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**Official Order
of the
Commissioner of Insurance
of the
State of Texas
Austin, Texas**

Date:

Subject Considered:

**An Annual Research Agenda for the Workers' Compensation Research and
Evaluation Group at the Texas Department of Insurance**

General remarks and official action taken:

On this day came on for consideration by the Commissioner of Insurance (Commissioner), a proposal for the FY 2006 Annual Research Agenda for the Workers' Compensation Research and Evaluation Group (REG) at the Texas Department of Insurance (Department). House Bill 7 (79th Legislature, Regular Session, 2005) included the enactment of new Labor Code §405.0026, which requires the Commissioner to adopt an annual research agenda for the REG. It also requires the REG to publish the proposed research agenda in the *Texas Register* for the Commissioner's review and approval and requires the Commissioner to accept public comments and to hold a public hearing on the proposed research agenda if requested by interested persons.

In August 2005, the REG posted a request for research agenda suggestions on the TDI website and sent a letter to legislative offices soliciting input for the FY 2006 Research Agenda. After reviewing suggestions from both workers' compensation system stakeholders and legislative offices, the REG developed a proposed FY 2006 Research Agenda using the following criteria:

- Is the proposed research project required by statute or likely to be part of an upcoming legislative review?
- Will the results of the proposed research project address the information needs of multiple stakeholder groups and/or legislative committees?
- Are there available data to complete the project or can data be obtained easily and economically to complete the project?
- Does the REG have sufficient resources to complete the project within FY 2006?

The proposed FY 2006 Research Agenda was published for comment on the Department's website and in the November 11, 2005 issue of the *Texas Register*. There were no requests for a public hearing.

The Commissioner delegated the acceptance and review of the public comments to the Department staff. The Department received comments regarding the

proposed research agenda from the Texas AFL-CIO, Texas Medical Association, HealthSouth Corporation, and the Texas Association for Responsible Nonsubscribers. The comments and the Department's responses are as follows:

Comment: A commenter proposes the following addition to the FY 2006 Research Agenda: "An analysis and report of the adequacy of benefits in compensating injured workers for wage loss as a result of their injuries."

Agency Response: The department appreciates the comment and understands the importance of ensuring the adequacy of income benefits paid to injured workers. The department utilized several criteria when developing the proposed FY 2006 Research Agenda, including whether the Workers' Compensation Research and Evaluation Group (REG) has sufficient resources to complete the project during FY 2006 given the other statutory research requirements the REG must complete. Although the REG does not have the ability to complete this proposed project this fiscal year given its other statutory commitments, the REG does recommend developing the research design during FY 2006 and then placing this project on the proposed FY 2007 Research Agenda. Therefore, the Department recommends adding project #12 to the FY 2006 Research Agenda to create a research design to analyze the adequacy of income benefits paid to injured workers as a result of their work-related injuries.

Comment: A commenter requests that the Department include an analysis of access to medical care within workers' compensation managed care networks in the proposed research project #4 to analyze access to medical care provided under the Division of Workers' Compensation Approved Doctor List (ADL) and suggests making the following changes to the description of proposed project #4: "An analysis of access to medical care provided under the Approved Doctor's List (ADL) and managed care networks in workers' compensation, including the creation of a research design to track injured workers' access to medical care inside and outside of certified workers' compensation health care networks".

Agency Response: The Department appreciates the comment and agrees that it is important to measure access to medical care both inside and outside of workers' compensation health care networks. For this reason, the REG included project #3 on the proposed FY 2006 Research Agenda to develop the research design to assess the impact of networks on both the cost and the quality of medical care provided to injured workers, including a comparison of medical care provided prior before and after the implementation of networks, as well as a comparison of medical care provided to injured workers in and outside of networks, as required by §405.0025 (c), Labor Code. Specifically, §405.0025 (c), Labor Code, requires the REG to analyze the impact of networks on various performance measures, including access to medical care. Additionally, project #1, the development of a workers' compensation network report card, will also

include an examination regarding access to care for individual certified networks in accordance with §1305.502, Insurance Code. Since data for these certified workers' compensation health care networks will not be available until FY 2007, the REG proposes to develop the research design for project #3 in FY 2006 and complete a preliminary analysis in FY 2007.

Comment: A commenter recommends that the Workers' Compensation Health Care Network Report Card under §1305.502, Insurance Code, include the following elements: number of visits, number of days between initial physical or occupational therapy evaluation to discharge, cost per visit, cost per case, and the types of treatments that were used. Additionally, the commenter recommends that the Department use the occupational classifications defined by the United States Department of Labor to make comparisons among cases based on the physical demands of the occupation.

Agency Response: The Department appreciates the comment. Section 1305.502, Insurance Code, describes the various elements that must be included in the network report card, including the cost and utilization of medical care. The Department intends to request stakeholder input on how to define each of the measures specified in §1305.502, Insurance Code, during the development of the report card FY 2006.

Comment: Regarding the proposed research project to collect baseline information on issues relating to access and satisfaction with medical care, return-to-work outcomes, and functional outcomes prior to the implementation of workers' compensation health care networks, a commenter states that patient satisfaction is difficult to measure and suggests that the Department utilize a standardized tool for all similar providers that can be given to patients at specific times during their medical care. The commenter suggests that this survey be administered at the initial medical evaluation, at some later point during the delivery of medical care, and at the time of medical discharge.

Agency Response: The Department appreciates the comment and agrees that the use of a pre-tested or standardized survey questionnaire is the best method for collecting information on issues relating to the access and satisfaction with medical care. The Department recognizes that there are several scientifically accepted methods for collecting this type of information, including written surveys administered at the time medical care is received or telephone surveys with the workers directly. The Department will analyze all of these methods and determine which method meets the information needs of the workers' compensation system given available resources for the project.

Comment: Regarding the proposed research project to collect baseline information on issues relating to access and satisfaction with medical care,

return-to-work outcomes, and functional outcomes prior to the implementation of workers' compensation health care networks, a commenter suggests that the Department survey employers to determine if they have return-to-work programs in place and if so, what they look like and how successful they are. The commenter also suggests that the Department compare the return-to-work outcomes for different industries.

Agency Response: The Department appreciates the comment and recognizes that return-to-work is an important component of the Texas workers' compensation system. However, the REG and its predecessor the Research and Oversight Council on Workers' Compensation (ROC) have completed several research projects in the past analyzing best practices for employer return-to-work programs. Many of these reports can be found on the Department's website at www.tdi.state.tx.us/reports/report9.html. Additionally, there are several projects on the proposed FY 2006 Research Agenda that address return-to-work issues, including projects #1, #3, #5, #6, and #8. Specifically, as part of project #5, the proposed update of the study on employer participation in the Texas workers' compensation system, the REG intends to survey Texas employers about various issues, including the percentage of Texas employers who report that they maintain a written return-to-work program.

Comment: Regarding the proposed research project to collect baseline information on issues relating to access and satisfaction with medical care, return-to-work outcomes, and functional outcomes prior to the implementation of workers' compensation health care networks, commenter suggests using the number of days needed between the date that a referral for therapy services is made and the date that the initial evaluation for physical or occupational therapy services is performed if the Department plans to measure access to these services.

Agency Response: The Department appreciates the comment and will consider the methodology recommendation when completing the project.

Comment: A commenter stated §405.0025, Labor Code, does not require the REG to update previous studies on employer participation in the Texas workers' compensation system and further commented that previous studies on this issue extended beyond the scope of providing an estimation of employer participation in the system since the previous studies focused more on businesses that do not participate rather than businesses that do participate in the system. Additionally, the commenter suggests that if the REG elects to update an existing study that the REG should specifically state which study it plans to update in the proposed research agenda. Also, the commenter states that if the proposed study extends beyond providing an estimation of employer participation in the system, the

research agenda should state so and there should be an opportunity to comment on those issues as well. The commenter also suggests that a new study be conducted using a written employer survey as opposed to collecting survey information by telephone in order to improve the quality of the data by allowing employers adequate time to contemplate a response. The commenter also suggests that a written questionnaire will also help to ensure that the person responding to the survey has sufficient knowledge of the issues.

Agency Response: The Department appreciates the comment and agrees that §405.0025, Labor Code, does not require the REG to update previous studies on employer participation in the Texas workers' compensation system. However, a common question policymakers and system participants ask is how current employer participation in the Texas workers' compensation system compares with participation in previous years. In order to meet this information need, it is important for these studies to be as consistent as possible over time.

The core elements of this employer participation study have not changed significantly since the first study was conducted in 1993, and all of the core elements of this study (including the estimation of employer participation and employee coverage in the Texas workers' compensation system, the types of income and medical benefits provided by nonsubscribing employers, the reasons why employers choose to participate or not participate in the system, and the

satisfaction of employers who choose to participate or not participate in the system) were included as a result of requests by policymakers and system participants for this information. Each time this employer participation study has been conducted, the REG and its predecessor the ROC and the Texas Workers' Compensation Research Center have requested input from affected stakeholder groups on the content of the survey and, as a result of this input, have made minor changes to the survey instrument over time. The Department recognizes that there are several scientifically accepted methods for collecting this type of information, including written surveys and telephone surveys, and the Department will determine which method meets the information needs of the workers' compensation system given the available resources for the project.

In response to the commenter's suggestion about clarifying which study the Department plans to update, the Department has clarified in project #5 that it plans to update the 2004 study on employer participation in the Texas workers' compensation system. Summary findings for this study are on the department's website, at <http://www.tdi.state.tx.us/wc/regulation/roc/pdf/wc0904est.pdf>.

After considering the proposed research agenda, the comments received and the Department's responses to those comments, the Commissioner has determined that the following research agenda is within the authority conferred by Labor Code §405.0026 and will effectively facilitate the comprehensive accomplishment

of the statutory mandate set forth in Labor Code §405.0025, that the REG conduct professional studies and research relevant to the cost, quality, and operational effectiveness of the workers' compensation system and report its findings to the governor, the lieutenant governor, the speaker of the house of representatives, and the members of the legislature.

FY 2006 Research Agenda for the Workers' Compensation Research and Evaluation Group at the Texas Department of Insurance

1. Development of the Workers' Compensation Health Care Network Report Card required under Insurance Code §1305.502 and Labor Code §405.0025;
2. Analysis and report on injured worker survey to collect baseline information on issues relating to access to medical care, satisfaction with medical care, return-to-work outcomes, and functional outcomes prior to the implementation of certified workers' compensation health care networks (required by Labor Code §405.0025 (c), and Insurance Code §1305.501);
3. Creation of the research design to assess the impact of certified workers' compensation health care networks on both the cost and the quality of medical care provided to injured workers, including a comparison of medical care provided prior to and after the implementation of networks, as well as a comparison of medical care provided to injured workers in and outside of networks (preliminary analysis to be completed in FY 2007) (required by Labor Code §405.0025(c));
4. An analysis of access to medical care provided under the Approved Doctor List (ADL), including the creation of a research design to track injured workers' access to medical care outside of certified workers' compensation health care networks;

5. Update of 2004 study to estimate employer participation in the Texas workers' compensation system (required by Insurance Code Article 5.55(e), and Labor Code §405.0025);
6. Update of study comparing the medical and indemnity costs of the various state workers' compensation programs, including the State Office of Risk Management (SORM), the University of Texas System (UT), the Texas A&M System (A&M) and the Texas Department of Transportation (TXDOT);
7. An analysis of the frequency, duration and outcome of medical disputes prior to the implementation of certified workers' compensation health care networks (required by Labor Code §405.0025(c));
8. An analysis of return-to-work outcomes for injured workers using data from the Texas Workforce Commission (TWC);
9. Development of a Designated Doctor and peer review doctor monitoring plan in conjunction with the Texas Department of Insurance, Division of Workers' Compensation;
10. An analysis of medical bill and compensability claim denial trends in the Texas workers' compensation system;
11. An analysis of the frequency, duration and outcome of income benefit dispute hearings prior to the implementation of House Bill 7; and
12. Creation of a research design to analyze the adequacy of income benefits paid to injured workers as a result of their work-related injuries.

IT IS THEREFORE THE ORDER of the Commissioner of Insurance that the FY 2006 Annual Research Agenda for the Workers' Compensation Research and

Evaluation Group at the Texas Department of Insurance, as specified herein, is hereby approved and adopted, effective immediately.

AND IT IS SO ORDERED.

TEXAS DEPARTMENT OF INSURANCE

MIKE GEESLIN
COMMISSIONER OF INSURANCE

RECOMMENDED BY:

Nancy Moore
Deputy Commissioner
Workers' Compensation Classification, Premium Calculation and Research

Attest:

Gene C. Jarmon
General Counsel and Chief Clerk
Texas Department of Insurance

Commissioner's Order No. _____