This section considers the length of time from the first to the last impairment rating.¹⁸ It is important to understand this timeframe because it represents possible financial uncertainty for the injured worker, whose income benefits could be withheld pending resolution of an impairment rating or MMI dispute. There are also additional administrative expenses associated with scheduling examinations and/or resolving disputes. Overall, in cases with multiple impairment ratings, it takes on average 177 days (roughly six months) from the date of the first impairment rating examination to the

¹⁸ Any data observations over the 99th percentile were eliminated from these calculations to reduce the effects of outliers on the results.

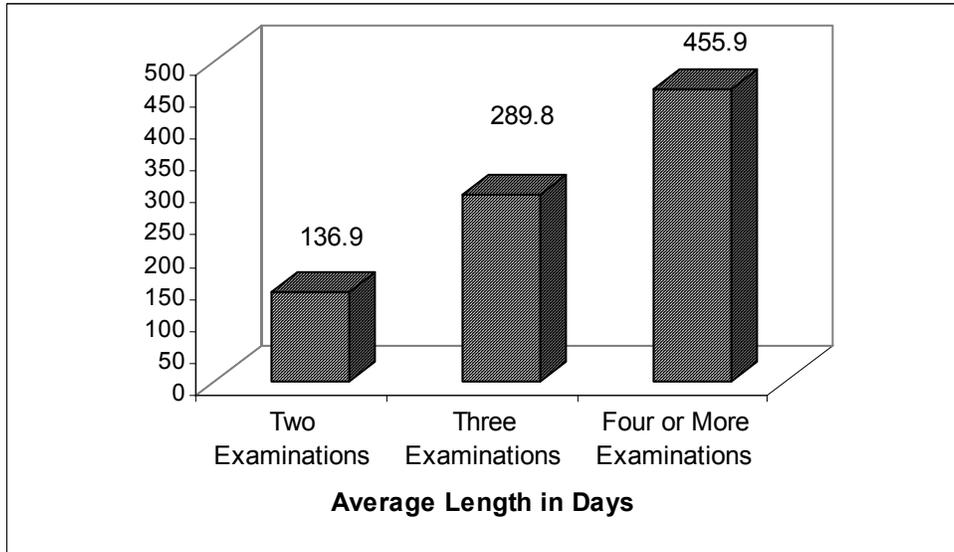
last.¹⁹ There is an additional impact on the timeframe if the dispute is over whether an injury is work-related (i.e., compensable), or concerns the extent of the work-related injury, since these kinds of disputes must first be resolved before any dispute over the worker's impairment rating or MMI status can be considered.

As expected, the length of time from the first to the last impairment rating is largely determined by the number of impairment ratings received by the injured worker. Even with just two impairment ratings, however, the average time from first to last impairment rating is still 137 days (roughly four months) (see Figure 3).

Again, doctor type plays an important role in determining the length of time in the impairment rating process. When the insurance doctor is the first doctor to assign an impairment rating, the average length of time increases from 177 to 191 days.

¹⁹ It should be noted that the average time from first to last impairment rating might actually be lower than 177 days. Some observers have noted that TWCC-69 forms continue to be submitted to TWCC after the final impairment rating has been calculated. However, it is not possible after examining the data to determine which rating, in these situations, should be excluded. Consequently, these additional examinations are included in the above calculations.

Figure 3: Average Number of Days from First to Last Impairment Rating Examination



Source: Texas Workers' Compensation Commission Research database, as of December 1998.

The Characteristics of Claims with Multiple Impairment Ratings

Several demographic, economic, and injury characteristics were examined as part of this analysis to determine how claims with multiple impairment ratings might differ from claims with only one impairment rating (see Table 5). In general, workers with multiple impairment ratings tended to be older, female, and have a back sprain or strain injury.²⁰

²⁰ It is important to note that there are several other factors such as the worker's occupation, employer industry type, tenure, geographic location, and the unemployment rate of the area in which the worker lives that are necessary in order to fully examine the differences between workers with one impairment rating and workers with multiple impairment ratings. These variables, however, were not available in the data at the time of analysis. Without further analysis using these additional variables, however, it is difficult to conclude why demographic differences exist between injured workers with one impairment rating and injured workers with multiple impairment ratings.

Table 5:
Characteristics of Claims with Multiple Impairment Ratings
Compared to Claims with Single Impairment Ratings

Characteristic	One Impairment Rating	Two or More Impairment Ratings
Back Injuries	21.6%	33.6%
Sprains/Strains	52.5%	67.7%
Age at Injury	37.5 years	39.7 Years
Gender (Female)	32.0%	38.4%
Weekly Wage	\$377.55	\$387.40

Source: Texas Workers' Compensation Commission Research database, as of December 1998.

Section III: Conclusion

Summary

The purpose of this analysis is to examine the impairment rating process in the Texas workers' compensation system with the goal of identifying possible areas for improvement. The study sought to accomplish this task by answering two questions:

1) To what extent do multiple impairment ratings and disparities in impairment ratings occur in the system?

Most injured workers in the study population (80.5 percent) received only one impairment rating, and the prevalence of claims with multiple impairment ratings has declined over time.

After examining claims with multiple impairment ratings, it appears that there are discrepancies between the first and last impairment rating assigned to the same injury. One-quarter (24 percent) of claims with multiple impairment ratings had no difference between the first and last impairment rating; one-third had a slight difference (of 1-4 percentage points); almost one-third (29 percent) had a 5-10 percentage point difference, and 14 percent had a difference of 10 percentage points or more.

Differences are also observed when the order of assignment among doctor types is taken into account. On average the largest differences between the first and last impairment ratings occur when the insurance doctor is the first to assign a rating.

Over time there are variations in the differences between the first and last impairment rating assigned to an injured worker. The doctor-type combination with the least

fluctuation over time was the treating/“other” doctor combination, while the combination with the most fluctuation over time was the insurance/designated doctor combination.

2) What is the average length of time between the first and last impairment rating examination by doctor type?

The average length of time from the first to the last impairment rating examination in the Texas workers’ compensation system is 177 days (roughly six months). However, there is significant variation when the number of impairment ratings and doctor type are considered.

Suggestions for Improvement

Although the impairment rating process implemented as a result of the 1989 reforms continues to improve, certain problem areas remain.

Multiple impairment ratings occurred infrequently in the study population and appear to be declining over time; however, a significant percentage of claims with multiple impairment ratings examined in this study (over 40 percent) had a greater than 5 percentage point difference between the first and last impairment rating assigned. Additionally, discrepancies in impairment ratings for the same injury exist among doctor types, especially when the insurance doctor performs the first impairment rating examination. However, insurance carrier doctors infrequently assigned the first or last impairment rating relative to other doctor types in the Texas system.

A lengthy impairment rating process involving repetitive examinations and disputes is inefficient for the system, and can result in significant costs for all system participants. Injured workers, who may experience financial difficulty as a result of an injury, may be

especially affected since each percentage point in their impairment rating equates to three weeks of IIBs.

To assist in the resolution of these problem areas, ROC staff make the following suggestions for improvement:

- Improve and increase impairment rating quality. Currently the Texas Workers' Compensation Act only requires that doctors attend training before they can assign an impairment rating as a designated doctor. Although it is not currently feasible to require that all doctors participating in the workers' compensation system attend training (this may place an undue burden on doctors who infrequently take workers' compensation cases and may discourage them from taking future cases), treating doctors and insurance doctors who assign impairment ratings should be required to attend impairment rating training. Increasing the number of doctors who are trained to assign impairment ratings may result in fewer claims with multiple impairment ratings, and promote more agreement between doctor types regarding the issue of impairment.

Additionally, TWCC should consider implementing quality reviews of impairment ratings. Quality reviews would ensure that the examining doctor properly applied the *AMA Guides*, considered all relevant injuries, reviewed all necessary patient records, and documented all impairment calculations. Quality reviews would also allow TWCC to identify impairment rating trends for individual examining doctors who may warrant additional monitoring and/or scrutiny.

- Improve communication between the injured worker, treating doctors and insurance doctors. Lack of communication between the injured worker, his or her doctor, and the insurance company is a potential source of friction during the impairment rating

process. If the insurance company feels that it needs additional information regarding the medical status of the injured worker, it may feel compelled to request an RME.

Increased communication should be encouraged between all parties in order to reduce the risk of impairment rating disputes, discrepancies in impairment ratings, multiple impairment ratings, and unnecessary examinations.

- Encourage insurance carriers to proceed directly to a designated doctor exam if the carrier believes another impairment rating opinion is needed. This recommendation contains two areas to consider:
 1. Proceed directly to a designated doctor exam if there is an impairment rating dispute. TWCC Rule 130.5 currently allows an insurance carrier to make its own reasonable assessment of an injured worker's impairment rating if the carrier disputes the worker's current rating. If an injured worker disputes the carrier's assessment of the impairment rating, then the injured worker may request a designated doctor exam to resolve the dispute. In addition, if the carrier decides not to make its own assessment, it may request a designated doctor exam to resolve the dispute.

To reduce the number of cases that have impairment ratings assigned by treating, insurance, and designated doctors, carriers should try to identify these types of cases early-on and request a designated doctor exam immediately if there is an impairment rating or MMI dispute. Although increasing the number of designated doctor exams is costly and may increase TWCC's administrative burden, this change may reduce the number and cost of unnecessary additional impairment rating examinations and as a result, lower overall costs.

2. Re-examine the current process to either identify steps that can be eliminated or timeframes that can be reduced. In order to reduce the timeframe from the first impairment rating to the last impairment rating assigned to an injured worker, it may be necessary to re-examine the entire impairment rating process including current timeframes for scheduling impairment rating examinations. Reducing these timeframes would help injured workers receive their IIBs in a more timely manner and reduce additional controversy that may arise when a long span of time exists between two impairment rating exams.
- Reduce extraneous TWCC-69 forms and improve data collection. Unnecessary form filings result in increased system and administrative costs. However, it is not known how often duplicate TWCC-69 forms (“Report of Medical Evaluation”) are submitted to the TWCC after the final impairment rating is calculated. Additionally, the existing data collection does not identify which impairment rating was determined to be the “final” rating for the worker. Efforts should be made to improve data collection to reduce the extraneous filing of forms and identify which impairment rating is final.