



## TEXAS DEPARTMENT OF INSURANCE

### General Counsel Division - Legal Section (MS-4D)

7551 Metro Center Drive, Suite 100, Austin, Texas 78744-1645

(512) 804-4703 | F: (512) 804-4276 | (800) 372-7713 | TDI.texas.gov | @TexasTDI

# memo

To: Workers' Compensation System Participants

From: Emily McCoy, Associate General Counsel, Office of General Counsel

Date: May 4, 2018

Proposal: Amend 28 TAC §134.230, and §134.600 concerning Return to Work Rehabilitation Programs and  
RE: Preauthorization, Concurrent Utilization Review, and Voluntary Certification of Health Care.

The Texas Department of Insurance, Division of Workers' Compensation (TDI-DWC) is accepting public comments on proposed rules to amend 28 Texas Administrative Code (TAC) §134.230, regarding return to work rehabilitation programs and 28 TAC §134.600, regarding preauthorization, concurrent utilization review, and voluntary certification of health care.

Proposed amendments to 28 TAC §134.600 implement Senate Bill 1494 of the 85<sup>th</sup> Regular Legislative Session that amended Labor Code §413.014 regarding preauthorization and concurrent utilization review of work conditioning (WC) and work hardening (WH) services. SB 1494 added subsection (c-1), which gives the commissioner discretion to exempt from preauthorization and concurrent review WC and WH services "provided by a health care facility credentialed by an organization designated by commissioner rule." Additionally, in September 2017, the Workers' Compensation Research and Evaluation Group published an analysis of return to work rehabilitation programs by accreditation status and found that work conditioning utilization was significantly higher for CARF accredited claims and there was no statistical difference in the disability duration, measured by the length of Temporary Income Benefits, between CARF accredited and non-CARF accredited programs for WC and WH programs. The proposed amendment to §134.600 reflects the commissioner's decision to exercise his discretion to not designate a credentialing organization for preauthorization exemption. The proposed amendments would make it so that all WC and WH services must be preauthorized.

Proposed amendments to 28 TAC §134.230 set a single reimbursement rate for WC services and WH services, regardless of a program's accreditation status. The amendments to 28 TAC §134.230 are necessary to set a single reimbursement rate for WH or WC services. Amendments to 28 TAC §134.230 also include several non-substantive changes for readability.

If you want to comment on the proposal, submit your written comments by 5:00 p.m. Central time on June 4, 2018. A request for public hearing must be sent separately from your written comments. Send written comments or hearing requests by email to [rulecomments@tdi.texas.gov](mailto:rulecomments@tdi.texas.gov) or by mail to:

Texas Department of Insurance, Division of Workers' Compensation  
Maria Jimenez  
Workers' Compensation Counsel MS – 4D  
7551 Metro Center Drive, Suite 100  
Austin, Texas 78744-1645

If a hearing is held, TDI-DWC will consider written comments and public testimony presented at the hearing.

The proposal will be published in the May 4, 2018 issue of the *Texas Register* and will be available at [www.sos.state.tx.us/texreg/index.shtml](http://www.sos.state.tx.us/texreg/index.shtml) once published. A courtesy copy will also be available on the TDI website at [www.tdi.texas.gov/wc/rules/2018rules.html](http://www.tdi.texas.gov/wc/rules/2018rules.html).