

Insurance Carrier Quarterly Meeting

August 26, 2020

1:30 p.m. to 3 p.m.

Agenda Items

- Welcome
- Office of Medical Advisor Update
- Compliance and Investigations Update
- EDI Update
- DD and Business Process Update
- Rule Project Update
- Telemedicine Update
- Data Call Update
- Hearings Update
- Q&A
- Closing

Welcome

Cassie Brown, Commissioner
Division of Workers' Compensation

Office of Medical Advisor Update

Mary Landrum, Director
Health Care Business Management

Quality of Care Complaints

- Calendar Year 2020
 - 59 complaints forwarded to OMA
(includes external complaints & internal referrals)
 - 91 complaints investigated by OMA
 - 54% closed with no action
 - 34% issued letters of education
 - 5% initiated a medical quality review
 - 7% referred to Enforcement

Source: Texas Department of Insurance, Division of Workers' Compensation, data as of 07/27/20

Medical Quality Reviews

- Calendar Year 2020
 - 2 reviews initiated
 - includes complaint, audit, or monitoring based reviews
 - assigned to MQRP members for review
 - 6 reviews concluded
 - 67% referred to Enforcement
 - 33% recommended other actions
(includes letters of education, referrals to medical licensing boards, and closures with no action)

Source: Texas Department of Insurance, Division of Workers' Compensation, data as of 07/30/20

OMA Enforcement Cases

Calendar Year 2020

- 13 OMA referrals received in Enforcement
- 9 OMA cases concluded by Enforcement
 - 2 consent orders/final orders
 - 5 warning letters
 - 2 other action
- 33 OMA cases pending in Enforcement
- 2 OMA cases pending at SOAH

Source: Texas Department of Insurance, Division of Workers' Compensation, data as of 07/27/20

Compliance and Investigations Update

Debra Knight, Deputy Commissioner
Compliance and Investigations

CY2020 Complaints

CY2020 - Complaints

1,053 Complaints Received

| | |
|-----|----------------------------|
| 72 | attendance |
| 307 | communications |
| 0 | fraud |
| 269 | indemnity benefit delivery |
| 254 | medical benefit delivery |
| 84 | other |
| 67 | quality of care |

1,408 Complaints Closed

| | |
|-----|-------------------------|
| 318 | confirmed |
| 448 | DWC education complaint |
| 642 | not confirmed |

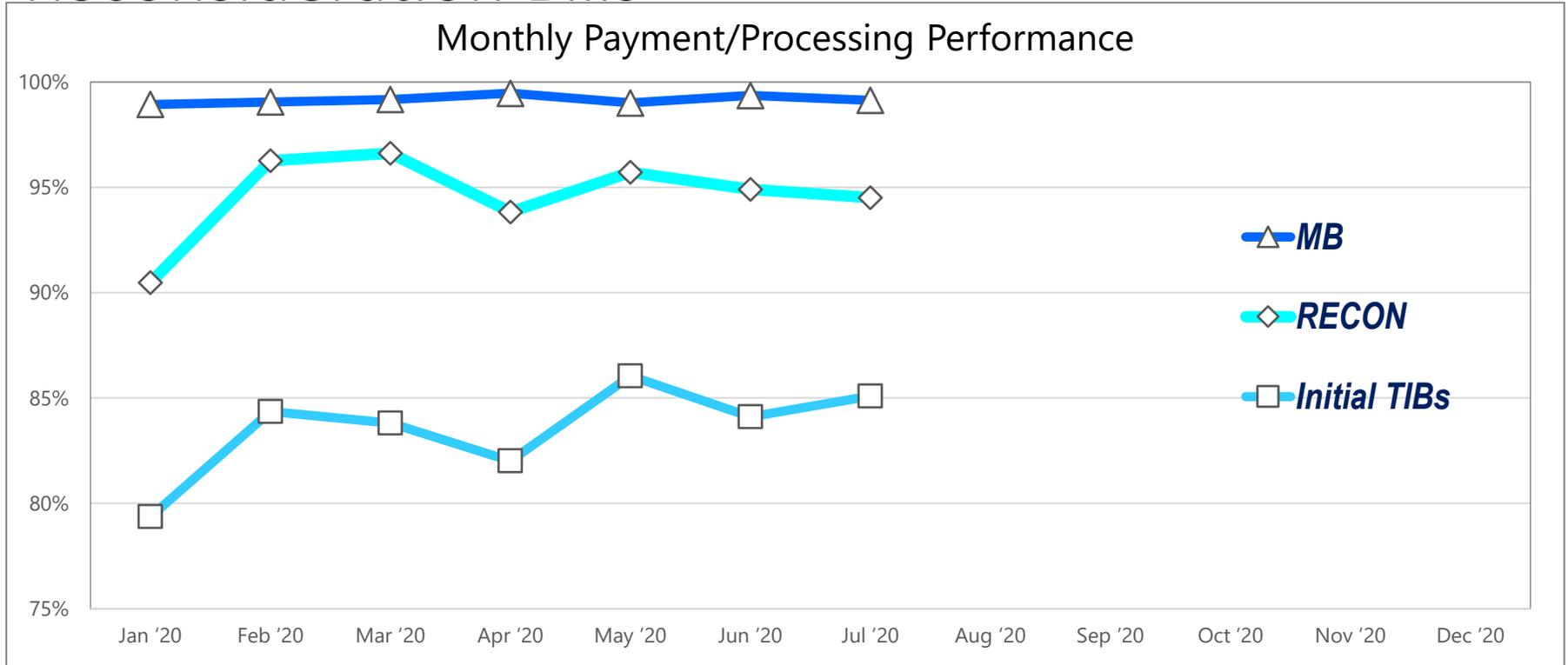
**Based on complaint data as of 8/3/2020*

2020 Complaint Volume by Month



System Performance

CY2020 – Payment of Initial Temporary Income Benefits (TIBs) and Processing of Medical & Reconsideration Bills

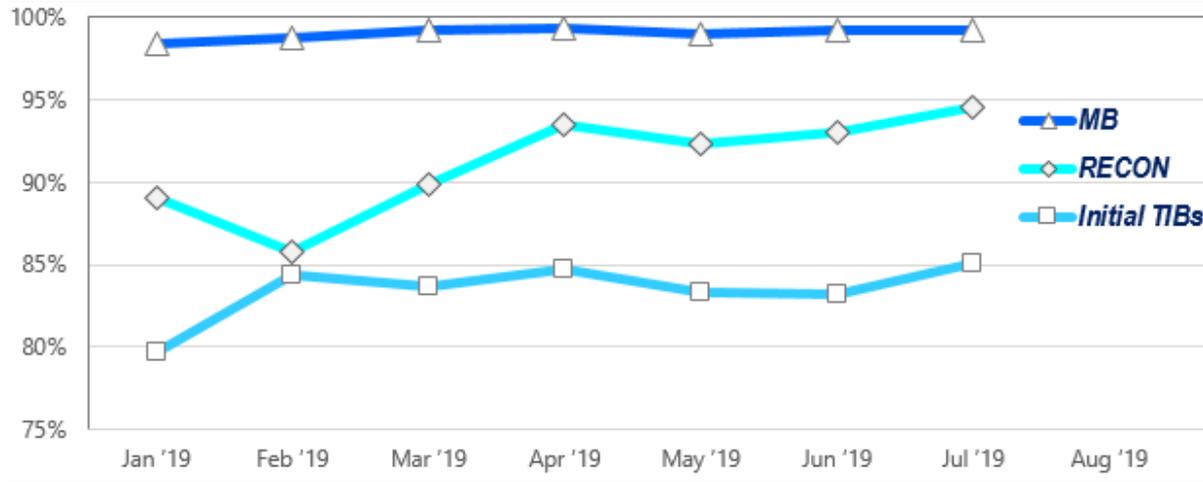


* Based on data as of 4/1/2020

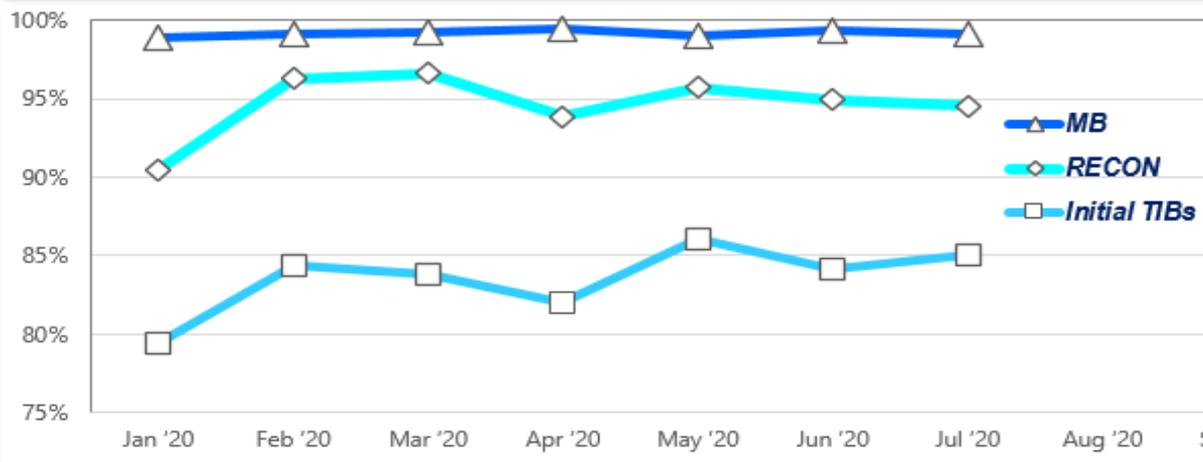
| Category | Jan '20 | Feb '20 | Mar '20 | Apr '20 | May '20 | Jun '20 | Jul '20 | Aug '20 | Sep '20 | Oct '20 | Nov '20 | Dec '20 |
|-------------------------------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|
| Medical Bill Processing | 98.94% | 99.06% | 99.18% | 99.47% | 99.01% | 99.37% | 99.14% | | | | | |
| Reconsideration MB Processing | 90.48% | 96.27% | 96.62% | 93.84% | 95.72% | 94.91% | 94.52% | | | | | |
| Initial TIBs Payment | 79.37% | 84.36% | 83.81% | 82.01% | 86.05% | 84.11% | 85.09% | | | | | |

Payment of Initial TIBs and Processing of Medical & Reconsideration Bills

CY2019

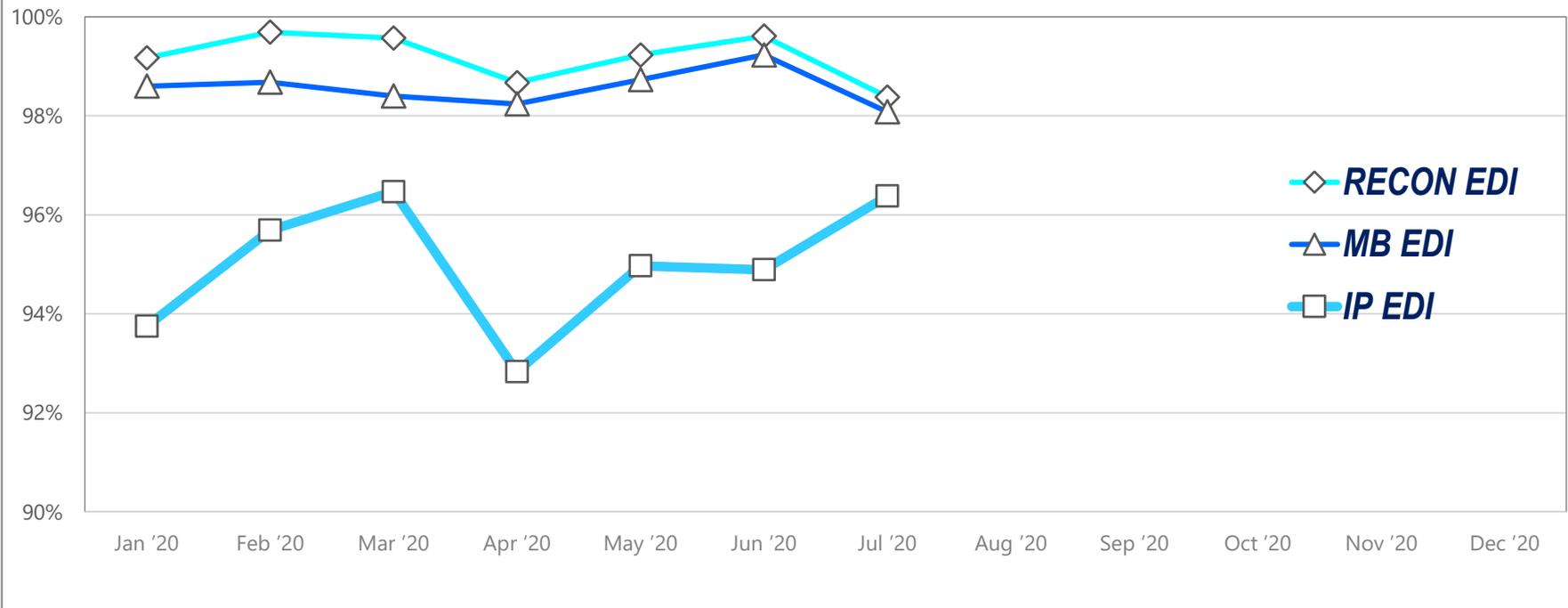


CY2020



CY2020 – EDI Reporting of Initial TIBs Payment, Medical Bill and Reconsideration

Monthly EDI Performance Per Category



* Based on data as of 4/1/2020

| Category | Jan '20 | Feb '20 | Mar '20 | Apr '20 | May '20 | Jun '20 | Jul '20 | Aug '20 | Sep '20 | Oct '20 | Nov '20 | Dec '20 |
|---------------------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|
| RECON EDI Reporting | 99.17% | 99.69% | 99.57% | 98.67% | 99.23% | 99.61% | 98.38% | | | | | |
| MB EDI Reporting | 98.60% | 98.68% | 98.40% | 98.24% | 98.73% | 99.23% | 98.08% | | | | | |
| IP EDI Reporting | 93.75% | 95.69% | 96.47% | 92.83% | 94.97% | 94.89% | 96.38% | | | | | |

2020 Performance Based Oversight (PBO)

2020 Performance Based Oversight

Assessment Selection

121 insurance carriers with 20+ initial payment of TIBs between January-June

Assessment Timeline

August 28, 2020 distribute preliminary findings

October 5, 2020 management response due

January 2021 distribute results

DWC Fraud

Fraud Definition

Per Black's Law Dictionary:

“Fraud includes any intentional or deliberate act to deprive another of property or money by guile, deception, or other unfair means.”

<https://www.acfe.com/fraud-101.aspx>

Fraud Schemes

Examples of fraud the DWC Fraud and Prosecution teams investigate:

- Billing for services not performed by attorneys and healthcare providers.
- Under reporting employees or misclassifying high risk employees in order to obtain lower premium rates.
- Working and drawing.
- Falsifying documents to keep from having to pay benefits.

CY2020 – DWOC Fraud Stats

889 fraud referrals received

137 fraud cases open*

781 fraud cases closed

2 fraud referrals for prosecution

**Based on data received as of 6/30/2020*

CY2020 – DWC Prosecution Stats

4 Indictments

- 3 healthcare provider
- 1 injured employee

**Based on data received as of 6/30/2020*

CY2020 – DWC Prosecution Stats

2 Convictions

- **1** employer
- **1** injured employee

**Based on data received as of 6/30/2020*

Enforcement Update

Enforcement Key Initiatives

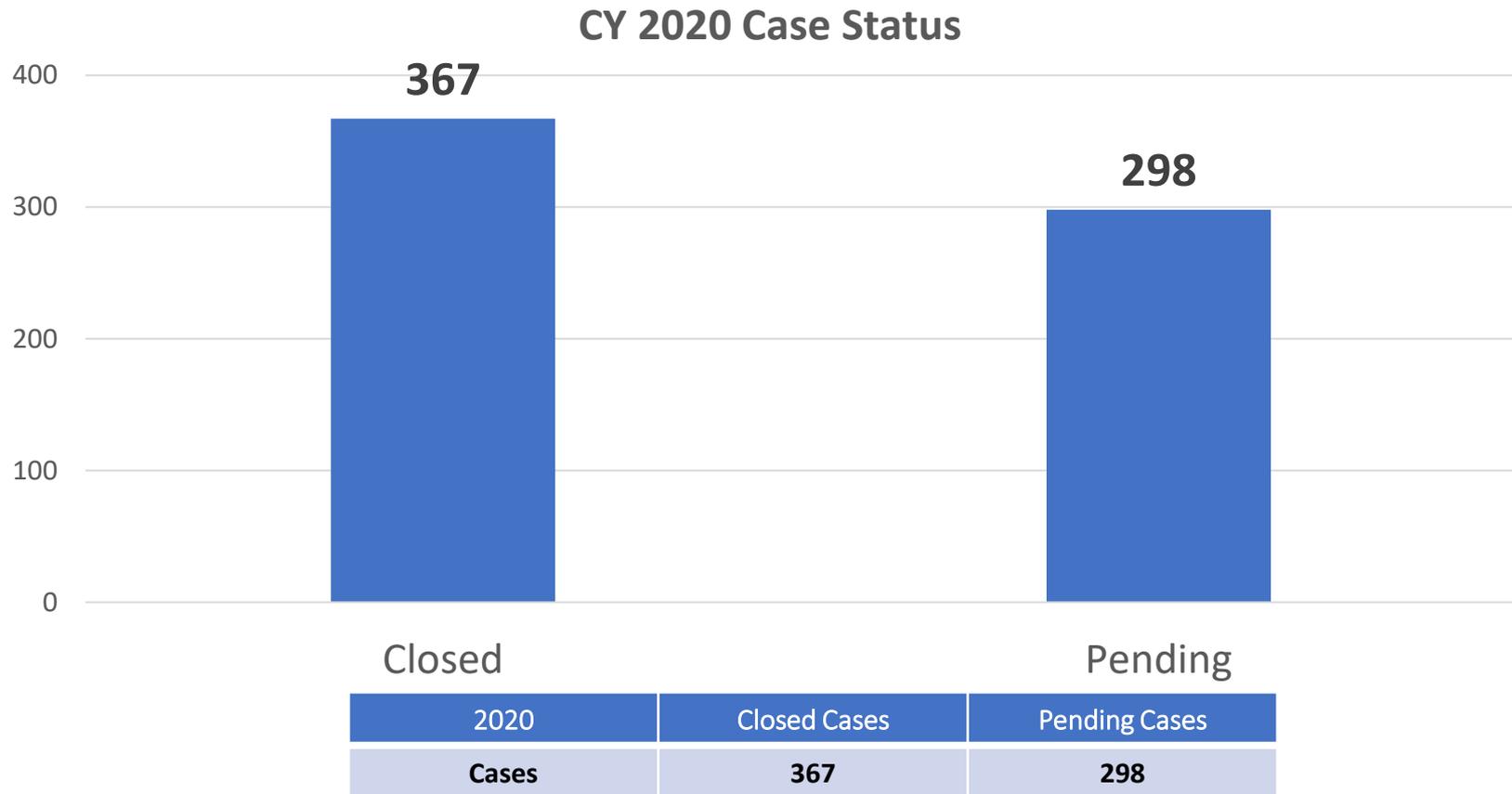
Strategies DWC Enforcement uses to improve efficiencies in market compliance and case processing:

- Using clear, express statutory authority for all enforcement cases.
- Informing workers' compensation stakeholders about compliance goals.
- Partnering with DWC program areas to foster compliance.
- Assisting the Office of the Medical Advisor.
- Providing swift, appropriate actions for statutory and rule violations.

Examples of Insurance Carrier Administrative Violations

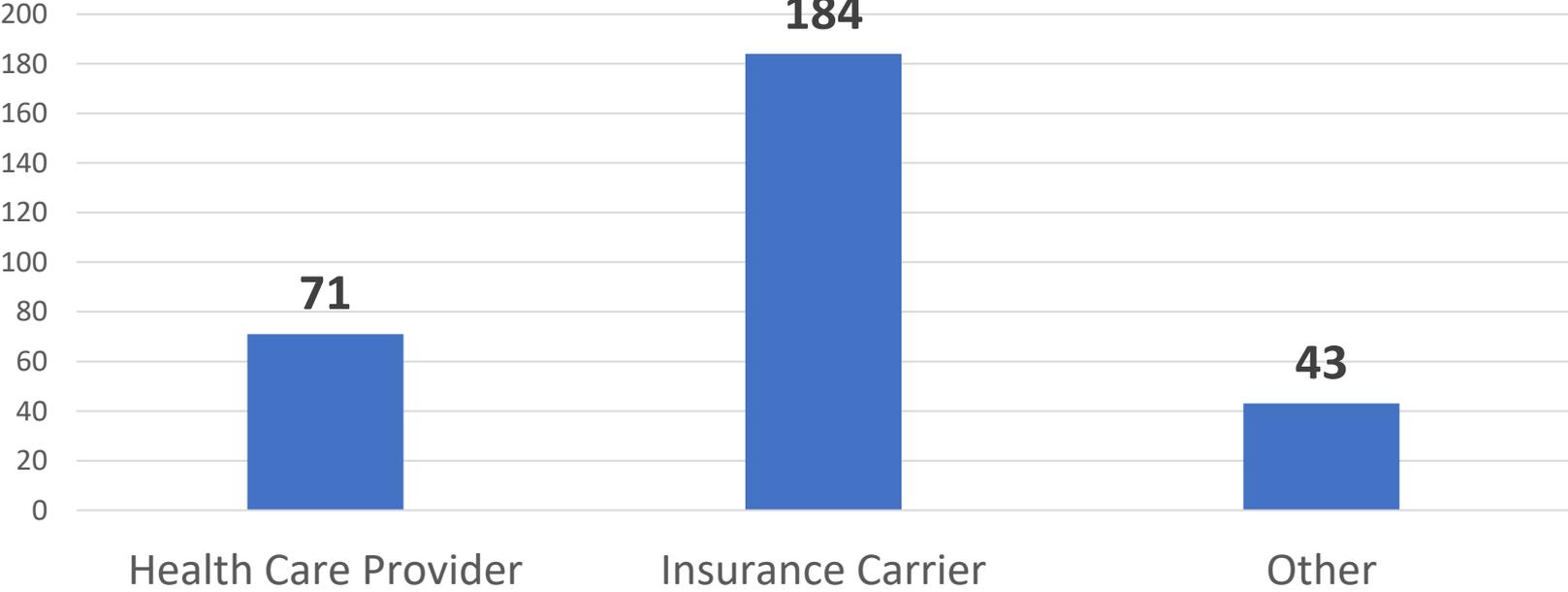
- Failure to pay timely indemnity benefits;
- Failure to initiate TIBS;
- Failure to accurately pay TIBS;
- Failure to investigate a claim;
- Attorney fee billing violations; and
- Failure to comply with medical fee dispute resolution (MFDR) or decision and order (D&O).

Enforcement Case Status for CY2020



Cases Pending by Subject Type as of July 31, 2020

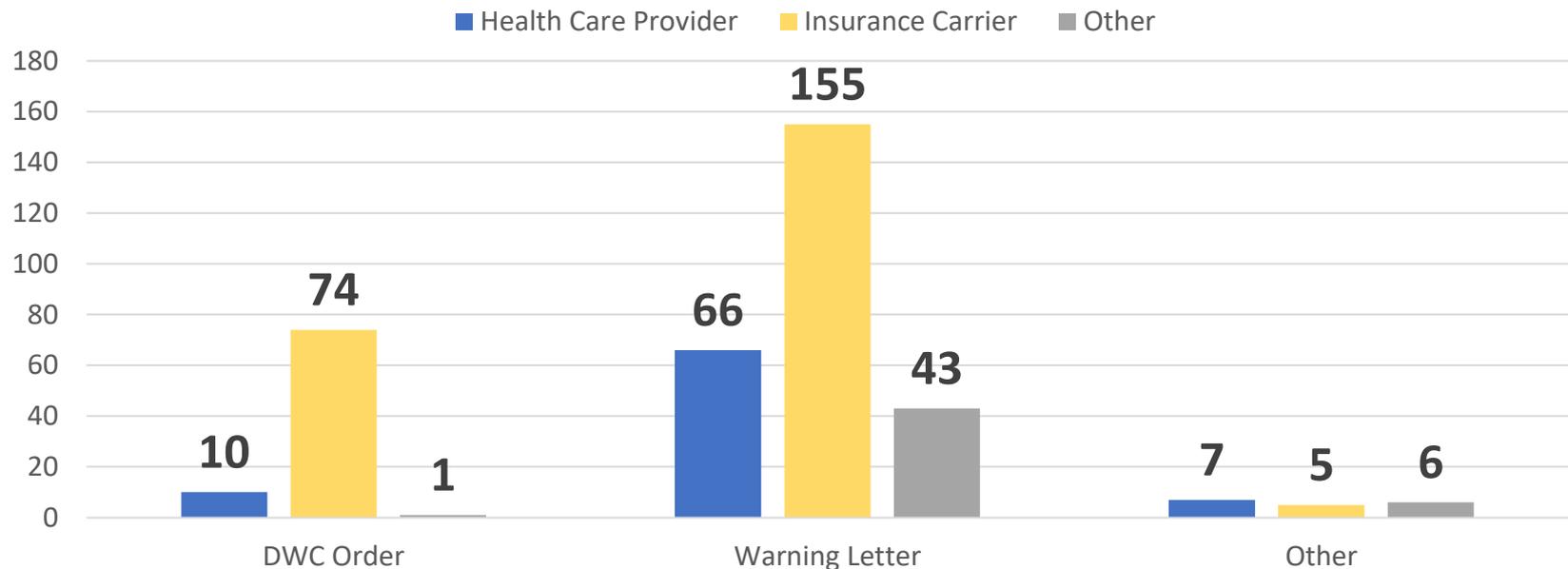
CY 2020 Cases Pending by Subject Type



| 2020 | Health Care Provider | Insurance Carrier | Other |
|--------------|----------------------|-------------------|-----------|
| Cases | 71 | 184 | 43 |

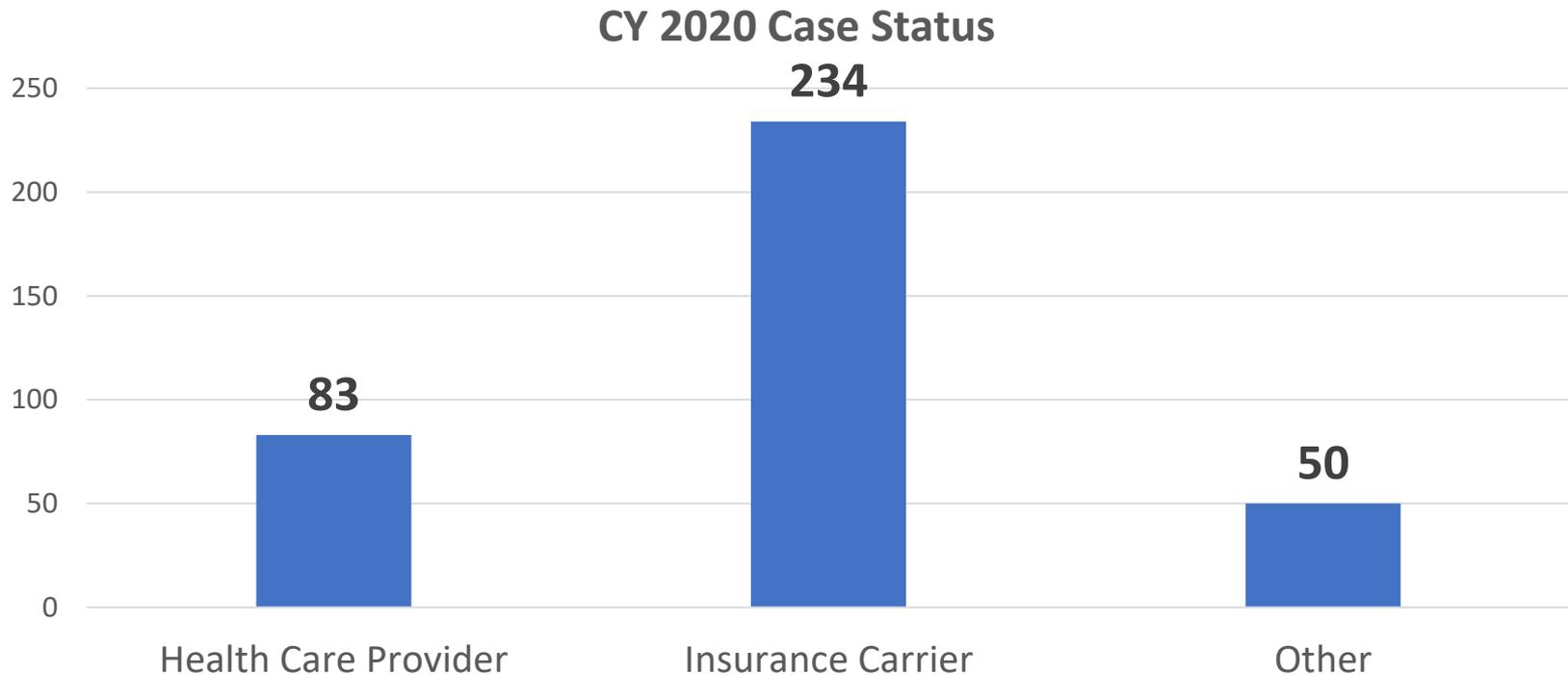
Cases Closed by Disposition Type for CY2020

CY 2020 Cases Closed by Disposition Type



| 2020 | Health Care Provider | Insurance Carrier | Other |
|----------------|----------------------|-------------------|-------|
| DWC Order | 10 | 74 | 1 |
| Warning Letter | 66 | 155 | 43 |
| Other | 7 | 5 | 6 |

Cases Closed by Subject Type for CY2020



| 2020 | Health Care Provider | Insurance Carrier | Other |
|--------------|----------------------|-------------------|-----------|
| Cases | 83 | 234 | 50 |

Questions?

Updates on Electronic Data Interchange (EDI)

Martha Luevano, Director
EDI Automation Services

Updates on EDI

- EDI Technical Workgroup Launch Update
 - Purpose and scope
- EDI Webpage Development
 - Review the resources on DWC's [EDI webpage](#)
 - Email suggestion to edisupport@tdi.Texas.gov
- EDI Topics
 - Highlight on certain filing requirements
 - Ongoing communication
 - DWC Form-121, *Claims Administration Contact Information*
- New Claims EDI Reporting Standard

EDI Topic – Highlight on Certain Filing Requirements

- Claims EDI – When a Plain Language Notice 1 (PLN01) is sent, an EDI “04” denial code transaction must be sent to DWC.
- Claims EDI – Changes to the injured employee’s last name, social security number, or date of injury cannot be made through an EDI transaction. Contact records_processing@tdi.texas.gov
- Medical EDI – Report a change of compliance coordinator or their contact information on DWC Form EDI-03, *Medical EDI Compliance Coordinator and Trading Partner Notification* within five days.

EDI Topic – Ongoing Communication

- Insurance carriers are urged to contact DWC EDI Support if they are having issues with data reporting.
- Contact EDI Support at edisupport@tdi.texas.gov
- Provide us with:
 - a description of the issue;
 - the date the issue was discovered;
 - the number of EDI records affected;
 - the corrective action that was or will be taken; and
 - the date the corrected records were or will be filed.
- EDI Support staff will respond and request any additional information if needed.

EDI Topic - DWC Form-121, *Claim Administration Contact Information*

- Use DWC Form-121, *Claim Administration Contact Information* to report changes to an insurance carrier's coverage verification, adjusting, medical billing, pharmacy billing, or utilization review within 10 working days.
- DWC makes this information available in TXCOMP for system participants, including health care providers and injured employees.

Updates on Electronic Data Interchange

New Claims EDI Reporting Standard

- International Association of Industrial Accident Boards and Commissions (IAIABC) Claims EDI Release 3.1 format.
- Informal rule proposal later this fall to change Texas Claims EDI reporting standard for insurance carriers from Release 1.0 to Release 3.1.
- DWC will be seeking applicants to serve as the agency's data collection agent for insurance carrier claim data collection in the Release 3.1 format.

Questions?

Suggestions for next meeting?

DD and Business Process Update

Joe McElrath, Deputy Commissioner
Business Process

Rule Project Update

Jeb Boyt, Staff Attorney
Legal Services

House Bill (HB) 387 Work Status Reports

- Allows advanced practice registered nurses (APRN) to sign work status reports.
- Updated Rule 129.5 and DWC Form-073.

HB 2503 First Responder Death Benefits

- Expands eligibility of spouses who may receive death benefits for life, regardless of remarriage, to spouses of:
 - Peace officers as described in Texas Code Criminal Procedures Article 2.12; and
 - intrastate fire mutual aid system team members or regional incident management team members.
- Corresponding amendments to Rules 132.7 & 132.17.
 - Proposal published June 15, 2020. 45 TexReg 4,161.

Form Interrogatories

- Will update the interrogatories required under Texas Labor Code §410.159.
- Will amend Rule 142.19 to describe elements of the interrogatories.
- Will allow both parties to ask for identification of experts expected to testify.
- Will allow insurance carriers to ask for names of health care providers that have seen the injured employee and treated the body part within the last five years.
- Informal stakeholder workshop on September 2.
- Comment deadline of September 4.

Medical Fee Dispute Resolution (MFDR) Rule 130.307

- Will allow health care providers and pharmacy processing agents to electronically submit requests for MFDR.
- Electronic filing will be accepted through fax, encrypted email, or secure file transfer protocol (SFTP).
- About 70 percent of MFDR requests are submitted by 15 entities.

MFDR Rule 130.307

- DWC seeks comments on the appropriateness of accepting MFDR submissions by email. Can email provide the security and privacy protections required for protected health information?
- Proposal to be published in the *Texas Register* early September.

Senate Bill (SB) 1742 Utilization Review

- Relating to physician and health care provider directories, preauthorization, utilization review, independent review, and peer review for certain health benefit plans and workers' compensation coverage.
- Requires all reviewers for medical necessity and independent review be licensed in the State of Texas.

SB 1742 Utilization Review

- Requires all reviews provided by a physician be conducted by a physician who is Texas licensed and is of the **same or similar specialty** as the physician requesting, ordering, or providing the health care being reviewed.
- Current standard is that the reviewing doctor must have certification in a health care specialty appropriate to the type of care that the injured employee is receiving.

SB 1742 Utilization Review (UR)

- Examining use of "appropriate credentials" in Rule 180.1 to see if change is needed to conform with the requirements of same or similar specialty for UR and independent review organization (IRO) review.
- Also examining rules:
 - 133.308
 - 180.22
 - 180.28
 - 180.62
- Draft rule to be posted shortly.
- Informal stakeholder meeting to be held week of September 21.

SB 1742 Utilization Review Non-Comp Provisions

- This bill makes several changes to how physician directories are listed online.
- Requires provider directories to list under each facility a separate heading for:
 - radiologists,
 - anesthesiologists,
 - pathologists,
 - emergency department physicians, and
 - neonatologists and assistant surgeons.
(facility-based providers)
- Must clearly identify each health benefit plan issued that may provide coverage for the services provided by the facility or physician.

SB 1742 Utilization Review Non-comp Provisions

- Requires health plans to post preauthorization requirements.
- Must clearly identify each health benefit plan issued that may provide coverage for the services provided by the facility or physician.
- TDI considering rulemaking to address:
 - Revised utilization review (28 Texas Administrative Code (TAC) Chapter 19)
 - Independent review organizations (Chapter 10)
 - Conforming amendments to workers' compensation network rules (Chapter 10)

HB 1665 Unnecessary Reporting Requirements

- Eliminates the requirement that the DWC Form 84-*Exception to Application of Joint Agreement to Affirm Independent Relationship for Certain Building and Construction Workers*, be automatically sent to DWC.
- Rule 112.203 and DWC Form-084.

Claims EDI Chapters 102 & 124

- Will provide for enhanced data collection by updating to International Association of Industrial Accident Boards and Commissions (IAIABC) Release 3.1.
- Will allow DWC to designate and contract with a data collection agent to implement and collect data.
- Conforming amendments to rules:
 - 102.4
 - 102.5
 - 102.8
 - 124.2

Claims EDI Chapters 102 & 124

- Informal draft available late fall.
- Stakeholder workshop in January.

Schedule for Upcoming Projects

- Form Interrogatories
 - Workshop, September 2
 - Informal comment deadline, September 4
- MFDR – Published for comment in *Texas Register* in September
- Utilization Review – Workshop, September 21
- Unnecessary Reporting for Building & Construction – Published in *Texas Register* in fall
- Claims EDI
 - Informal draft in fall
 - Stakeholder workshop in January

Periodic Rule Review

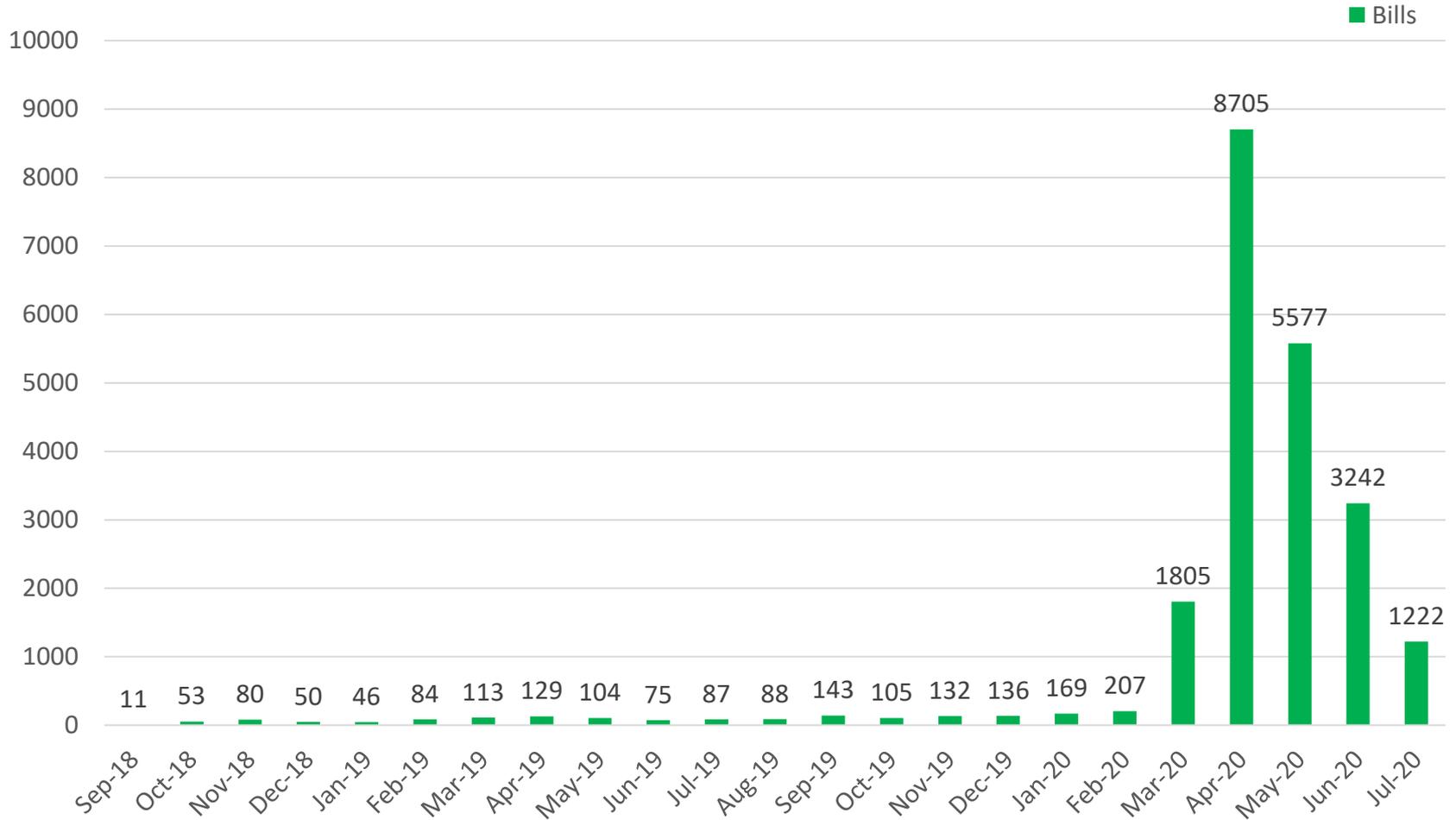
- Required every 3 years under Gov't Code §2001.039.
- Group C – Chapters 120-124
Readoption published June 5, 2020. 45 TexReg 3,875.
- Group D – Chapters 126-128
Review published May 15, 2020. 45 TexReg 3,337.
- Group E – Chapters 129-137
To be published August 2020.
- Group F – Chapters 140-156
To be published October 2020.
- Group G – Chapters 160-180
To be published December 2020.

Telemedicine Update

Matt Zurek, Deputy Commissioner
Health and Safety

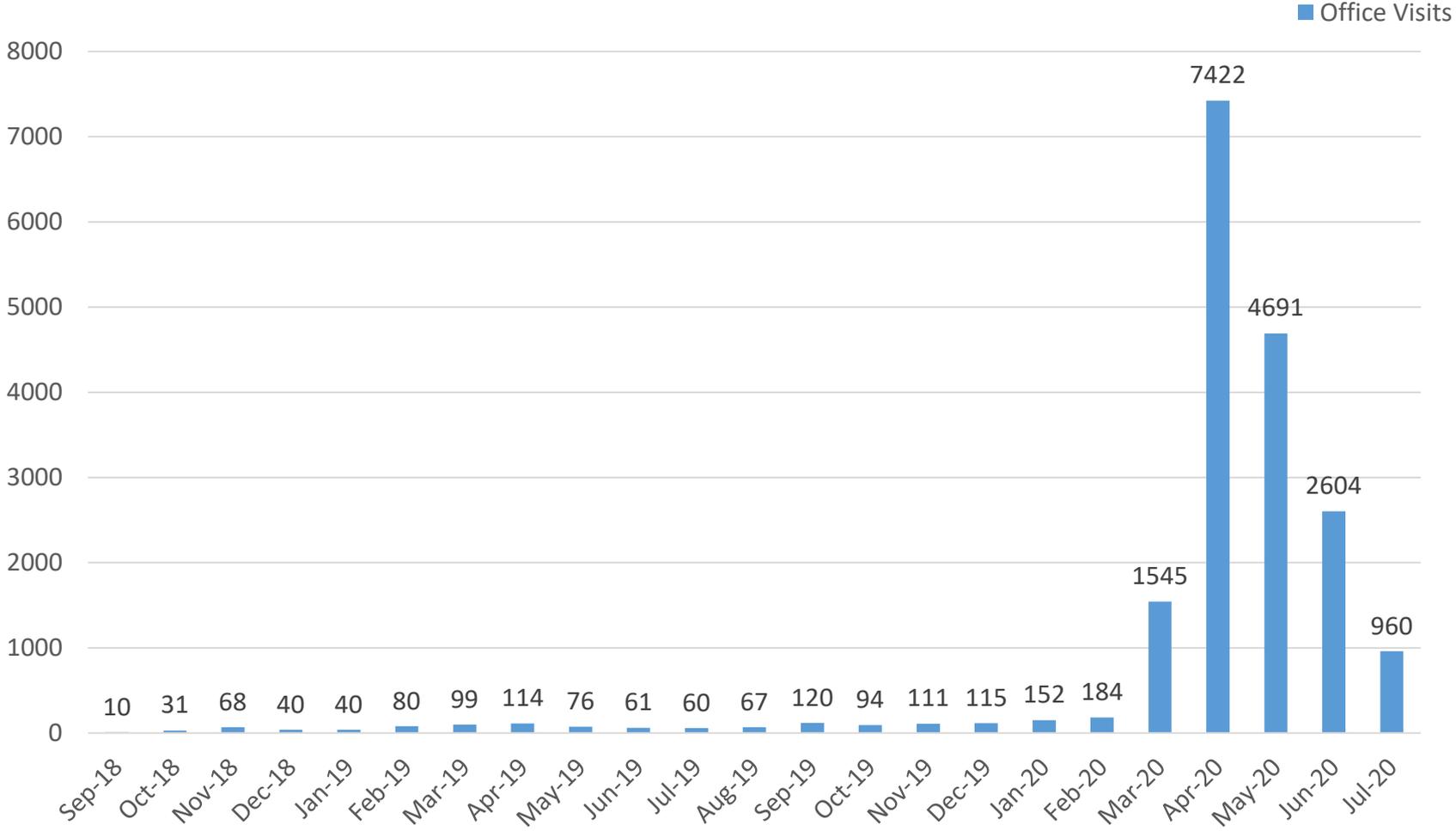
Telemedicine Activity

Bills by Date of Service



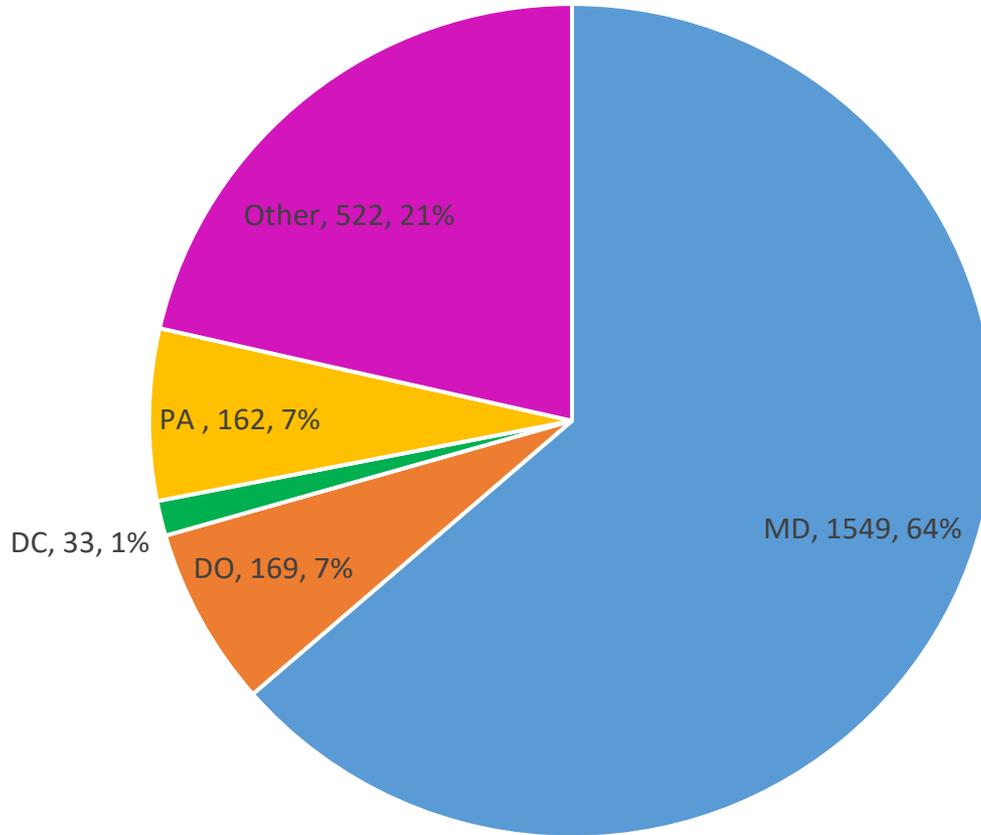
Telemedicine Activity

Office Visits



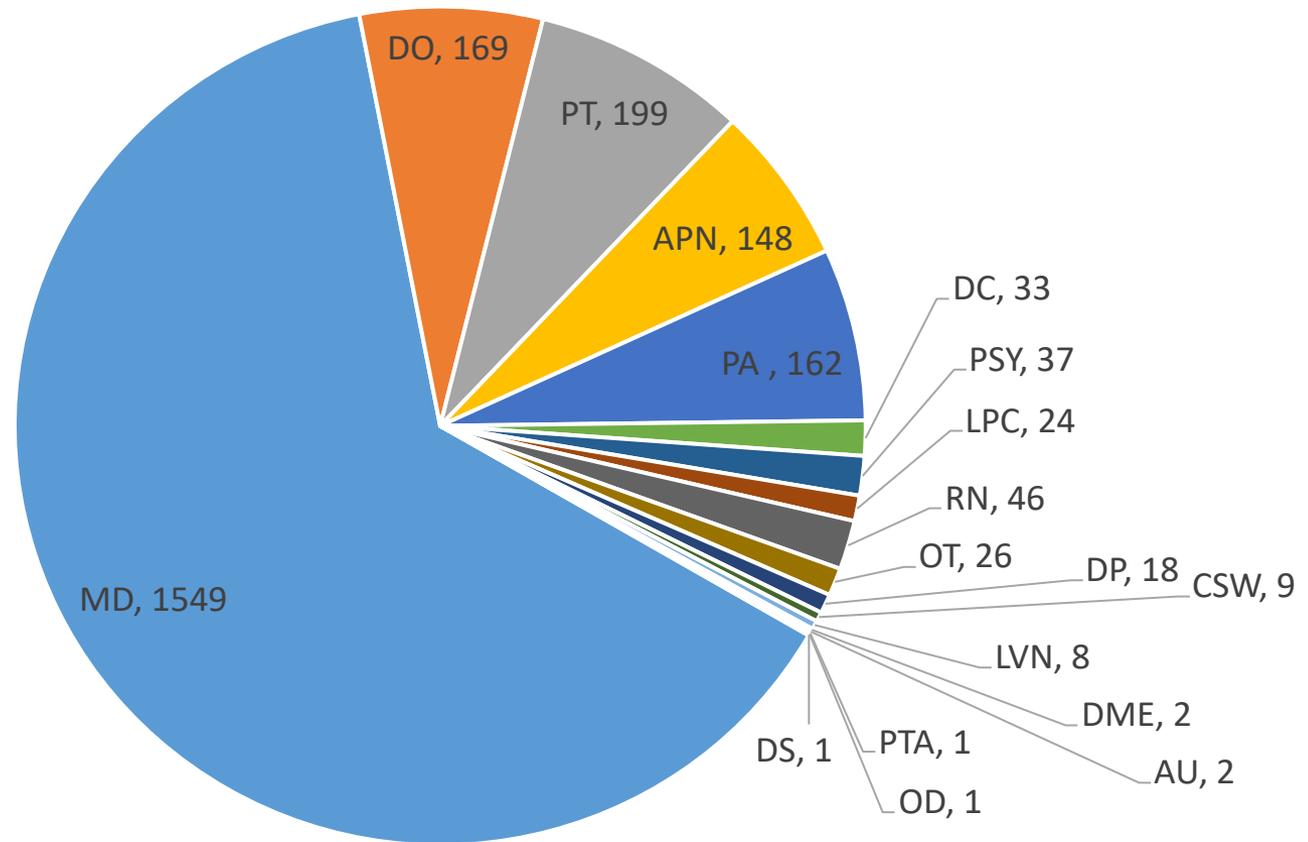
Types of Telemedicine Providers

Provider Count



Types of Telemedicine Providers

Provider Count



Telemedicine

Most frequently reported diagnosis codes

| Diagnosis code | Description | Times Reported |
|----------------|--|----------------|
| M54.5 | Low back pain | 1217 |
| S33.5XXD | Sprain of ligaments of lumbar spine, subsequent encounter | 978 |
| S39.012A | Strain of muscle, fascia and tendon of lower back, initial encounter | 883 |
| G89.4 | Chronic pain syndrome | 813 |
| S33.5XXA | Sprain of ligaments of lumbar spine, initial encounter | 682 |
| M54.16 | Radiculopathy, lumbar region | 678 |
| M96.1 | Post laminectomy syndrome, not elsewhere classified | 663 |
| M51.26 | Other intervertebral disc displacement, lumbar region | 485 |
| S13.4XXD | Sprain of ligaments of cervical spine, subsequent encounter | 371 |
| S13.4XXA | Sprain of ligaments of cervical spine, initial encounter | 370 |
| | | |
| | | |

Extension of Telemedicine Emergency Rule 167.1

- On April 13, 2020, DWC adopted this rule on an emergency basis.
- DWC has extended Rule 167.1, relating to telemedicine and telehealth.
- Under the authority of Government Code §2001.034(c), the rule will be effective for 60 more days, through October 8, 2020.

COVID-19 Data Call

Amy Lee, Special Advisor | Director
Research and Evaluation Group

Proposed Data Submission Timeframes

| What to Submit | Submission Deadline to DWC |
|---|----------------------------|
| COVID-19 injuries reported to the insurance carrier from December 1, 2019 through June 30th <u>and</u> payments made on those injuries as of June 30th. | August 17, 2020 |
| COVID-19 injuries reported to the insurance carrier from December 1, 2019 through September 30th <u>and</u> payments made on those injuries as of September 30th. | October 31, 2020 |
| COVID-19 injuries reported to the insurance carrier from December 1, 2019 through December 31st <u>and</u> payments made on those injuries as of December 31st. | January 31, 2021 |

COVID-19 Information Requested

(as of December 1, 2019)

- # of Claimants with COVID-19 Exposures Reported
- # of Claimants with Confirmed COVID-19 Positive Test or Diagnosis
- Total \$ Paid in Medical Benefits for COVID-19 Claims
- Total \$ Paid in Income Benefits (TIBs, IIBs, SIBs, or LIBs) for COVID-19 Claims
- Total \$ Paid in Death Benefits for COVID-19 Claims
- Total \$ in Burial Benefits for COVID-19 Claims

Selected Insurance Carriers

- State of Texas WC Programs
- Selected cities, counties, hospital districts
- Intergovernmental risk pools
- Selected insurance company groups
- May include a couple of certified self-insureds

Hearings Update

Kerry Sullivan, Deputy Commissioner
Hearings

Virtual Proceedings

Percentage of proceedings that were held without continuance and how that compares to pre-COVID-19:

Benefit Review Conferences (BRCs)

- FY19 63%
- Post-COVID-19 55%

Contested Case Hearings (CCHs)

- FY19 63%
- Post-COVID-19 46%

BRC agreement numbers

- FY19 17%
- Post-COVID-19 14%

Online Proceedings

Continuances

- Wanting a face-to-face proceeding is not sufficient.
- If the case is complicated, special accommodations can be made.
- For designated doctors or required medical examinations – the exams should be scheduled in a reasonable time period.

Online Proceedings

BRC exchanges and CCH exhibits:

- Parties are responsible for making sure that anything they send electronically is done securely.
- Exhibits should be filed and exchanged at least three business days before the hearing.
- Parties may also exchange documents electronically with other parties.

Plain Language Initiative

- Must be written at a 9th grade reading level or less.
- Be printed in 12-point type or larger.
- Use headings that describe each section.
- Be written in a clear, logical, and understandable way.
- Use common words with easily understood meanings.

Plain Language Initiative

Hearings documents:

- 47 documents updated to plain language
- Redesigned set notices for BRCs and CCHs
- New BRC report
- New attorney fee orders
- Coming soon – New set notices for virtual proceedings
- Coming soon – New D&O format

Interrogatories

- First update since 1991.
- January 2020, DWC requested comments from system participants.
- Virtual stakeholder meeting on September 2, 2020 at 10:00 a.m.
- File written comments by 5 p.m., Central time, on Friday, September 4, 2020.

Questions?

Q&A

Closing

Cassie Brown, Commissioner
Division of Workers' Compensation