



# 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, Office of Workers' Compensation Counsel  
**Date:** October 7, 2011  
**Subject:** Adoption: Amended 28 TAC §134.503 and §134.504 Regarding Pharmacy Fee Guideline and Pharmaceutical Expenses Incurred by the Injured Employee

On September 30, 2011, the Commissioner of Workers' Compensation Rod Bordelon, adopted amended 28 Texas Administrative Code (TAC) §134.503 and §134.504 regarding Pharmacy Fee Guideline and Pharmaceutical Expenses Incurred by the Injured Employee. The adoption will publish in the October 14, 2011 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> once published. A courtesy copy of the adoption may be viewed on the Texas Department of Insurance website at <http://www.tdi.texas.gov/wc/rules/adopted/index.html>.

The purpose of the adoption is to adopt a pharmacy fee guideline under Texas Labor Code §408.028(f). The adoption also implements new Texas Labor Code §408.0281 and other legislative amendments in House Bill 528 (HB 528), enacted by the 82<sup>nd</sup> Legislature, Regular Session, that impact the reimbursement of pharmacy and pharmaceutical services provided in the Texas workers' compensation system. The requirements adopted under HB 528 became effective on June 17, 2011.

The adopted amendments to 28 TAC §134.503 establish the pharmacy fee guideline for prescription drugs and nonprescription drugs or over-the-counter medications that are dispensed for outpatient use. It does not apply to parenteral drugs. Amended 28 TAC §134.503 applies to both claims subject to a certified workers' compensation network (network) and claims not subject to a network, including claims being handled under Texas Labor Code §504.053(b)(2). Amended 28 TAC §134.503 also allows the insurance carrier and health care provider to contract for amounts that are inconsistent with the pharmacy fee guideline as long as the contract complies with the provisions of Texas Labor Code §408.0281 and applicable Texas Department of Insurance, Division of Workers' Compensation (TDI-DWC) rules.

The adopted amendments to 28 TAC §134.504 conform to references to 28 TAC §134.503 in light of the amendments to 28 TAC §134.503.

The adopted amendments to 28 TAC §134.503 and §134.504 will apply to the reimbursement of prescription drugs and nonprescription drugs or over-the-counter medications that are dispensed on or after October 23, 2011, the effective date of the amendments.

If there are any questions regarding the information in this memo, contact Elena Cablao at 512-804-4748, or [elena.cablao@tdi.state.tx.us](mailto:elena.cablao@tdi.state.tx.us).