



TEXAS DEPARTMENT OF INSURANCE

General Counsel Division - Legal Section (MS-4D)

7551 Metro Center Drive, Suite 100, Austin, Texas 78744-1645

(512) 804-4703 | F: (512) 804-4276 | (800) 372-7713 | TDI.texas.gov | @TexasTDI

memo

To: Workers' Compensation System Participants

From: Nicholas Canaday III, Division of Workers' Compensation, General Counsel

Date: October 22, 2018

Amendments to 28 Texas Administrative Code §134.600, *Preauthorization, Concurrent Utilization*

RE: *Review, and Voluntary Certification of Health Care*

On October 11, 2018, Commissioner of Workers' Compensation Cassie Brown adopted amendments to 28 Texas Administrative Code (TAC) §134.600, *Preauthorization, Concurrent Utilization Review, and Voluntary Certification of Health Care*. The adopted amendments were filed with the Office of the Secretary of State on October 12, 2018, and will be published in the October 26, 2018, issue of the *Texas Register*. When published, the adopted amendments may be viewed on the Secretary of State's website at www.sos.state.tx.us/texreg/index.shtml. A courtesy copy of the adoption is available on the Texas Department of Insurance website at www.tdi.texas.gov/wc/rules/2018rules.html.

The amendments to 28 TAC §134.600 remove references to the preauthorization exemption for Commission on Accreditation of Rehabilitation Facilities (CARF) accredited programs related to work conditioning (WC) and work hardening (WH) services. These amendments are in response to the amendment of Texas Labor Code §413.014, *Preauthorization Requirements; Concurrent Review and Certification of Health Care*, by Senate Bill 1494, 85th Legislature, Regular Session. As amended, Labor Code §413.014(c)(2) now requires preauthorization and concurrent review of all WC and WH services and grants the commissioner discretion to exempt from preauthorization and concurrent review WC and WH services "provided by a health care facility credentialed by an organization designated by commissioner rule." These amendments exercise that discretion by not designating a credentialing organization for preauthorization exemption.

As part of this rulemaking, DWC had also proposed amendments to 28 TAC §134.230, *Return to Work Rehabilitation Program*, relating to fees for WC and WH services. In response to comments, DWC is formally withdrawing those proposed amendments at this time. DWC will evaluate the fee schedule for WC and WH services in the future to ensure that the fees are fair, reasonable, and designed to not only ensure quality medical care but to also achieve medical cost control.