

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

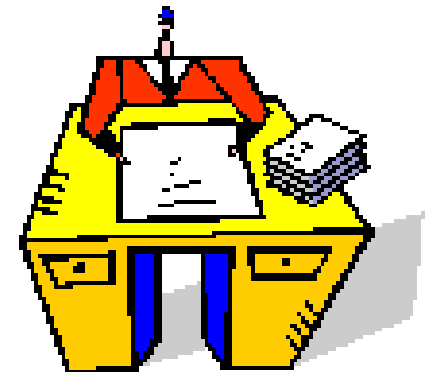


Employer Rights & Responsibilities



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



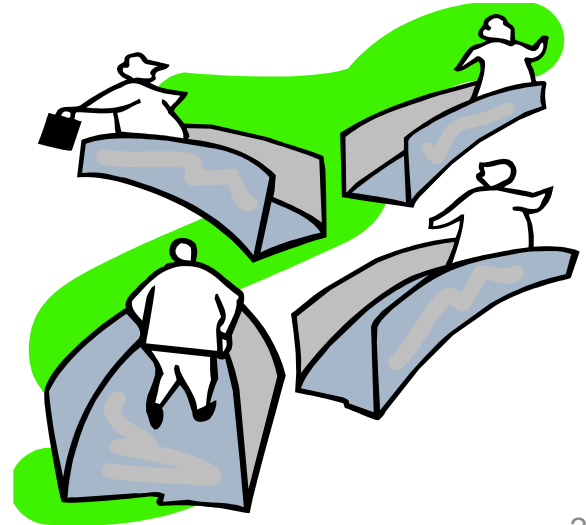
COMPLIANCE



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:

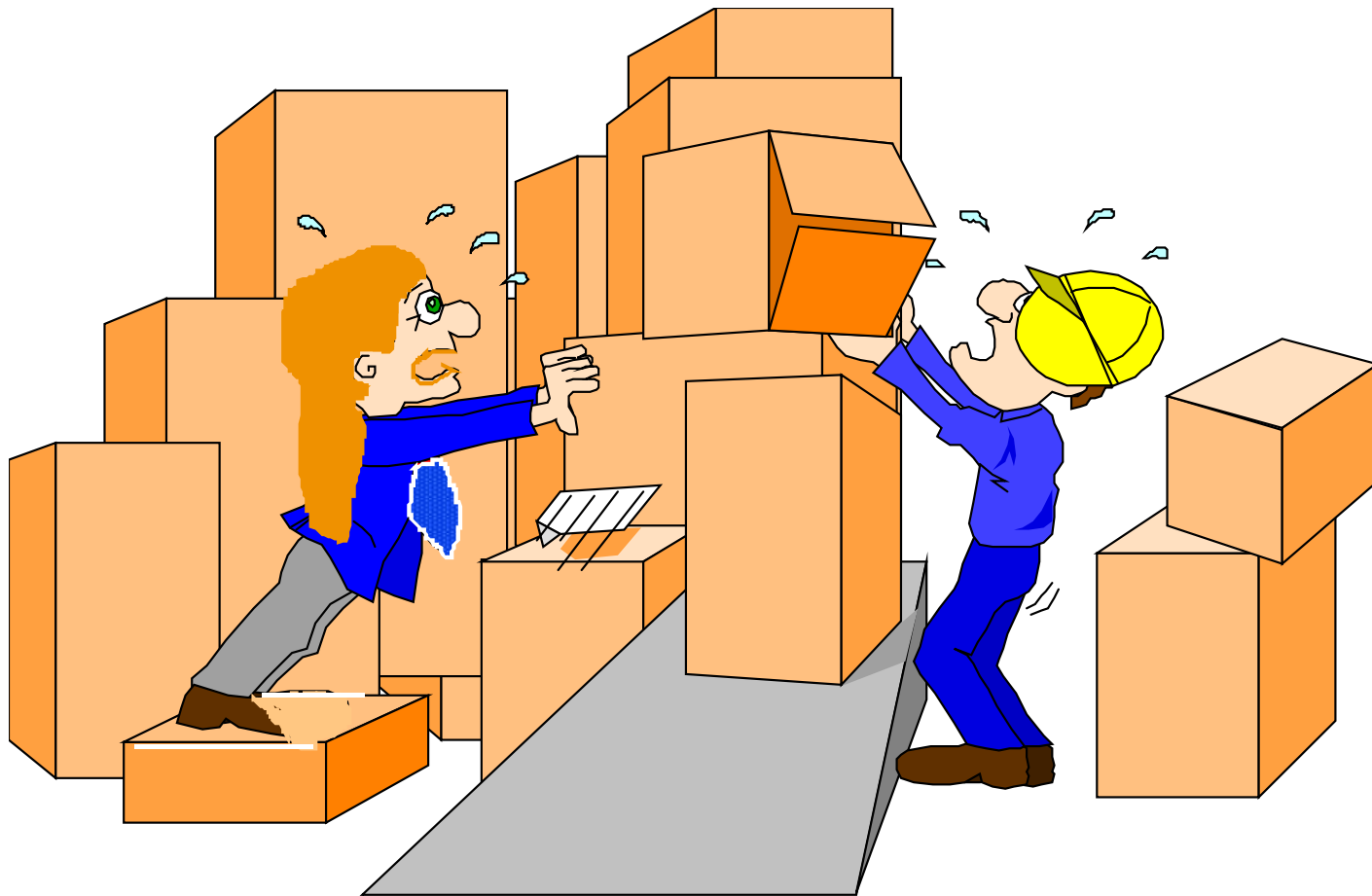
- Duty to perform has not occurred
- Medical bill has not been paid or was late
- Indemnity check was not received or was late
- Order was not complied with
- Adjuster/provider/other was rude

Complaints versus Disputes

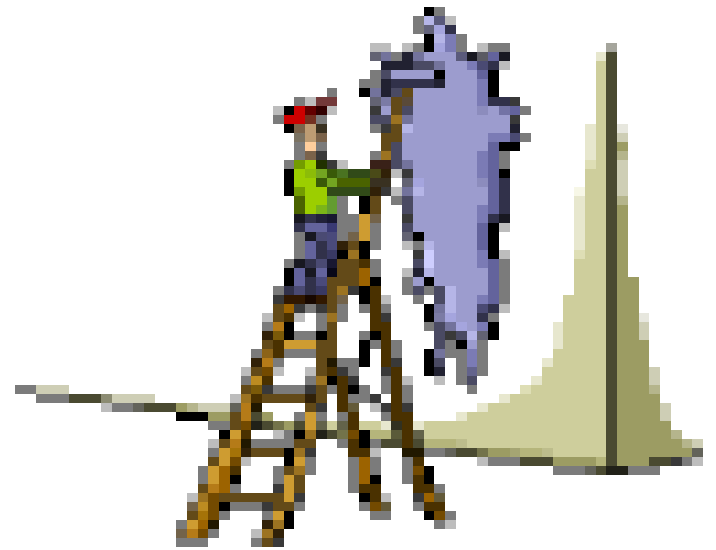
Disputes are a dissatisfaction with an outcome of an action:

- 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

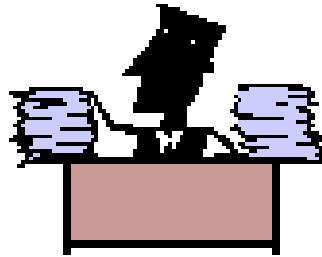
What must Sam do?

- 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**

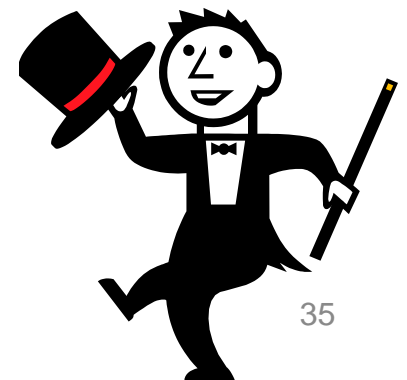
What is Sam's TIB rate?

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

$$\$100 \times \underline{\quad} \% = \$$$

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