

CHAPTER 55. LUMP SUM PAYMENTS

28 TAC §55.15

INTRODUCTION. The Texas Department of Insurance, Division of Workers' Compensation (DWC) proposes to amend 28 Texas Administrative Code §55.15, concerning Compromise Settlement Agreements. Section 55.15 implements Texas Labor Code §402.061, which requires the commissioner of workers' compensation to adopt rules as necessary to implement and enforce the Texas Workers' Compensation Act.

EXPLANATION. The amendments propose to eliminate the use of colored or carbon copy paper when submitting settlement agreements to DWC. The proposed amendments do not change the requirements of settlement agreements, just the way they are submitted to DWC. The proposed amendments also update the agency's name, so it reflects its current name. Amending §55.15 is necessary to update obsolete references to the Industrial Accident Board, a predecessor agency of DWC.

Labor Code §402.061 requires the commissioner of workers' compensation to adopt rules as necessary to implement and enforce the Texas Workers' Compensation Act. Section 55.15 implements requirements for the contents of compromise settlement agreements. Section 55.15(6) requires that all compromise settlement agreements be submitted to DWC in four parts on carbonless paper or with carbon paper left intact. If the proposed rule is adopted, system participants will not be required to get carbonless or carbon paper and will submit their settlement agreements to DWC in the form and manner DWC prescribes.

FISCAL NOTE AND LOCAL EMPLOYMENT IMPACT STATEMENT. Deputy Commissioner of Hearings Allen Craddock has determined that during each year of the

first five years the proposed amendments are in effect, there will be no measurable fiscal impact on state and local governments as a result of enforcing or administering the sections, other than that imposed by the statute. This determination was made because the proposed amendments do not add to or decrease state revenues or expenditures, and because local governments are not involved in enforcing or complying with the proposed amendments.

Dr. Craddock does not anticipate any measurable effect on local employment or the local economy as a result of this proposal.

PUBLIC BENEFIT AND COST NOTE. For each year of the first five years the proposed amendments are in effect, Dr. Craddock expects that enforcing and administering the proposed amendments will have the public benefits of ensuring that DWC's rules conform to Labor Code §402.061 and are current, accurate, and cost-efficient for system participants, which promotes transparent and efficient regulation.

Dr. Craddock expects that the proposed amendments will not increase the cost to comply with §55.15 because they do not impose requirements beyond those in the statute. Section 55.15 requires that compromise settlement agreements be submitted to DWC in four parts on carbonless paper or with carbon paper left intact with the original on white, the second copy on pink, the third copy on yellow, and the fourth copy on white. The proposed amendment replaces the carbonless or carbon paper four-copy requirement with a simple requirement to submit the agreement to DWC, which is consistent with DWC's requirements for other submissions. Compromise settlement agreements are necessary to implement and enforce the Texas Workers' Compensation Act under Labor Code §402.061, and must be submitted to the commissioner for approval under §408.005. As a result, the cost, if any, associated with eliminating the requirement that compromise settlement agreements be sent to DWC on carbonless or color carbon

paper does not result from the enforcement or administration of the proposed amendments.

ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS. DWC has determined that the proposed amendments will not have an adverse economic effect or a disproportionate economic impact on small or micro businesses, or on rural communities because the proposed amendments make changes to update obsolete references and requirements, and updates for plain language and agency style only. The proposed amendments do not change the people the rule affects or impose additional costs. As a result, and in accordance with Government Code §2006.002(c), DWC is not required to prepare a regulatory flexibility analysis.

EXAMINATION OF COSTS UNDER GOVERNMENT CODE §2001.0045. DWC has determined that this proposal does not impose a possible cost on regulated persons. It actually reduces costs by eliminating the requirement that compromise settlement agreements be sent to DWC on a paper format that is no longer widely used because lower cost methods are now widely available. As a result, no additional rule amendments are required under Government Code §2001.0045.

GOVERNMENT GROWTH IMPACT STATEMENT. DWC has determined that for each year of the first five years that the proposed amendments are in effect, the proposed rule:

- will not create or eliminate a government program;
- will not require the creation of new employee positions or the elimination of existing employee positions;
- will not require an increase or decrease in future legislative appropriations to the agency;

- will not require an increase or decrease in fees paid to the agency;
- will not create a new regulation;
- will not expand, limit, or repeal an existing regulation;
- will not increase or decrease the number of individuals subject to the rule's applicability; and
- will not positively or adversely affect the Texas economy.

DWC made these determinations because the proposed amendments make changes to update obsolete references and requirements, and updates for plain language and agency style only. They do not change the people the rule affects or impose additional costs.

TAKINGS IMPACT ASSESSMENT. DWC has determined that no private real property interests are affected by this proposal, and this proposal does not restrict or limit an owner's right to property that would otherwise exist in the absence of government action. As a result, this proposal does not constitute a taking or require a takings impact assessment under Government Code §2007.043.

REQUEST FOR PUBLIC COMMENT. DWC will consider any written comments on the proposal that DWC receives no later than 5 p.m., Central time, on March 13, 2023. Send your comments to RuleComments@tdi.texas.gov; or to Texas Department of Insurance, Division of Workers' Compensation, Legal Services, MC-LS, P.O. Box 12050, Austin, TX 78711-2050.

To request a public hearing on the proposal, submit a request before the end of the comment period to RuleComments@tdi.texas.gov; or to Texas Department of Insurance, Division of Workers' Compensation, Legal Services, MC-LS, P.O. Box 12050, Austin, TX 78711-2050. The request for public hearing must be separate from any

comments. If DWC holds a public hearing, it will consider written and oral comments presented at the hearing.

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STATUTORY AUTHORITY. DWC proposes §55.15 under Labor Code §§408.005, 402.00111, 402.00116, and 402.061.

Labor Code §408.005 requires in part that a settlement be signed by the commissioner and all parties to the dispute and sets out criteria for the commissioner to approve the settlement. Subsection (f) states that a settlement that is not approved or rejected before the 16th day after the date the settlement is submitted to the commissioner is considered to be approved by the commissioner on that date. So, to comply with Labor Code §408.005, settlements must be submitted to the commissioner.

Labor Code §402.00111 provides that the commissioner of workers' compensation shall exercise all executive authority, including rulemaking authority under Title 5 of the Labor Code.

Labor Code §402.00116 provides that the commissioner of workers' compensation shall administer and enforce this title, other workers' compensation laws of this state, and other laws granting jurisdiction to or applicable to DWC or the commissioner.

Labor Code §402.061 provides that the commissioner of workers' compensation shall adopt rules as necessary to implement and enforce the Texas Workers' Compensation Act.

CROSS-REFERENCE TO STATUTE. Section 55.15 implements Labor Code §402.061. Labor Code §408.005 concerns Settlements and Agreements, both enacted by House Bill (HB)

752, 73rd Legislature, Regular Session (1993); Amended by HB 7, 79th Legislature, Regular Session (2005).

TEXT.

§55.15. Compromise Settlement Agreements.

(a) A compromise settlement agreement must contain the following information:

(1) that the agreement is executed on a form approved by the division [~~board~~];

(2)-(3) (No change);

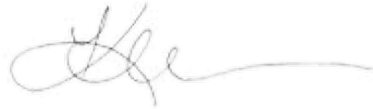
(4) that in the event of serious injury to the claimant's eye, healing has occurred and the division was given [~~board furnished with~~] a medical report on whether the other eye is or may be affected; and

(5) that in all instances of severe and disfiguring burns or lacerations, a descriptive medical report of the scars will be submitted by either the association or claimant. In all such cases involving injury to the face, arms, or hands, either the claimant or insurance carrier must submit to the division a color photograph taken after maximum healing. [~~must be submitted to the board by either the claimant or carrier;~~]

(b) [(6)] Compromise [~~all compromise~~] settlement agreements submitted to the division [~~board~~] must be submitted in the form and manner prescribed by the division [~~four parts the original must be white, the second copy pink, the third copy yellow, and fourth copy white. The forms must either be on NCR paper or be submitted with carbon left intact~~]. The division [~~board~~] will provide a copy of the compromise settlement agreement to the claimant, claimant's attorney if one has been employed, and the insurance carrier's Austin representative instead [~~in lieu~~] of a separate approval notice.

CERTIFICATION. This agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Issued in Austin, Texas, on January 27, 2023.



Kara Mace
Deputy Commissioner for Legal Services
TDI, Division of Workers' Compensation