



TEXAS DEPARTMENT OF INSURANCE

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

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memo

To: Workers' Compensation System Participants
From: Emily McCoy, Associate General Counsel, Office of General Counsel
Date: January 19, 2017
RE: Prepare for Attorney Fees Change on January 30, 2017

The Texas Department of Insurance, Division of Workers' Compensation (TDI-DWC) recently adopted the repeal and re-enactment of §152.3 and §152.4, as well as new §152.6.

New §152.4 increases the maximum hourly rates that may be charged by attorneys and legal assistants in the workers' compensation system. Effective January 30, 2017, the maximum hourly rates increased from \$150 an hour to \$200 for attorneys, and from \$50 an hour to \$65 for legal assistants. New §152.4 also includes the following increases in the guidelines for legal services: the service maximum for communications per month increased from two hours to three hours, the service maximum for direct dispute resolution negotiation with the other party increased from three hours to three and a half hours, and the service maximum for preparation and submission of an agreement or settlement increased from one hour to two hours, effective January 30, 2017.

Here is what you need to know about these changes:

- Attorneys may continue to submit the DWC Form-152, *Application for Attorney Fees*, through the Web-Enabled Attorney Fee Processing System (WAFPS), fax, or mail.
- The new rules have a delayed effective date of January 30, 2017. Attorney and legal assistant services must be billed according to the rules in effect on the date the services were provided. Thus, applications requesting fees for services provided prior to January 30, 2017, may not exceed a maximum hourly rate of \$150 an hour for attorneys and \$50 an hour for legal assistants, and the hours must comply with the guidelines for legal services in effect at that time.
- Due to system processing requirements, an application may not contain dates of legal services that span across the effective date. If services include dates in both time periods, separate applications must be submitted requesting the appropriate maximum hourly rates: \$150/\$50 for services provided prior to January 30, 2017, and \$200/\$65 for applications requesting fees for services provided on or after January 30, 2017.
- Under the new rules, attorneys must use their own bar card number when requesting attorney fees and must notify the division when withdrawing representation at any point during the claim. In some instances, the attorney must first provide good cause and receive a division order granting the withdrawal before withdrawing from a claim.
- Along with the rules, the division amended DWC Form-150, *Notice of Representation*; DWC Form-151, *Attorney Application For Web Access*; and DWC Form-152, *Application for Attorney Fees*; as well as created new DWC Form-150a, *Notice of Withdrawal of Representation*. The finalized forms will be effective January 30, 2017, and are available on the TDI website at www.tdi.texas.gov/forms/form20numeric.html. Attorneys should use the updated forms beginning

January 30, 2017, to ensure compliance with the new rules. Additionally, attorneys should note that applications for attorney fees submitted on a previous version of the DWC Form-152 may not be accepted by the division.

Please also note that WAFPS will be unavailable January 28–29, 2017, so that the system can be updated to reflect the new requirements of adopted §152.3 and §152.4. Attorneys using WAFPS will need to submit applications for attorney fees before January 28, 2017, or after January 29, 2017, at the appropriate maximum rates for the time period that the services were provided.

If you have any questions about the new rules, please contact Emily McCoy at Emily.McCoy@tdi.texas.gov. For more information, visit the TDI website at www.tdi.texas.gov/alert/whatsnew/2016/index.html.