



OUTREACH and OVERSIGHT

Texas Department of Insurance
Division of Workers' Compensation

UPDATE

Volume 6.2014

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DWC Customer Service Initiative Regarding the DWC Form-032, Request for Designated Doctor Examination

In July 2012 the Division of Workers' Compensation (DWC) adopted amendments to rules regarding designated doctor examinations. The adopted rules became effective September 1, 2012. The DWC also revised the DWC Form-032, *Request for Designated Doctor Examination*. Workers' compensation system participants began using the revised form on September 1, 2012.

The DWC reminds workers' compensation system participants that 28 Texas Administrative Code (TAC) §127.1, Requesting Designated Doctor Examinations, clarifies that the injured employee, the injured employee's representative, and an insurance carrier may request designated doctor examinations. Rule 127.1 also requires the party submitting the DWC Form-032 to the DWC to send a copy of the form to the opposing party.

Additionally, please note that 28 TAC §127.1 requires specific information to be accurately reported on the DWC Form-032. The requesting party's signature on the form attests that every reasonable effort was made to ensure the accuracy and completeness of the information provided in the DWC Form-032. Further, the DWC may deny a request for a designated doctor examination if the request does not comply with the requirements of the rule.

It has come to the DWC's attention that the requirements of 28 TAC §127.1, particularly the requirement to exchange of the DWC Form-032 with the opposing party, are not being properly

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DWC Hosts Educational Sessions on Paper Forms that Affect Designated Doctor Billing

The DWC is hosting educational sessions entitled Texas Workers' Compensation Paper Billing Form Changes at its field offices around the state in February. This training will assist workers' compensation system participants, including designated doctors, in complying with amendments to 28 Texas Administrative Code (TAC) §133.10 regarding health care provider billing procedures that are effective for medical bills submitted **on or after April 1, 2014**. The rule amendments reflect the changes in the newly updated 1500 Health Insurance Claim Form Version 02/12 (CMS-1500). The recently adopted amendments also update the requirements for the UB-04, DWC Form-066, ADA 2006 Dental Claim Form, and CMS-1500 forms to align with 28 TAC §§133.200, 134.803 and 134.804.

The free educational sessions will provide information regarding:

- comparison of the old and new requirements for medical billing forms;
- deadline for using the new form and requirements;
- Medical Fee Dispute Resolution process; and
- available resources from the DWC and Centers for Medicare and Medicaid Services.

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DWC Customer Service Initiative Regarding the DWC Form-032, Request for Designated Doctor Examination (cont.)

adhered to by some system participants. Therefore, the DWC is initiating a customer service endeavor to ensure injured employees receive appropriate notice regarding scheduled designated doctor examinations. Beginning February 1, 2014, when the DWC receives a DWC Form-032 from an insurance carrier, the DWC will also send a copy of the request to the injured employee before sending the order for the designated doctor to the injured employee. In addition to this customer service initiative, system participants will also continue to receive written copies of the DWC's order for the designated doctor examination.

For additional information regarding requests for designated doctor examinations, completing the DWC Form-032, or the DWC's new customer service initiative, contact the DWC at 1-800-252-7031. ♦

Fiscal Year 2013 Designated Doctor Enforcement Orders

26 Enforcement Orders*
\$115,500 in Fines Assessed

Sanctions Imposed	Number
Workers' Compensation System Removal	3
Suspended/Removed from the Designated Doctor List	9
Suspended/Revoked MMI/IR Certification	5
Education Required	5
Practice Restrictions Imposed	1
Monetary Penalties	7
Monitoring Review	8
Other	1
Total Sanctions	39

*Each Enforcement Order may contain **one or more sanctions**. Enforcement orders include consent, default or contested case orders. ♦

DWC Hosts Educational Sessions on Paper Forms that Affect Designated Doctor Billing (cont.)

To register online and for more details on the following educational sessions, visit the DWC Events and Training Calendar on the TDI website at <http://www.tdi.texas.gov/alert/event/dwceducational.html>.

- Abilene February 26, 2014
- Amarillo February 26, 2014
- Austin February 25, 2014
- Beaumont February 5, 2014
- Corpus Christi February 19, 2014
- Dallas* February 13, 2014
- Denton February 12, 2014
- El Paso February 26, 2014
- Fort Worth* February 13, 2014
- Houston** February 6, 2014
- Laredo February 19, 2014
- Lubbock February 26, 2014
- Lufkin February 5, 2014
- Midland February 26, 2014
- San Angelo February 26, 2014
- San Antonio February 20, 2014
- Tyler February 12, 2014
- Waco February 12, 2014
- Weslaco February 19, 2014
- Wichita Falls February 19, 2014

*The Educational Session held in Grand Prairie on February 13, 2014 is hosted jointly by the DWC Dallas and Fort Worth Field Offices.

**The Houston Educational Session on February 6, 2014 is hosted jointly by the DWC Houston East and Houston West Field Offices. ♦

Query Tool: Designated Doctors and Appointments by County and Month
<http://www.tdi.texas.gov/wc/dd/index.html#ddresources>

Designated Doctor Training Offered January – June 2014

To view and register for designated doctor training offered by the DWC in 2014, visit the TDI website at <http://www.tdi.texas.gov/alert/event/dd.html>.

Designated Doctor and MMI/IR Certification Training

This training is **required** every two years for doctors seeking certification or recertification as designated doctors and doctors seeking authorization to certify maximum medical improvement (MMI) and impairment ratings (IR), which includes designated doctors; doctors authorized to certify maximum medical improvement/impairment rating and ancillary health care practitioners performing range of motion, sensory, and strength testing required by the AMA Guides.

Designated Doctor and MMI/IR Certification Training will be held in Austin, Texas on the following dates:

- March 20-22, 2014
- May 15-17, 2014

Designated Doctor Core Competency Workshop

This course is an **optional**, interactive training for designated doctors. Attendees will review cases and answer questions regarding designated doctor examinations. The workshop is designed for designated doctors who: recently completed the required certification training and testing; are preparing to take the required test; and/or want to improve their knowledge and skills.

The *Designated Doctor Core Competency Workshop* will be held on the following dates:

- February 21, 2014 Round Rock
- April 11, 2014 Plano
- June 27, 2014 Houston ♦

Testing for Designated Doctors and Doctors
Authorized to Certify Maximum Medical
Improvement/Impairment Rating
<http://www.tdi.texas.gov/wc/dd/testing.html>

Certification of Maximum Medical Improvement and Evaluation of Permanent Impairment and the DWC Form-032, Request for Designated Doctor Examination

The DWC Form-032, the form used by an injured employee, injured employee's representative or insurance carrier to request the DWC to order a designated doctor examination, is a useful reference to designated doctors when asked to determine maximum medical improvement (MMI) and impairment rating (IR).

Particularly, boxes 35 through 37 on the DWC Form-032 are resources which can provide guidance to a designated doctor when asked to evaluate MMI/IR, as these boxes outline body parts and diagnoses claimed to apply to the injured employee's compensable injury, specific reason for the dispute regarding MMI/IR, and a description of all injuries determined to be compensable by the DWC or accepted as compensable by the insurance carrier. Further, if a designated doctor is also asked to evaluate Extent of Injury, box 42c may provide additional information on the injuries in question, claimed to be caused by, or naturally resulting from the work-related accident or incident, as well as a description of the work-related accident or incident that caused the claimed injury.

As a reminder, although the DWC Form-032 should be reviewed for reference, the regulations require the designated doctor to evaluate the condition of the employee considering the medical records and medical examination, and to assign an impairment rating accordingly for the compensable injury. [See Texas Labor Code §408.0041(a)(1) and §408.123(a) and 28 Texas Administrative Code §130.1(b)(4) & (c)(3)]

Finally, in the event the DWC requires a designated doctor to provide an opinion regarding a specific injury, which has been administratively determined to be part of the compensable injury, the designated doctor must comply with any specific request of the DWC.

To reference a copy of the DWC Form-032, visit the TDI website at <http://www.tdi.texas.gov/forms/form20.html>. ♦

Reminder of Rules and Requirements for Appropriate Examination Locations

The DWC reminds designated doctors that it is required that designated doctor examinations shall be performed in a “facility currently used and properly equipped for medical examinations or other similar health care services” in accordance with DWC rule. The rule also states that such facilities must ensure “safety, privacy and accessibility for injured employees and injured employee medical records and other records containing confidential claim information...” [28 Texas Administrative Code (TAC) §127.200(a)(1)]

The DWC routinely conducts examination facility visits to provide that designated doctors use examination facilities that comply with these requirements or to provide feedback to the designated doctors regarding the appropriateness of the facility. Since 2009, the agency has performed over 400 site visits to designated doctor examination facilities.

When impermissible examination facilities are identified, the DWC may contact the designated doctor, or their agent, to discuss the concerns. In some cases, the designated doctor may be able to modify the facility to comply with DWC rules. Use of an impermissible examination facility by a designated doctor may result in enforcement action by the DWC.

Examples of inappropriate examination facilities may include, but are not limited to:

- private residences;
- drug testing facilities;
- massage therapy facilities; and
- retail facilities.

Even if a facility is appropriate, it must be maintained in accordance with 28 TAC §127.200.

When DWC visits a facility, common issues observed include inadequate accessibility and privacy concerns. Accessibility concerns may include, but are not limited to:

- lack of a wheelchair ramp;
- narrow doors or hallways to the facility, examination rooms or restrooms; and
- required use of stairs.

Injured employee and medical record privacy concerns include, but are not limited to:

- use of curtains allowing examination

- discussions to be overheard by others;
- absence of doors to examination rooms; and
- windows that lack covering.

To view 28 TAC §127.200(a)(1) and other DWC rules regarding the requirements for designated doctor examinations, visit the TDI website at <http://www.tdi.texas.gov/wc/rules/index.html>.

For questions regarding the appropriateness of designated doctor examination facilities, contact the DWC at 512-804-4687 or DesDoc_Education@tdi.texas.gov. ♦

Designated Doctors Reminded that Meeting Submission Requirements Assists in Timely Dispute Resolution

One important aspect of a designated doctor’s role in the Texas workers’ compensation system is to meet the submission requirements for reports, forms and other items. Timely submission helps avoid disputes or timely resolve disputes when they do occur. Timeliness allows insurance carriers to adjust claims appropriately, thereby avoiding disputes altogether. When an injured employee has a dispute, timely action by the designated doctor is critical to ensure scheduled dispute resolution activities occur.

The timeframes outlined below are general information on submission requirements for designated doctors. For specific information and details, refer to the referenced DWC rules found on the TDI website at <http://www.tdi.texas.gov/wc/rules/index.html>.

Medical Records

Required records and analyses, if any, are due to the designated doctor from the insurance carrier and treating doctor no later than three working days prior to the date of the designated doctor examination. See 28 Texas Administrative Code (TAC) §127.10 (a)(3).

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Designated Doctors Reminded that Meeting Submission Requirements Ensures Timely Dispute Resolution

Examples: If the designated doctor examination is scheduled for a Thursday, records should be received by the designated doctor no later than 5 p.m. the preceding Monday. If the designated doctor examination is scheduled for a Tuesday, records should be received by the designated doctor no later than 5 p.m. the preceding Thursday. Please note that any national holiday does not count as a working day. In accordance with 28 TAC §102.3 a working day is any day, Monday-Friday, other than a national holiday as defined by Texas Government Code, §662.003(a) and the Friday after Thanksgiving Day, December 24th and December 26th.

Notice of Non-Receipt of Medical Records

If the designated doctor does not receive the required records or any part thereof at least three working days prior to the designated doctor examination, the designated doctor shall notify the DWC within one working day of not timely receiving the records. The DWC will then take the necessary action to ensure the designated doctor receives the records. See 28 TAC §127.10(a)(3).

Tip: The designated doctor's notice of non-receipt of medical records to the DWC may be copied to the insurance carrier and/or the treating doctor, but should be directed to the DWC in accordance with 28 TAC §127.10(a)(3). By notifying the DWC, the designated doctor will be in compliance with agency rules, and the DWC will contact the insurance carrier and/or the treating doctor to facilitate receipt of records by the designated doctor. Notification also allows the DWC to track when insurance carriers and/or treating doctors repeatedly fail to comply, and to take appropriate action regarding those violations.

If the medical records are not received by the designated doctor within one working day of the examination, or the designated doctor does not have sufficient time to review the late medical records before the examination, the designated doctor shall reschedule the examination to occur no later than 21 days after receipt of the medical records. See 28 TAC §127.10(a)(3).

Designated Doctor's Narrative Report and Application Forms (DWC Form-068, DWC Form-069, DWC Form-073)

The designated doctor's narrative report and required form reports for examinations to answer questions related to issues other than maximum medical improvement and/or impairment rating shall be submitted to all required parties within seven working days of the examination of the injured employee. See 28 TAC §127.10(e-f).

The designated doctor's narrative report and required form reports for examinations to answer questions related to maximum medical improvement and/or impairment rating shall be submitted to all required parties no later than the seventh working day after the later of: (a) the date of the certifying examination; or (b) the receipt of all the medical information required in 28 TAC §130.1. See 28 TAC §130.1(d).

When additional testing and/or a referral to another health care provider are necessary to resolve the issue(s) in question, the narrative report and required form reports shall be submitted to all required parties within 15 working days of the date

Tip: When requesting an extension of time, it is best to indicate the scheduled date and time of the additional testing and/or referral examination whenever possible. If the additional testing or examination has not been scheduled, provide an explanation as to why, and information on what you plan to do. Also, communicate to the referral doctor the context of this additional testing or referral examination and that no treatment is required. Indicate on your request if you are having trouble finding a specialty health care provider for a referral, and if you would like the DWC's assistance. Difficulty in scheduling usually occurs when the required specialty providers are scarce or when the injured employee lives in a rural area where testing facilities are few or not available. By providing the scheduled date, your plan to obtain a scheduled date or your need for assistance in finding an appropriate health care provider, the DWC will be better able to assist you as necessary.

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Designated Doctors Reminded that Meeting Submission Requirements Ensures Timely Dispute Resolution

of the examination of the injured employee. Prior to the expiration of the 15 working days, designated doctors may request DWC approval for additional time to complete the additional testing and reports. See 28 TAC §127.10(c).

If the injured employee fails or refuses to attend the additional testing or referral examination within 15 working days, or within the additional time approved by the DWC, the designated doctor should submit the report based on the examination of the injured employee, medical records received,

and other information available to the designated doctor, and indicate the injured employee's failure or refusal to attend the testing in the report. See 28 TAC §127.10(c).

Failure to meet submission requirements as outlined in DWC rules constitutes an administrative violation that can result in enforcement actions against designated doctors that may include fines and/or sanctions.

For additional information, contact the DWC at 1-800-252-7031. ♦

Designated Doctor-Related Statistics for Fiscal Year 2009 through Fiscal Year 2013

Updated December 4, 2013

Table 1 – Total Designated Doctors in the Workers' Compensation System

Number of Designated Doctors	FY 2009	FY 2010	FY 2011	FY 2012	
Designated Doctors ¹	1,665	1,675	1,745	1,751	

¹ Numbers include all doctors, both in and out-of-state, with an active DD credential anytime during the reporting period

Table 2 – Total Designated Doctors Appointments Scheduled

Number of Appointments Scheduled	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013 ⁴
Initial Appointments ²	39,927	36,663	34,143	34,910	27,495
Subsequent Appointments ³	8,231	8,720	7,869	7,631	6,836

² Initial Appointments: The first appointment on a particular claim assigned to a unique designated doctor. Injured employees may have multiple initial appointments if they are examined by more than one designated doctor.

³ Subsequent Appointments: Appointments following an initial appointment on a claim where the same designated doctor was assigned.

⁴ FY 2013 appointment total includes only one order per request. Previous FY totals include all order types, i.e. cancellations, reschedules.
Source: Texas Department of Insurance, Division of Workers' Compensation, 2013.