

# Health Care Provider Quarterly Meeting

October 14, 2021  
9:30 a.m. to 11 a.m.

# Agenda Items

- Welcome
- Office of the Medical Advisor Update
- Compliance and Investigations Update
- Forms Project and Designated Doctor Operations Update
- Coverage Verification
- Litigation Update
- Legislative Update
- Q&A
- Closing

# Welcome

Dan Paschal, Deputy Commissioner  
Policy and Customer Services

# Office of the Medical Advisor (OMA) Update

Mary Landrum, Director  
Health Care Business Management

# Quality of Care Complaints

- Calendar year 2021
  - 73 complaints forwarded to OMA  
(includes external complaints and internal referrals)
  - 57 complaints investigated by OMA
    - 53% closed with no action
    - 26% issued letters of education
    - 11% initiated a medical quality review
    - 11% referred to enforcement

Source: Texas Department of Insurance, Division of Workers' Compensation, data as of 10/05/21

# Medical Quality Reviews

- Calendar year 2021
  - 33 reviews initiated
    - includes complaint, audit, or monitoring-based reviews
    - assigned to MQRP members for review
  - 4 reviews concluded
    - 75% referred to Enforcement
    - 25% recommended other actions  
(includes letters of education, referrals to medical licensing boards, and closures with no action)

Source: Texas Department of Insurance, Division of Workers' Compensation, data as of 10/04/21

# Medical Quality Reviews – PBO Assessments

- Calendar year 2021
  - 630 assessments initiated
  - 238 assessments concluded

Source: Texas Department of Insurance, Division of Workers' Compensation, data as of 10/04/21

# OMA Enforcement Cases

Calendar year 2021

- 4 OMA referrals received in Enforcement
- 10 OMA cases concluded by Enforcement
  - 3 consent orders/final orders
  - 3 warning letters
  - 4 other action
- 15 OMA cases pending in Enforcement
- 1 OMA case pending at SOAH

Source: Texas Department of Insurance, Division of Workers' Compensation, data as of 10/8/21

# Questions?

# Compliance and Investigations Update

Darrell Cooper, Director  
Audits and Investigations

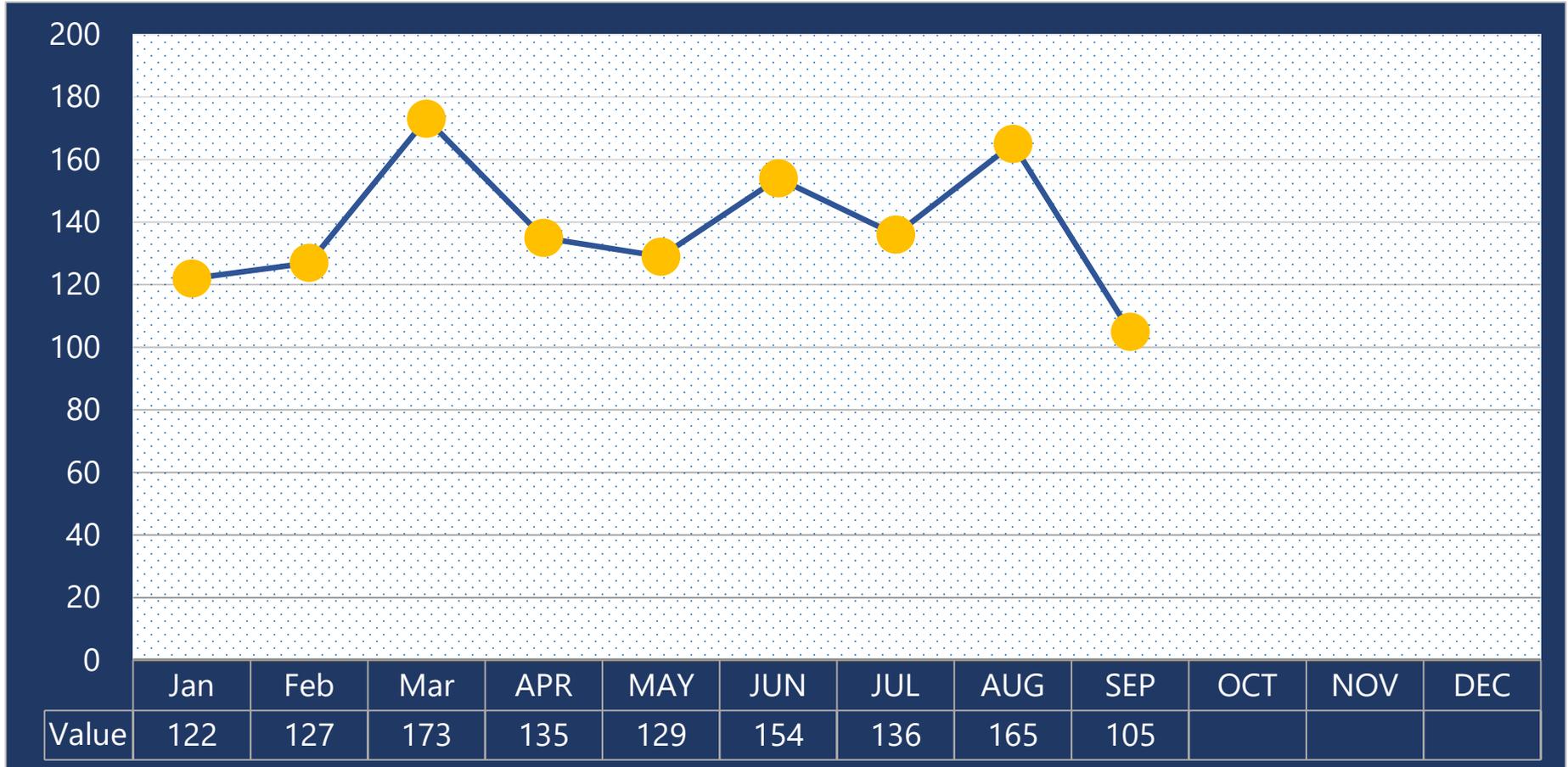
# CY2021 Complaints

# CY2021 - Complaints

- 1,246 Complaints received
  - 8 Attendance
  - 401 Communications
  - 0 Fraud
  - 327 Indemnity benefit delivery
  - 291 Medical benefit delivery
  - 163 Other
  - 56 Quality of care
- 1,321 Complaints closed
  - 395 Confirmed
  - 323 DWC Education complaint
  - 603 Not confirmed

Based on complaint data as of 9/27/2021

# CY2021 Complaint Volume by Month Received



Based on complaint data as of  
9/27/2021

# 2021 Performance Based Oversight (PBO)

# Performance Based Oversight (PBO)

## 2021 Health Care Provider Assessment

- Next Steps
- Email: [PBO@tdi.texas.gov](mailto:PBO@tdi.texas.gov)

# DWC Fraud & Prosecution Units

# CY2021 – DWC Fraud Unit

- 915 fraud referrals received
- 100 fraud cases open\*
- 248 fraud cases closed
- 2 fraud referrals for prosecution

\*Based on data received as of 9/21/21

# CY2021 – DWC Fraud & Prosecution Units

- 6 indictments
  - 5 attorney
  - 1 injured employee

\*Based on data received as of 9/21/21

# CY2021 – DWC Fraud & Prosecution Units

12 convictions (health care provider)

\*Based on data received as of 9/21/21

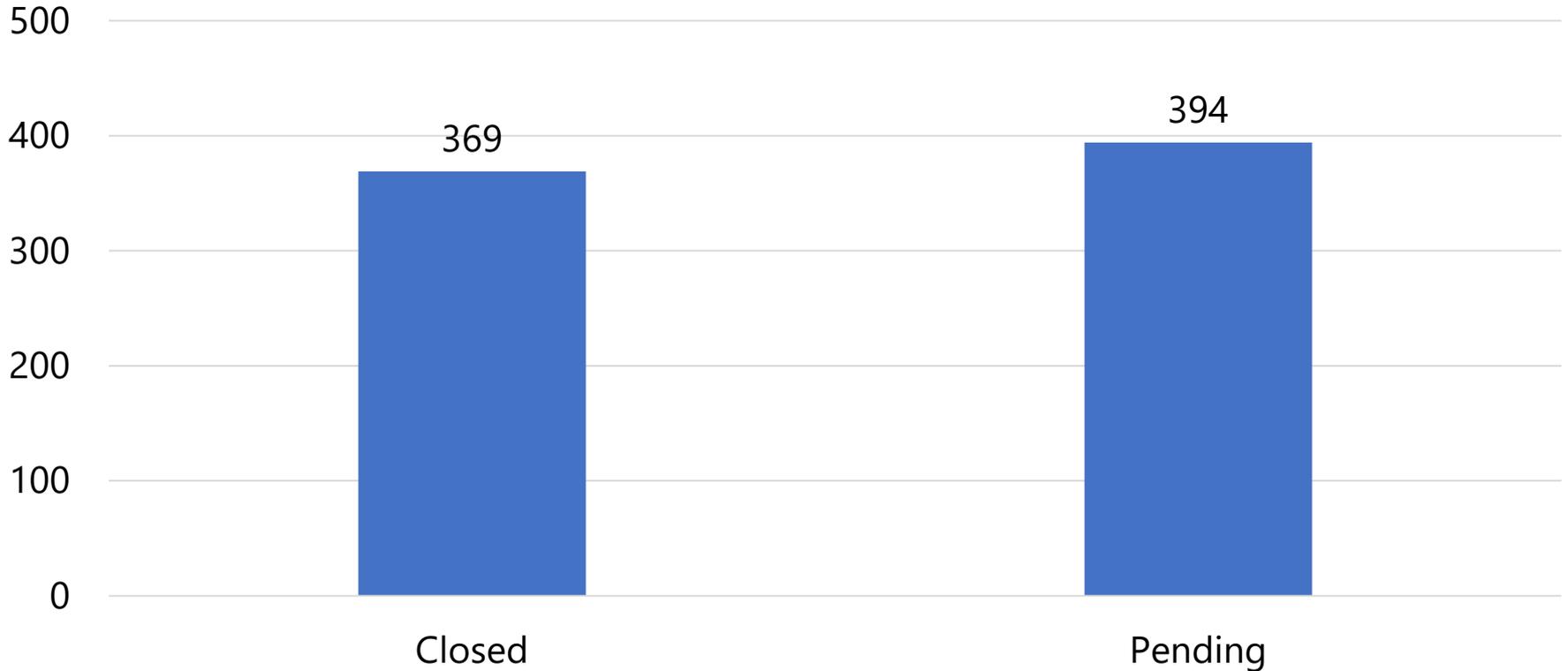
# Enforcement Update

# Examples of Health Care Provider Administrative Violations

- Billing the injured employee;
- quality of care;
- failure to timely file required reports;
- failure to attend an ordered examination; and
- failure to timely send medical records.

# CY2021 Enforcement Case Status

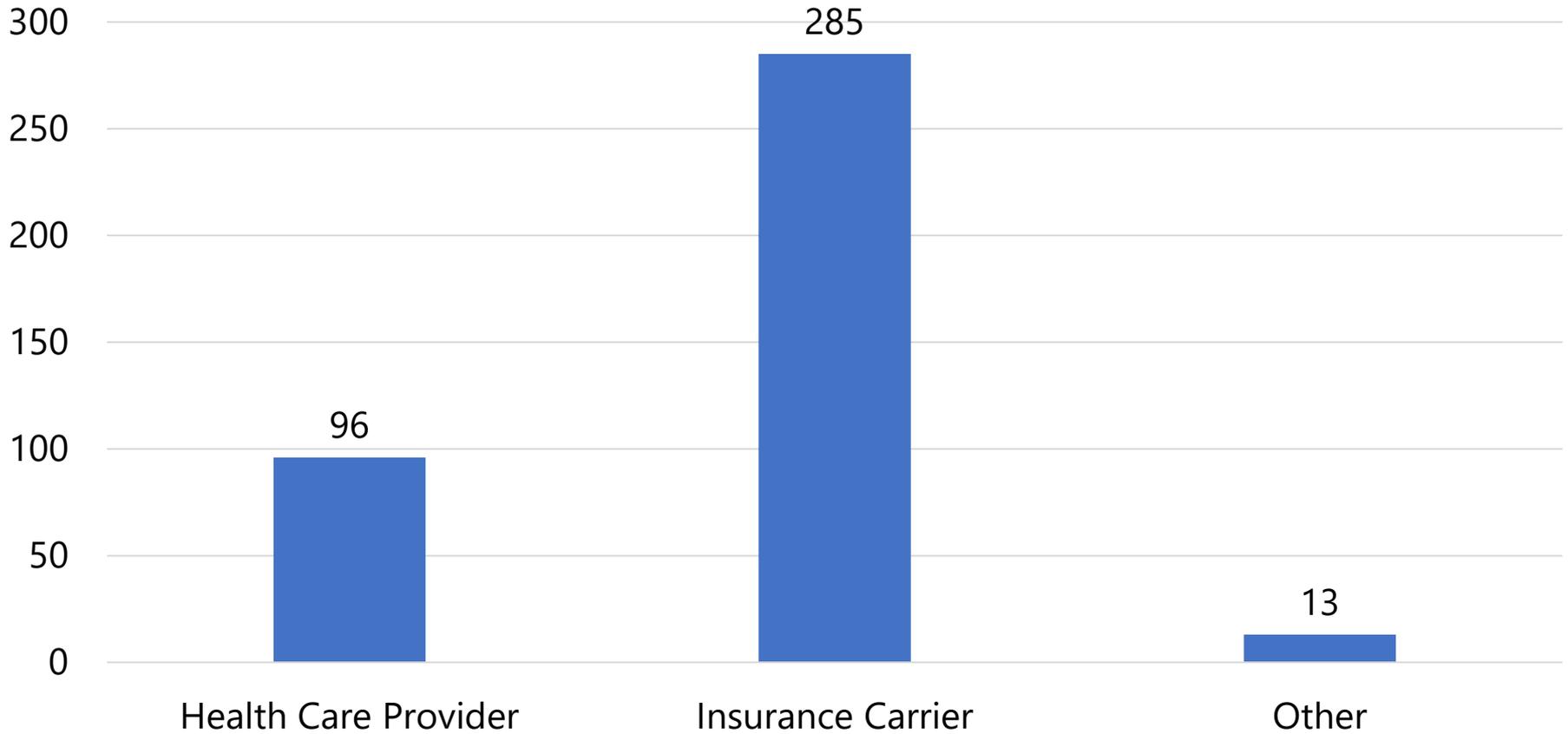
Based on enforcement data as of 09/28/2021



2021	Closed Cases	Pending Cases
Cases	369	394

# CY2021 Cases Pending by Subject Type

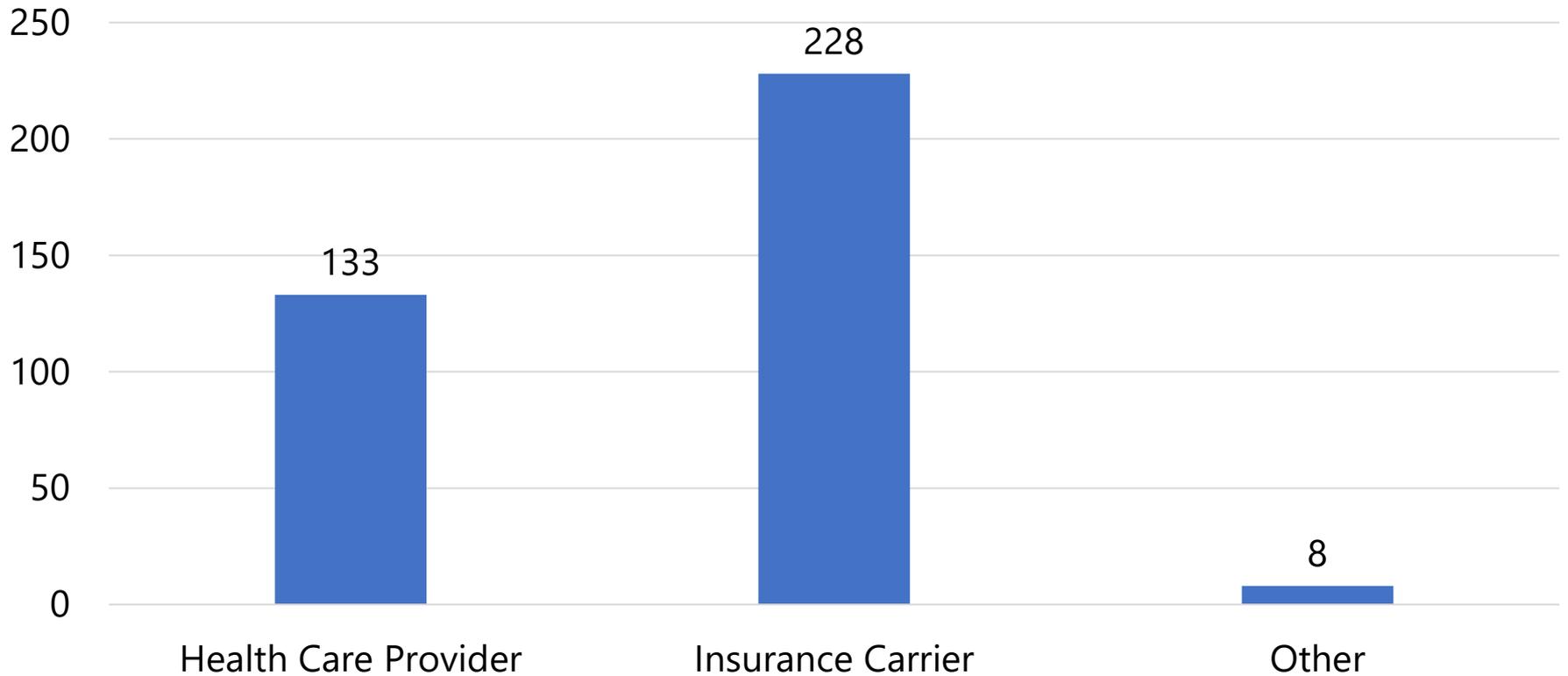
Based on enforcement data as of 09/28/2021



2021	Health Care Provider	Insurance Carrier	Other
Cases	96	285	13

# CY2021 Cases Closed by Subject Type

Based on enforcement data as of 09/28/2021

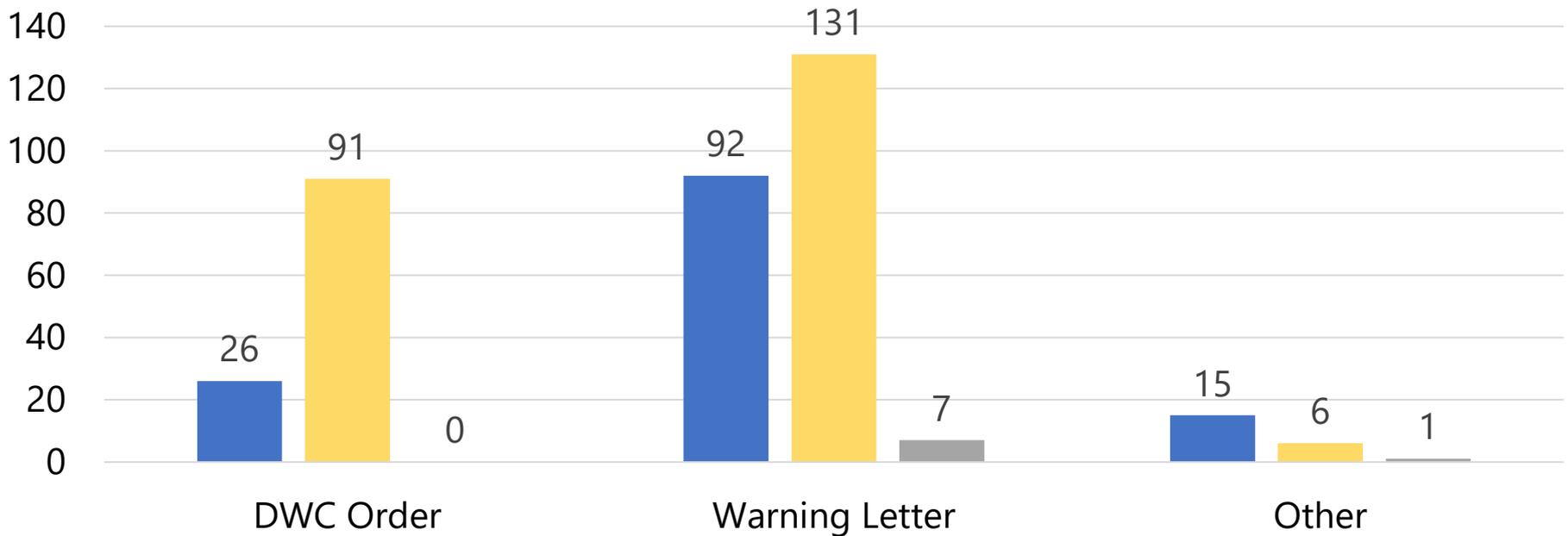


2021	Health Care Provider	Insurance Carrier	Other
Cases	133	228	8

# CY2021 Cases Closed by Disposition Type

Based on enforcement data as of 09/28/2021

■ Health Care Provider ■ Insurance Carrier ■ Other



2021	Health Care Provider	Insurance Carrier	Other
<b>DWC Order</b>	26	91	0
<b>Warning Letter</b>	92	131	7
<b>Other</b>	15	6	1

# DWC Enforcement Disciplinary Orders Link

- <https://www.tdi.texas.gov/wc/orders/index.html>

# Questions?

# Designated Doctor Update and Notices Project Update

Joe McElrath, Deputy Commissioner  
Business Process

# Designated Doctor Program

- Review designated doctor program
- Examined various areas for possible improvement to the program
- Initial input from designated doctors during certification training
- Seeking additional input from all system participants for ways to improve the program

# Designated Doctor Program

DWC will be scheduling a series of virtual discussion meeting for all stakeholders and focus group meetings for:

- insurance carriers;
- health care providers; and
- injured employee representatives

in the first two weeks of November.

# DWC Forms and Notices Update Project

- Updating forms and notices for new letterhead and mailing instructions.
- Some forms and notices modified for content, font size, and plain language.
- Project planned for completion in summer of 2022.

# DWC Forms and Notices Update Project

- Quarterly update of forms to be revised this fall:
  - Workplace Safety – Rejected risk employer program and accident prevention services
  - All “Group Two” forms – mid-November posting

# DWC Forms and Notices Update Project

## Group Two: Limited Updates

- Update English and Spanish versions of forms with DWC's new letterhead and return address information only.
- No update to the form revision date in the lower left corner or to barcode information.
- Post updated forms to use immediately with no comment period.

# DWC Forms and Notices Update Project

DWC Forms Project Page: [www.tdi.texas.gov/forms/form20.html](http://www.tdi.texas.gov/forms/form20.html)

The screenshot shows the Texas Department of Insurance (TDI) website. The header includes the TDI logo and the text "Texas Department of Insurance". A search bar is present with the text "ENHANCED BY Google". Below the search bar, there are navigation links for "Topics: A B C D E F G H I J K L M N O P Q R S T U V W X Y Z All" and a link for "Español". The main navigation bar has tabs for "Insurance", "State Fire Marshal", and "Workers' Compensation". Under "Workers' Compensation", there are sub-tabs for "Home", "Injured Employees", "Empleados Lesionados", "Employers", "Health-Care Providers", and "Carriers". The breadcrumb trail reads "Home > Workers' Compensation > DWC forms > DWC forms project".

**DWC forms project**

On April 19, 2021, the Texas Department of Insurance, Division of Workers' Compensation (DWC) issued Commissioner's Bulletin #B-0012-21 to inform system participants that DWC Austin headquarters will move to the Capitol Complex in the summer of 2022. This move will require DWC to update most of its notices and forms to use a new letterhead and mailing address. In some cases, DWC will also modernize forms and notices for content, font size, and plain language.

Updated forms will be posted to the [DWC forms page](#).

**Related correspondence**

- [Revised DWC Forms: Joint Agreements, DWC Forms 081-085](#) 10/7/21
- [DWC requests comments on joint agreement forms](#) 8/31/21
- [New DWC Form-156, Prospective Employment Authorization and Certification](#) 8/17/21
- [New DWC Form-048, Request to Get Reimbursed for Travel Costs](#) 8/3/21
- Senate Bill 22, 87th Legislature, Regular Session (2021) [memo](#) | [FAQ](#) 7/16/21
- House Bill 1752, 87th Legislature, Regular Session (2021) [memo](#) | [FAQ](#) 7/16/21
- [Plan to update notices and forms](#) 6/8/21
- [Opportunity to review and comment on a plan to update notices and forms](#) 5/10/21
- [Commissioner's Bulletin #B-0012-21: Texas Department of Insurance, Division of Workers' Compensation \(DWC\) Austin headquarters move to the Capitol Complex](#) 4/19/21

**New mailing address**  
DWC headquarters will move from its current location to the Capitol Complex in the summer of 2022.

**Stakeholders: please use the new mailing address for ALL correspondence with DWC starting now:**  
Division of Workers' Compensation  
PO Box 12050  
Austin, TX 78711

**Left sidebar menu:**

- About TDI
- Commissioner of Insurance
- TDI initiatives
- Executive staff contacts
- Commissioner's orders
- Disciplinary orders
- Fraud case dispositions
- Boards and committees
- Bulletins
- Rules
- Public Hearings
- Legal updates
- Data calls
- Forms
- Reports
- News

# Questions?

# Coverage Verification

Martha Luévano, Director  
Enterprise Automation Services (EAS)

# DWC Coverage Section

- ✓ Collects employers' workers' compensation coverage information
- ✓ Collects information about employers *without* workers' compensation coverage
- ✓ Publishes lists of covered and non-covered employers
- ✓ Can assist health care providers by:
  - Verifying whether an employer is a subscriber or a non-subscriber
  - Providing bill processing, network verification and other work comp carrier contact information for subscribers
- × Cannot verify benefits for an individual injured worker

# Self-help resources

<https://www.tdi.texas.gov/wc/employer/coverage.html>

About DWC

Commissioner of  
Workers'  
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Executive staff  
contacts

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Bulletins

Rules

Public hearings

Open records

Data calls

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Topics A - Z

## Workers' compensation insurance coverage verification

The **Insurance Coverage Section** provides workers' compensation insurance coverage information for specific dates of injury, performs data entry and maintains insurance coverage information submitted by system participants.

### Verify workers' compensation coverage information for employers

- To [verify individual employer workers' compensation commercial policy coverage](#) (subscribers)
  - [Subscriber download file](#), April through June 2021 (zipped .csv file)
- To [verify if a company holds a Certificate of Authority as a Certified Self Insurer in Texas](#) (certified self-insurers)
- To [locate a self-insured government employer](#)

### Non-subscribers

- Some employers are required to report if they elect not to obtain workers' compensation insurance coverage. For a downloadable list of non-covered employers:
  - **Non-subscriber download file:** [Excel](#) (xlsx)
- Fact sheet - [Non-covered employers / Hoja informativa - Empleadores sin cobertura de seguros de compensación para trabajadores](#)



# How to get one-on-one help

The DWC coverage section generally responds to requests for coverage information within one business day

1. Email us at [coverage.verification@tdi.texas.gov](mailto:coverage.verification@tdi.texas.gov) and include:
  - Name of the employer
  - Address of the employer
  - Date of injury
2. Call us at 512-804-4345

# Questions?

If you have suggestions for the next meeting, contact me at [martha.luevano@tdi.texas.gov](mailto:martha.luevano@tdi.texas.gov), or call 512-804-4858.

# Litigation Update

Nicholas Canaday III  
Special Counsel

# The Air Ambulance Litigation

PHI Air Medical, LLC. v. Texas Mutual Insurance Company, et al  
No. 03-17-00081-CV

Air Evac EMS v. Sullivan & Brown  
No. 18-50722

- Does the Airline Deregulation Act preempt: (A) DWC's authority to set a MAR, Labor Code §413.011, and 28 TAC §134.1, or (B) the bar to private claims, Labor Code §413.042(a)?
  - Pending disputes: 2,500
  - Amount in dispute: \$94.7 million

# Stop Loss 2021

Vista Hospital Litigation  
Case No. 03-21-00242-CV.

In-patient Hospital Admissions and the Stop-loss Exception.  
The 1997 Fee Guideline.

Per *Vista 1*, criteria for Stop-Loss payment (75% of billed charges):

- (a) Audited billed charges exceed \$40,000; and
- (b) Unusually costly services were provided during the admission; and
- (c) Unusually extensive services were provided during the admission

Today, Vista challenges SOAH's application of the criteria and proposes reliance on Medicare's "Relative Weight" Methodology.

Significance: (A) Hundreds of SLX cases are pending. (B) Millions in dispute. (C) Refunds and SIF.

# Accident Fund v. TDI-DWC

No. 03-21-00074-CV

Are 28 DWC Rules 130.102(d)(1)(D) and 130.102(f) invalid because they authorize a “fourth method” of showing entitlement to supplemental income benefits - making “work search contacts” - which conflicts with Labor Code §408.1415(a)(3)?

Are related AP Decision, Appeals Panel Decision Manual entries and preamble to Rule 130.102 *ad hoc* rules?

# Lubbock County v. Reyna

Case# 21-0228

Reyna suffered a traumatic brain injury. Did the injury result in "incurable insanity" or "imbecility?"

Significant for three reasons:

1. District court does not rely on definitions used at CCH.
2. Plaintiff's instruction focused on "the non-vocational quality of life."
3. Carrier's instruction focused on "permanent unemployability."

SCOTEX declines invitation to sort it out.

# Patients Medical Center v. Facility Ins. Corp.

Case No. 19-0533

**Ruling:** "We hold that in a worker's compensation medical fee dispute resolution proceeding, the burden of proof in a contested case hearing before SOAH is on the party seeking review of the Division's initial MFDR decision."

**Today:** Back logged disputes have been docketed. SOAH's new, post-covid electronic filing rules require specific identifying information. Attorneys asked to help. DWC forms under review.

# Questions?

# Legislative Update

Jeff Nelson, Director  
External Relations

# Questions?

# Closing

Dan Paschal, Deputy Commissioner  
Policy and Customer Services