



Texas Department of Insurance

Division of Workers' Compensation

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Frequently Asked Questions: Letter of Clarification

Revised May 2, 2011 (See questions #1, #2, #5, #6, #7, #8, #9 and #11)

1. What is a Letter of Clarification (LOC)?

A Letter of Clarification (LOC) is a letter drafted by the Texas Department of Insurance, Division of Workers' Compensation (TDI-DWC) and sent to a designated doctor requesting clarification on certain issues in a report the designated doctor submitted following the examination of an injured employee.

Under 28 Texas Administrative Code (TAC) §127.20 parties to a workers' compensation claim who want clarification of a report of a designated doctor may file a request with the TDI-DWC for a LOC. Parties may only request clarification on issues already addressed by the designated doctor's report or on issues that the designated doctor was ordered to address, but did not address.

The TDI-DWC may contact the designated doctor requesting a LOC, "if it determines that clarification is necessary to resolve an issue" regarding the report [28 TAC §127.20(a)].

Under 28 TAC §127.10(j), disputes regarding entitlement to benefits affected by a designated doctor's report shall be resolved through the dispute resolution process.

2. How does a party request a LOC?

Parties to a workers' compensation claim can submit a request for a LOC to the TDI-DWC via fax at 512-804-4011.

3. When may a party submit the request of LOC?

Parties may submit a request for a LOC to the TDI-DWC at any point in the dispute resolution process [i.e., prior to a Benefit Review Conference (BRC), during a BRC or during a Contested Case Hearing (CCH)]. Historically, most requests have been submitted prior to a BRC.

4. Do parties have a right to an LOC?

Parties are allowed by TDI-DWC rule to request an LOC. The ultimate determination of whether a Letter of Clarification is granted rests with the TDI-DWC.

5. Who will approve or deny my request for letter of clarification?

All LOC requests are approved or denied by TDI-DWC Benefit Review Officers or TDI-DWC Benefit Contested Case Hearing Officers. LOC requests received by the TDI-DWC prior to a proceeding being scheduled will be approved or denied by a Benefit Review Officer. LOC requests will be approved if the reviewing officer determines that clarification is necessary to resolve an issue regarding the report pursuant to 28 TAC §127.20.

6. What happens after a request is approved?

Should the TDI-DWC determine clarification is necessary, a letter is sent to the designated doctor setting out the questions to be answered. Additional medical records or other information may be provided for the designated doctor's consideration. The designated doctor has five working days to provide a response to the request for clarification.

In some instances the TDI-DWC may order a designated doctor examination in lieu of approving a request for a letter of clarification. The TDI-DWC will issue an order for a designated doctor examination.

7. When may the TDI-DWC reviewing officer order an examination?

Benefit Contested Case Hearings Officers and Benefit Review Officers have been delegated authority from the Commissioner of Workers' Compensation to order designated doctor examinations under Section 408.0041 of the Texas Labor Code. If a valid question regarding the designated doctor's report is presented in a request for clarification that necessitates an examination by the designated doctor, the Benefit Review Officer or Hearing Officer may order an examination.

8. What happens if the designated doctor believes a reexamination is necessary?

The doctor must notify the TDI-DWC in writing of the need for an additional examination within five (5) working days of the doctor's receipt of the request and provide copies to the parties.

If the TDI-DWC orders the reexamination the doctor must conduct the reexamination within 21 days from the date the TDI-DWC order is issued at the same examination address as the original exam; and, respond to the LOC request based on that reexamination with seven (7) working days of the examination providing copies of the response to the parties. [28 TAC §127.20(d)]

9. Who will schedule the TDI-DWC ordered examination?

The order will inform the parties of the need for a new examination stating the reason for the examination and order the appropriate party to prepare and submit a DWC Form-032 to the TDI-DWC. The purpose of the new DWC Form-032 is to ensure that the designated doctor is qualified and available to address the issue in question and, if not, to facilitate the appointment of the next available and qualified designated doctor by the TDI-DWC.

10. What happens if the TDI-DWC denies a request for a LOC?

If the TDI-DWC denies a request for a LOC, a denial letter will be sent to the requesting parties specifying the reasons for the denial.

11. What are the options if a request for a LOC is denied?

A party whose request for a LOC is denied or a party who opposes the approval of a request for a LOC by the TDI-DWC may challenge that official action by requesting a:

Benefit Review Conference (BRC) by filing a DWC Form-045, Request to Schedule, Reschedule, or Cancel a Benefit Review Conference (BRC), with the TDI-DWC field office handling the injured employee's workers' compensation claim [28 TAC §141.1];

Benefit Contested Case Hearing (BCCH) following a BRC or by requesting a Benefit Contested Case Hearing without the need for a BRC [28 TAC §§142.5, 142.6]; or

Expedited proceedings by requesting an expedited setting of either a BRC or BCCH [28 TAC §§140.3, 142.6(b)(2)].