



## **Texas Department of Insurance**

**Commissioner of Workers' Compensation**, Mail Code MS-1

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December 10, 2012

The Honorable Robert Duncan, Chair  
Members, Senate State Affairs Committee

Dear Chairman Duncan and Members:

I'm pleased to provide you with information regarding the various workers' compensation interim charges before the committee in anticipation of the December 10, 2012 hearing, as well as provide you with an overall summary of the state of the Texas workers' compensation system.

It's been seven years since the 2005 landmark House Bill (HB) 7 legislative reforms and two years since the adoption of the Texas Department of Insurance, Division of Workers' Compensation's (TDI-DWC's) Sunset legislation (HB 2605), and the Texas workers' compensation system has shown significant improvements in a variety of areas, including injury rates, employer participation, claims costs, return-to-work outcomes, access to care, and insurance rates and premiums. In fact, with the anticipated adoption of one rule in December, TDI-DWC will have fully implemented all of its Sunset recommendations as well as fully implemented all other workers' compensation legislation from last session.

Here is a brief summary of some of the key trends for the Texas workers' compensation system:

### Injury Rates and Frequency of Filed Workers' Compensation Claims

- Injury rates continue to decline and Texas continues to be lower than the national average.
- Between 2004 and 2011, the nonfatal occupational injury and illness rate in Texas decreased 27 percent from 3.7 to 2.7 injuries per 100 full-time employees.
- Despite a growing workforce in Texas, between 2004 and 2011, the number of workers' compensation claims filed with TDI-DWC decreased 22 percent.

### Workers' Compensation Rates and Premiums and Employer Participation in the Texas Workers' Compensation System

- Workers' compensation insurance rates have come down almost 50 percent since 2003, making Texas more competitive economically with other states.

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- Average workers' compensation premiums have come down over 50 percent from a high of \$2.85 per \$100 of payroll to \$1.38 per \$100 of payroll in 2010.
- As a result of rate decreases, more employers have opted to participate in the system. The percentage of private year-round Texas employers with workers' compensation coverage has improved from 62 percent in 2004 to 67 percent in 2012, while the percentage of Texas employees covered by workers' compensation has increased from 76 percent to 81 percent over the same time.

#### Medical Costs

- Medical costs, which were a primary driving force behind the 2005 and previous legislative reforms, have declined. According to a 16-state comparison of claims with more than 7 days of lost time by the Workers' Compensation Research Institute (WCRI), in 2001, Texas was among the highest nationally in terms of medical costs per claim. By 2010, Texas was almost 23% below the median cost of those same 16 states, including Florida, Pennsylvania, Louisiana and Illinois.
- The average professional and hospital medical cost per claim (one-year post-injury) has generally stabilized since 2005, despite continuing medical cost inflation. After accounting for medical inflation, the average medical cost per claim increased approximately 3.9 percent since 2005 from \$2,626 in injury year 2005 to \$2,729 in injury year 2010.
- Adjusted for inflation, the combined total of professional and hospital costs in the Texas workers' compensation system decreased by 30 percent from 1998 to 2011, mostly due to a decline in workers' compensation claims.
- The use of opioids and other "not recommended" drugs have been significantly reduced for new claims under the TDI-DWC closed pharmacy formulary (in effect for new claims as of September 1, 2011). The percentage of new claims receiving "not recommended" drugs was reduced by 56 percent from 2010 to 2011 and the total prescription drug costs associated with "not recommended" drugs was reduced by 81 percent over that same time.
- Overall opioid prescription use has also declined with the new formulary: the frequency of all opioid prescriptions was reduced by 10 percent and the frequency of "not recommended" opioid prescriptions was reduced by 57 percent between 2010 and 2011.

#### Return-to-Work Outcomes

- A higher percentage of employees are returning to work now than before the 2005 reforms. The percentage of Temporary Income Benefits recipients that have returned to work within 6 months from the date of injury has increased from 74 percent in 2004 to 78 percent in 2010.

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- Employees are going back to work faster as well. The number of days lost from work due to work-related injuries fell from an average of 97 days (a median of 26 days) for employees injured in 2004 to 62 days (a median of 21 days) for employees injured in 2010.
- Improved return-to-work rates have resulted in a reduction of the number of weeks that Temporary Income Benefits are paid to injured employees in Texas. The median number of weeks of TIBs paid to injured employees declined from a median of 7.3 weeks in injury year 2004 to 6.0 weeks in injury year 2010.

#### Access to Care

- Access to medical care has also improved since 2005. The number of physicians treating workers' compensation claims has improved over time (17,647 in 2004 and 18,284 in 2010), the average # of claims treated by physicians has decreased from 18.3 claims per physician in 2004 to 16.1 claims per physician in 2010.
- Injured employees have access to non-emergency medical care faster now than they did before the 2005 reforms. The percentage of workers' compensation claims that received non-emergency medical care within the first week after the injury has increased from 78 percent in 2004 to 82 percent in 2010.

In terms of the interim charges, I've included a copy of our recently published *Biennial Report to the 83<sup>rd</sup> Legislature*, which provides an overview of the state of the Texas workers' compensation and provides some basic information on employer participation, income benefit adequacy (including the percentage of income benefit recipients capped at the state maximum benefit rate, which affects high wage earners), and return-to-work rates. I've also included a copy of the *2012 Oregon Workers' Compensation Premium Rate Ranking Summary* published by the Oregon Department of Consumer and Business Services that shows Texas as the most improved state in terms of changes in workers' compensation premium rates among states ranked in 2010.

For the charge on non-subscribing employers, I am including a complete copy of the recent study entitled *Employer Participation in the Texas Workers' Compensation System: 2012 Estimates* by the Workers' Compensation Research and Evaluation Group, which details the results of a biennial survey of Texas employers to estimate employer participation in the Texas workers' compensation system. It also includes the results of questions on issues such as the use of arbitration agreements by non-subscribers and the types of income benefits found in non-subscriber benefit plans.

For the charge on fatalities and the Subsequent Injury Fund (SIF), I am including a press release of the most recent fatality information compiled by TDI-DWC for the U.S.

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Department of Labor, Bureau of Labor Statistics as well as a table that outlines the current balance, revenues and expenses for the SIF. I've included a brief history for the SIF as well as a diagram showing how death benefits are currently distributed in the Texas workers' compensation system.

For the charge involving return-to-work outcomes and referrals to the Department of Assistive and Rehabilitative Services (DARS), I've included a summary of the workers' compensation statutory requirements for referrals to DARS, as well as the numbers of referrals made by TDI-DWC to DARS in recent years. Overall return-to-work estimates for workers' compensation claims can be found in TDI-DWC's *Biennial Report*; however, information regarding the return-to-work outcomes for injured employees referred to DARS is not separately reported to TDI-DWC by DARS.

I am available if you have any questions or need any additional information.

Sincerely,

A handwritten signature in black ink, appearing to read "Rod Bordelon". The signature is fluid and cursive, with a large initial "R" and "B".

Rod Bordelon  
Commissioner of Workers' Compensation

Attachments