Workers’ Compensation

Compliance – Key to Success

Texas Department of Insurance
Division of Workers’ Compensation (TDI-DWC)
Administrative Items

- Claim confidentiality
- Handouts
Overview

• Workers’ Compensation System
• Rights and Responsibilities
• Compliance
• When an Injury Occurs
• Questions
What is Workers’ Compensation?

- A state-regulated insurance program that pays medical bills and some lost wages for employees with work-related illnesses and injuries—regardless of fault
- Not mandatory except for certain governmental entities, educational institutions, and for certain private employers as required by law
Who is required to carry workers’ compensation coverage in Texas?

• Texas is the only state that allows any private employer the option of whether to purchase WC insurance.

• Many states require that private employers purchase WC insurance if they have more than a minimal number of employees; some others exempt specific industries from coverage requirement.

• Governmental entities in Texas (e.g., the state and political subdivisions) and employers that want to contract with governmental entities are required to have workers’ compensation coverage.
Workers’ Compensation Insurance

- Certified Self-Insured employers pay benefits to...
- Injured or ill employees or beneficiaries of employees killed on the job
Act vs. TDI-DWC Rules

- Act provides the basic framework for the system
- Rules provide clarification or specific direction
Division of Workers’ Compensation (DWC)

• Governed by the Commissioner of Workers’ Compensation (Rod Bordelon) appointed by the Governor

• Central office located in Austin, with field offices throughout the state, which handle:
  – dispute resolution proceedings;
  – official actions on claims; and
  – customer assistance
TDI-DWC Responsibilities

- Workplace safety
- Return to work
- Healthcare policy
- Dispute resolution
- Compliance
- Self-insurance regulation
Employer Rights & Responsibilities
Employer Rights

• Right to contest compensability if the carrier accepts liability
• Right to attend dispute resolution proceedings related to an employee’s claim
• Right to present relevant evidence at dispute proceedings
• Right to report suspected fraud
Employer Rights

- To be notified of a proposal to settle, or of any administrative or judicial proceeding (after making a written request to the insurance carrier)
- To contest the failure of a carrier to provide accident prevention services
- Return-to-Work Coordination Services from the insurance carrier
Employer Responsibilities

• Employers must tell employees whether they have WC insurance
• Notices must be posted in the workplace
• Written notice must be given to each new employee
Employer Responsibilities

• Employers must notify TDI-DWC annually whether or not they choose to carry WC insurance
• May not charge employees WC premiums directly or indirectly
Reporting Responsibilities

Report to the insurance carrier within 8 days of the date:

• Of a work-related injury that causes an employee to miss more than one day of work, or

• Of a work-related fatality, or

• The employer learns an employee has an occupational illness even if employee hasn’t missed work
Employer Reporting Responsibilities

• When injury is required to be reported to the insurance carrier, employer gives the employee
  ➢ copy of first report of injury
  ➢ copy of Employee Rights & Responsibilities handout

• Report to the insurance carrier any changes in an injured employee’s pay or employment
Employer Reporting Responsibilities

• Employers must notify employees if...
  - employer drops or loses coverage
  - employer obtains coverage

• Employers have 15 days from the change to notify employees in writing
Record Keeping

- Employers must keep a record of all employee injuries
- Records must be kept for 5 years or the length of time required by OSHA, whichever is longer
COMPLIANCE
Compliance

Overall compliance in the workers’ compensation system is achieved through:

• Performance based oversight
• Audits
• Complaints
• Enforcement
Performance Based Oversight

- Establishes performance objectives, measures and expectations
- Encourages and rewards excellence and continuous improvement
- Focuses on results rather than prescriptive requirements
Enforcement

• Overall compliance in the workers' compensation system is achieved through the enforcement efforts of the Enforcement Division at the Metro location.

• The TDI-DWC’s Enforcement team pursues administrative penalties and/or other sanctions and may refer cases to other appropriate authorities.

• Working in coordination with other TDI-DWC program areas, the Enforcement-Metro team may:
  • investigate allegations of violations,
  • assist in the preparation of cases for prosecution, and/or initiate administrative action.
Complaints

• Complaints are received via mail, fax, e-mail, on-line complaint form
• Complaints are entered in TDI Complaint Inquiry System (CIS)
• Acknowledgement letter is sent to complainant
Complaint versus Dispute

Complaints are situations when there is dissatisfaction in the process:

• Duty to perform has not occurred
• Medical bill has not been paid or was late
• Indemnity check was not received or was late
• Order was not complied with
• Adjuster/provider/other was rude
Complaints versus Disputes

Disputes are a dissatisfaction with an outcome of an action:

• Denial of a medical bill
• Denial of a claim
• Disagreement with amount of AWW
When an Injury Occurs
Day 1

- Sam slips off a ladder and falls, injuring his lower back
What must Sam do?

• Notify employer within 30 days.

• Select a treating doctor, inform doctor how injury occurred

• File with TDI-DWC within a year

• Keep in touch with the employer and the insurance company
What must an Employer do?

- Investigate accident, remove safety hazard
- Keep record of injury, notify insurance carrier if more than one day of work lost
- Give Sam a written copy of report of injury with a summary of rights & responsibilities
- Provide insurance carrier a wage statement if Sam loses more than 7 days of work
What must the Insurance Carrier do?

• Create and maintain a record of each notice of injury

• Electronically submit the first report to the TDI-DWC

• Pay or dispute Sam’s claim, as determined by the insurance carrier's investigation
What must the Treating Doctor do?

- Make initial diagnosis
- Treat the work-related injury
- Assess work status initially and whenever medical condition changes
- For non-network claims apply the ODG (treatment) and MDA (Return to Work) guidelines
What must the Treating Doctor do?

- Document treatment and show medical necessity; request preauthorization for specified treatments
- Manage all care and referrals
- Certify MMI and impairment when appropriate
What does DWC do?

- Creates a record of each reportable injury
- Sends initial contact letter
  - inform the employee that we have received the notice of injury / illness
  - provides educational material on early return to work
  - explains basic role of the TDI-DWC
  - encourages filing of the DWC Form-041
  - explains basic rights under the Act
What is Sam’s TIB rate?

Sam makes less than $8.50 an hour and his average weekly wage is $100.00

$100 x ___% = $
Sam Hurtz is released to Modified Regular Duty / Alternate Work assignment

• Treating doctor identifies what Sam can do and specific restrictions.

• Gives copy of DWC Form-073 to Sam and sends copy to insurance carrier and employer within 2 days of visit.
Sam Hurtz is released to Modified Regular Duty / Alternate Work assignment

• Employer offers work that will accommodate Sam’s duty restrictions
• Sam accepts offer
• Insurance carrier makes sure that this is a bona fide job offer
• Sam returns to work
Sam’s MMI & IR

Sam’s treating doctor certifies Sam has reached maximum medical improvement (MMI) and assigns an impairment rating (IR).
Sam’s Impairment Rating

• Sam is assigned a 6% impairment rating.

• How many weeks of IIBs is Sam entitled to?

• What do you think of this outcome?
On the other hand...

- Sam undergoes spinal surgery
- Sam’s disability seems to never end
- What options does the insurance carrier have?
Sam goes to a Designated Doctor

- What kind of doctor is selected?
- Doctor certifies Sam has reached MMI
- Sam is assigned a 15% impairment rating
- What additional payments may Sam be eligible for?
Impact to Sam’s Life

• How are Sam’s income benefits affected?

• How is Sam’s work status affected?

• What must Sam do to qualify for Supplemental Income Benefits (SIBs)?

• AND, what is the impact on the workers’ compensation system?
Recap of Sam’s Claim

- Scenario # 1 – 80% of claims
- Scenario # 2 – 20% of claims

**Keys to success:**
- Compliance of all parties
- Communication
- Strong safety & RTW programs
- DARS referral
- Sound claims management
REVIEW

- Workers’ Compensation System
- Rights and Responsibilities
- Compliance
- When an Injury Occurs
- Questions
Information – Contact Us

www.tdi.texas.gov

All Questions?

Injured Employee Hotline

1-800-252-7031

Austin Central Office

(512) 804-4000
TDI-DWC Field Offices

- Abilene  
  (325) 695-4992
- Amarillo  
  (806) 351-1222
- Austin  
  (512) 933-1899
- Beaumont  
  (409) 899-5589
- Corpus Christi  
  (361) 883-2551
- Dallas  
  (214) 350-9299
- Denton  
  (940) 380-1400
- El Paso  
  (915) 834-7000
- Fort Worth  
  (817) 466-4488
TDI-DWC Field Offices

- Houston East
  (713) 924-2200
- Houston West
  (281) 260-3035
- Laredo
  (956) 718-2040
- Lubbock
  (806) 744-4569
- Lufkin
  (936) 639-6425
- Midland
  (432) 699-1281
TDI-DWC Field Offices

- San Angelo
  (325) 657-0404
- San Antonio
  (210) 593-0070
- Tyler
  (903) 534-6250
- Waco
  (254) 755-7011
- Weslaco
  (956) 447-4416
Questions