SUBCHAPTER B. RETURN TO WORK.
28 TAC §137.10.

INTRODUCTION. The Texas Department of Insurance, Division of Workers' Compensation (DWC) proposes to amend 28 TAC §137.10, concerning return-to-work guidelines. Section 137.10 implements Texas Labor Code §413.011. The DWC medical advisor recommends the amendments to the commissioner of workers' compensation under Labor Code §413.0511(b).

EXPLANATION. The amendments adopt a different set of guidelines for disability duration values. The current rule requires the use of Medical Disability Advisor, while the proposed change would require the use of ODG by MCG, published by MCG Health (ODG by MCG). Amending §137.10 is necessary to instruct insurance carriers, health care providers, and employers to use the disability duration values in the current edition of the ODG by MCG instead of those in the MDGuidelines (formerly known as Medical Disability Advisor), as guidelines for the evaluation of expected or average return-to-work timeframes. The amendments also update DWC's website address and the section's effective date, and include nonsubstantive editorial changes that make updates for plain language and agency style to improve the rule's clarity.

Labor Code §413.011(e) requires the commissioner to adopt treatment guidelines and return-to-work guidelines by rule. Section 413.011(f) requires that those guidelines must be designed to ensure the quality of medical care and to achieve effective medical cost control, and to enhance a timely and appropriate return to work.

To fulfill their role in the Texas workers' compensation system, designated doctors are required to subscribe to these guidelines, which includes purchasing access to them. The current adopted treatment guidelines are published by ODG by MCG, and include access to return-to-work guidelines. Designated doctors cannot currently use ODG by MCG's return-to-work guidelines because the current adopted return-to-work guidelines are published by MDGuidelines. MDGuidelines will change its pricing model and raise its rates substantially starting on October 1, 2026. Since the ODG by MCG treatment guidelines subscription already includes access to return-to-work guidelines, the amendments will allow system participants to use the ODG by MCG services they already subscribe to instead of maintaining a separate, costly subscription to MDGuidelines. Amending the rule to update the reference from Medical Disability Advisor to ODG by MCG is necessary to ensure continued participation in the workers' compensation system by avoiding unnecessary administrative and monetary burdens on doctors in the system. The change will promote efficiency by allowing system participants to benefit from a single subscription instead of maintaining two separate subscriptions to substantially similar services. Avoiding those unnecessary costs also complies with the requirement in Labor Code §413.011 that the commissioner's adopted return-to-work guidelines help achieve effective medical cost control.

The return-to-work guidelines in ODG by MCG are comparable to those in MDGuidelines, and moving to the guidelines in ODG by MCG makes sense administratively, economically, and clinically. Both sets of guidelines derive disability duration values from the same foundational methodology—population-based epidemiological data stratified by diagnosis, job classification, and physical demand characteristics. The underlying evidence base for expected return-to-work timeframes does not differ materially between the two sets of guidelines. In practice, duration values calculated using both sets of guidelines have been substantively equivalent across the overwhelming majority of diagnostic categories in Texas workers' compensation claims. As a result, replacing the return-to-work guidelines with those in ODG by MCG removes an unnecessary cost and duplication of resources without any loss of clinical accuracy or adjudicative reliability. In addition, because treatment and expected disability duration are evaluated together, using the ODG by MCG for both treatment, as is currently the case, and return-to-work disability duration calculations, as DWC proposes here, allows system participants to apply a single, integrated, evidence-based resource across both the treatment and return-to-work functions, which more accurately reflects actual clinical decision making.

DWC invited public comments on an informal draft posted on DWC's website on May 6, 2026. DWC considered the comments it received on the draft when drafting this proposal.

As part of the implementation plan for this rule, DWC intends to train system participants on the use of the return-to-work guidelines in ODG by MCG.

FISCAL NOTE AND LOCAL EMPLOYMENT IMPACT STATEMENT. Deputy Commissioner for Operations Mary Landrum has determined that during each year of the first five years the proposed changes are in effect, there will be no or minimal measurable fiscal impact on state and local governments as a result of enforcing or administering the sections, other than that imposed by the statute. This determination was made because the proposed changes do not add to or decrease state revenues or expenditures, and because local and state government entities are only involved in enforcing or complying with the proposed changes when acting in the capacity of a workers' compensation insurance carrier. Those entities will be impacted in the same way as an insurance carrier and will realize the same benefits from the proposed changes.

Deputy Commissioner Landrum does not anticipate any measurable effect on local employment or the local economy as a result of this proposal.

PUBLIC BENEFIT AND COST NOTE. For each year of the first five years the proposed changes are in effect, Deputy Commissioner Landrum expects that enforcing and administering the proposed changes will have the public benefits of reducing administrative burdens and unnecessary costs to system participants, promoting stability and consistency in the workers' compensation system, and enhancing retention of doctors in the system, as well as ensuring that DWC's rules conform to Labor Code §413.011 and are current and accurate, which promotes transparent and efficient regulation.

Deputy Commissioner Landrum expects that the proposed changes will not increase the cost to comply with Labor Code §413.011 because they do not impose requirements beyond those in the statute, and do not create more burdensome obligations than the current rule. Instead, Deputy Commissioner Landrum expects that the proposed changes will lessen the cost of compliance. Labor Code §413.011(e) requires the commissioner to adopt return-to-work guidelines by rule. Section 413.011(f) requires that those guidelines must be designed to ensure the quality of medical care and to achieve effective medical cost control, and to enhance a timely and appropriate return to work. As a result, the cost associated with moving from the disability duration values in the MDGuidelines to those in the ODG by MCG does not result from the enforcement or administration of the proposed changes. In fact, the proposed changes should reduce the cost of participation in the system because designated doctors will no longer be required to subscribe to two different services that provide return-to-work guidelines. And adopting the proposed changes before October 1, 2026, when MDGuidelines has scheduled a substantial rate increase, will allow system participants to avoid that additional cost.

ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS. DWC has determined that the proposed changes will not have an adverse economic effect or a disproportionate economic impact on small or micro businesses, or on rural communities because the proposed changes are designed to reduce the cost of compliance by eliminating an unnecessary subscription, and to make editorial revisions, updates to obsolete references, and updates for plain language and agency style. The proposed changes do not change the people the rule affects or impose additional costs. As a result, and in accordance with Government Code §2006.002(c), DWC is not required to prepare a regulatory flexibility analysis.

EXAMINATION OF COSTS UNDER GOVERNMENT CODE §2001.0045. DWC has determined that this proposal does not impose a possible cost on regulated persons. In contrast, DWC expects that the reduced monetary and administrative burden from the amendments will reduce costs to regulated persons. As a result, no additional rule amendments are required under Government Code §2001.0045.

GOVERNMENT GROWTH IMPACT STATEMENT. DWC has determined that for each year of the first five years that the proposed changes are in effect, the proposed rule:

- will not create or eliminate a government program;
- will not require the creation of new employee positions or the elimination of existing employee positions;
- will not require an increase or decrease in future legislative appropriations to the agency;
- will not require an increase or decrease in fees paid to the agency;
- will not create a new regulation;
- will not expand, limit, or repeal an existing regulation;
- will not increase or decrease the number of individuals subject to the rule's applicability; and

- will not positively or adversely affect the Texas economy.

DWC made these determinations because the proposed changes eliminate an unnecessary subscription, enhance efficiency and clarity, and make editorial changes for plain language and agency style. They do not change the people the rule affects or impose additional costs.

TAKINGS IMPACT ASSESSMENT. DWC has determined that no private real property interests are affected by this proposal, and this proposal does not restrict or limit an owner's right to property that would otherwise exist in the absence of government action. As a result, this proposal does not constitute a taking or require a takings impact assessment under Government Code §2007.043.

REQUEST FOR INFORMATION AND PUBLIC COMMENT. DWC requests public comments on the proposal, including information related to the cost, benefit, or effect of the proposal and any applicable data, research, and analysis. DWC will consider any written comments on the proposal that DWC receives no later than 5:00 p.m., Central time, on August 31, 2026. Send your comments to RuleComments@tdi.texas.gov; or to Texas Department of Insurance, Division of Workers' Compensation, Legal and Communications Services, MC-LS, P.O. Box 12050, Austin, Texas 78711-2050.

DWC will also consider written and oral comments on the proposal at a public hearing at 11 a.m., Central time, on August 24, 2026. The hearing will take place remotely. DWC will publish details of how to view and participate in the hearing on the agency website at www.tdi.texas.gov//alert/event/index.html.

SUBCHAPTER B. RETURN TO WORK.

28 TAC §137.10.

STATUTORY AUTHORITY. DWC proposes §137.10 under Labor Code §§413.011, 402.00111, 402.00116, and 402.061.

Labor Code §413.011(e) requires the commissioner to adopt treatment guidelines and return-to-work guidelines by rule. Section 413.011(f) states that the medical policies or guidelines the commissioner adopts in subsection (e) must be: (1) designed to ensure the quality of medical care and to achieve effective medical cost control; (2) designed to enhance a timely and appropriate return to work; and (3) consistent with §§413.013, 413.020, 413.052, and 413.053.

Labor Code §402.00111 provides that the commissioner of workers' compensation shall exercise all executive authority, including rulemaking authority under Title 5 of the Labor Code.

Labor Code §402.00116 provides that the commissioner of workers' compensation shall administer and enforce this title, other workers' compensation laws of this state, and other laws granting jurisdiction to or applicable to DWC or the commissioner.

Labor Code §402.061 provides that the commissioner of workers' compensation shall adopt rules as necessary to implement and enforce the Texas Workers' Compensation Act.

CROSS-REFERENCE TO STATUTE. Section 137.10 implements Labor Code §413.011, recodified from V.A.C.S. Arts. 8308-8.01(a) and (g), and 8308-8.21(a) and (b), by House Bill (HB) 752, 73rd Legislature, Regular Session (1993); and amended by HB 7, 79th Legislature, Regular Session (2005).

TEXT.

§137.10. Return to Work Guidelines.

(a) Insurance carriers, health care providers, and employers must [~~shall~~] use the disability duration values in the current edition of the ODG by MCG guidelines published by MCG Health at www.mcg.com/odg (ODG by MCG, referred to in this title as Division return to work guidelines) [~~*The Medical Disability Advisor, Workplace Guidelines for Disability Duration*, excluding all sections and tables relating to rehabilitation, (MDA), published by the Reed Group, Ltd. (Division return to work guidelines)~~], as guidelines for the evaluation of expected or average return to work time frames.

(b) Information on how to obtain or inspect copies of the Division return to work guidelines is [~~may be found~~] on the Division's website: www.tdi.texas.gov/wc/ [~~*www.tdi.state.tx.us*~~].

(c) (No change.)

(d) (No change.)

(e) (No change.)

(f) (No change.)

(g) This section applies to any determination of an injured employee's ability to return to work conducted on or after October 1, 2026 [~~is effective on or after May 1, 2007~~].

CERTIFICATION. The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Issued in Austin, Texas, on July 14, 2026.

Kara Mace
General Counsel
TDI, Division of Workers' Compensation