



## Texas Department of Insurance

### Division of Workers' Compensation

7551 Metro Center Drive, Suite 100 • Austin, Texas 78744-1645  
512-804-4000 telephone • 512-804-4001 fax • [www.tdi.texas.gov](http://www.tdi.texas.gov)

## Memorandum

**To:** Workers' Compensation System Participants

**From:** Jeff Carothers, Director of the Office of Workers' Compensation Counsel

**Date:** May 16, 2012

**Subject:** Adoption: Amendments to 28 TAC §§133.307, 133.308, 144.1–144.7 and 144.9–144.16 Regarding MDR of Fee Disputes, MDR of Medical Necessity Disputes, and Arbitration

On May 11, 2012, the Commissioner of Workers' Compensation Rod Bordelon adopted amendments to 28 Texas Administrative Code (TAC) §§133.307, 133.308, 144.1–144.7 and 144.9–144.16. The adoptions were filed with the Office of the Secretary of State on May 11, 2012 for publication in the May 25, 2012 issue of the *Texas Register* and may be viewed on the Secretary of State website at <http://www.sos.state.tx.us/texreg/index.shtml> at that time. A courtesy copy of each adoption is currently available on the TDI website at <http://www.tdi.texas.gov/wc/rules/adopted/index.html>.

The adopted amendments to 28 TAC §133.307 and §133.308 relate to medical fee and medical necessity dispute resolution. The adopted amendments to 28 TAC §§144.1–144.7 and 144.9–144.16 relate to arbitration, including arbitration of medical fee dispute cases. The primary purpose of these adopted amendments is to conform these rules to recent legislation in House Bill (HB) 2605 and Senate Bill (SB) 809 enacted by the 82<sup>nd</sup> Legislature, Regular Session, effective September 1, 2011 that alters the manner in which a party appeals a Texas Department of Insurance, Division of Workers' Compensation (TDI-DWC) decision in a medical fee dispute and an Independent Review Organization decision in a medical necessity dispute. The adopted amendments also incorporate into these rules provisions in HB 2605 that require the TDI-DWC to accelerate a contested case hearing requested by or an appeal submitted by certain first responders who sustain a serious bodily injury. Finally, the adopted amendments include changes not related to HB 2605 and SB 809 that are intended to clarify and update these rules governing medical dispute resolution and arbitration.

The adopted rules are effective May 31, 2012.

The TDI-DWC has also revised existing TDI-DWC forms related to medical fee dispute resolution and arbitration and created new forms that are to be used by workers' compensation system participants in conjunction with these adopted amendments. Specifically, the TDI-DWC has revised the DWC Form-060, *Medical Fee Dispute Resolution Request*, and DWC Form-044, *Election to Engage In Arbitration*. The TDI-DWC has created new DWC Form-045M, *Request to Schedule, Reschedule, or Cancel Benefit Review Conference for Medical Fee Dispute*, and new DWC Form-049, *Request to Schedule Medical Contested Case Hearing*. The DWC Form-045A

will be replaced by the newly adopted DWC Form-049 effective June 1, 2012. Workers' compensation system participants are to use the revised and new forms for disputes filed on or after June 1, 2012. These forms will be posted on the TDI website at [www.tdi.texas.gov/forms/form20.html](http://www.tdi.texas.gov/forms/form20.html) in the near future.

If there are any questions regarding the information in this memo, contact Rebecca Vann at (512) 804-4282 or [Rebecca.Vann@tdi.state.tx.us](mailto:Rebecca.Vann@tdi.state.tx.us).