

Insurance Carrier Quarterly Meeting

October 14, 2021

1:30 p.m. to 3 p.m.

Agenda Items

- Welcome
- Office of the Medical Advisor Update
- Compliance and Investigations Update
- Forms Project and Designated Doctor Operations Update
- EDI and Rule Status Update
- Legislative Update
- Litigation Update
- Hearings 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 & internal referrals)
- 57 complaints investigated by OMA
 - 53% closed with no action
 - 26% issued letters of education
 - 11% initiated a medical quality review

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 MGRP 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

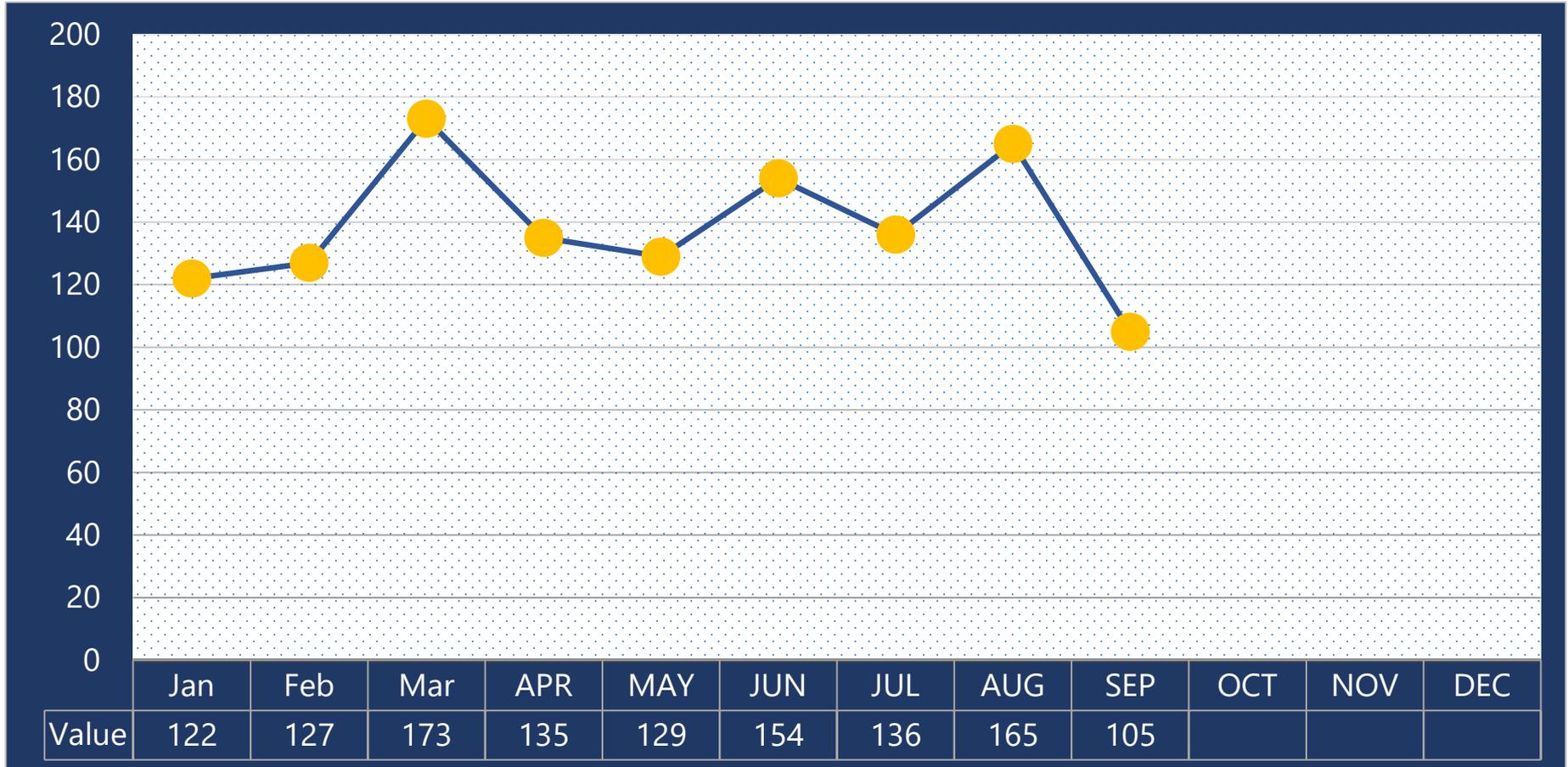
CY2021 Complaints

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

FY2021 and FY2022 Compliance Audits

FY2021 - Compliance Audits

- Death benefits/lifetime income benefits
 - 23 completed
- Initial payment of TIBs
 - 24 completed
- Medical bill processing
 - 12 completed

FY2021 Insurance Carrier Audits

- Indemnity benefit accuracy audits
 - 23 insurance carriers
 - 133 DB claims
 - 2 LIB claims
 - Selected based on DB claim volume
 - Review of lifetime income benefit and death benefit payment and data reporting accuracy (three data elements)

FY2021 Insurance Carrier Audits

- IBA audit final results
 - Accurate payment of benefits
 - DBs (average): 68.12%
 - LIBs (average): 50.00%
 - Restitution, including interest (total, all audits): \$299,969.80
 - DB terminations timely reported: 67.22%
 - LIB annual increases reported: 100.00%

FY2021 Insurance Carrier Audits

- Initial payment of TIB audits
 - 24 insurance carriers
 - selected based on data analysis
- Review of timely IP **and** EDI timeliness/accuracy

FY2021 Insurance Carrier Audits

- Initial pay audit final results
 - IP timeliness (average): 76.21%
 - IP reporting timeliness (average): 87.01%
 - IP data accuracy (average):
 - First day of disability: 79.35%
 - First written notice: 83.34%
 - Initial TIB from date: 94.67%
 - Initial TIB end date: 95.29%
 - Initial TIB paid date: 75.95%

FY2021 Insurance Carrier Audits

- Medical bill processing audits
 - 12 insurance carriers
 - selected based on data analysis
 - Review of payment and reporting timeliness and data accuracy (seven data elements)

FY2021 Insurance Carrier Audits

- Medical bill processing audit final results
 - Payment timeliness (average): 95.43%
 - Reporting timeliness (average): 98.57%
 - Medical data accuracy (average)
 - Rendering line provider NPI: 98.31%
 - Rendering line provider state lic #: 72.91%
 - Referring provider last name: 90.85%

FY2021 Insurance Carrier Audits

- Medical bill processing audit final results
 - Medical data accuracy (average) – cont'd
 - Referring provider state lic #: 89.60%
 - Billing provider FEIN: 100%
 - Date bill received: 92.91%
 - Date bill paid or denied: 96.19%

FY2022 - Compliance Audits

- Death benefits/lifetime income benefits
 - 25 in progress
- Initial payment of TIBs
 - 20 planned
- Medical bill processing
 - 20 planned

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 providers)

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

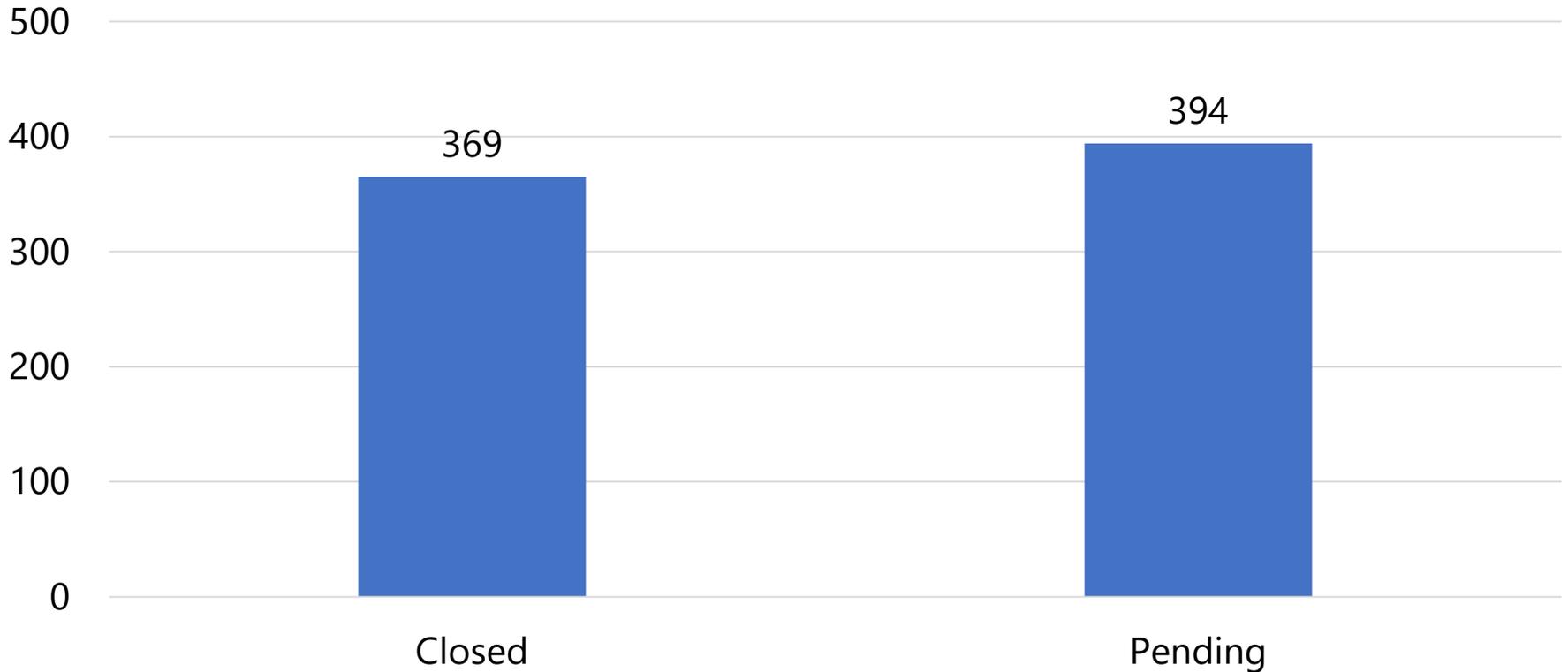
Enforcement Update

Examples of Insurance Carrier Administrative Violations

- Failure to pay timely indemnity benefits;
- failure to initiate TIBS;
- failure to accurately pay TIBS;
- failure to investigate a claim;
- failure to file PLN-1 or PLN-11;
- failure to pay or dispute a medical bill within 45 days of receipt; and
- failure to timely pay attorney fees.

CY2021 Enforcement Case Status

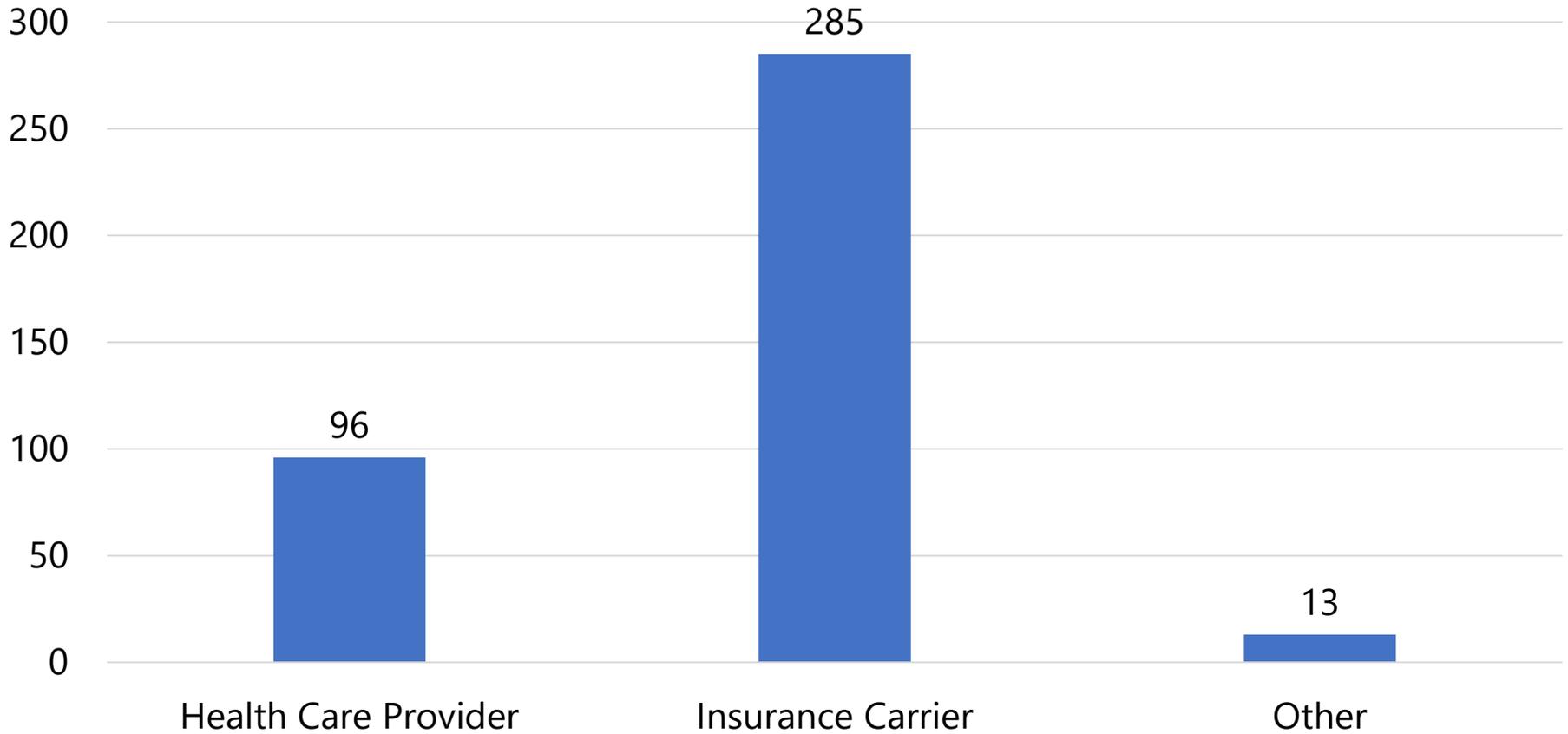
Based on enforcement data as of 09/28/2021



2021	Closed Cases	Pending Cases
Cases	369	394

CY2021 Cases Pending by Subject Type

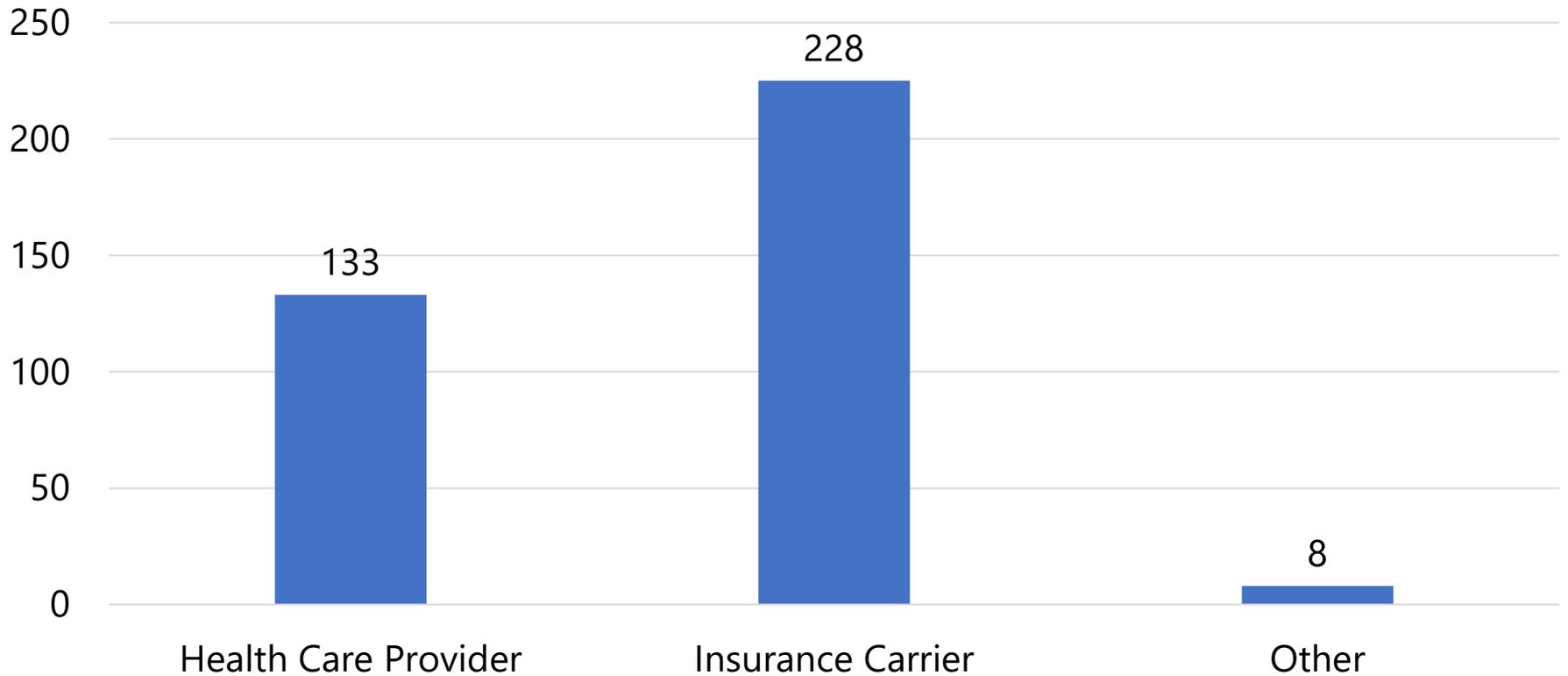
Based on enforcement data as of 09/28/2021



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

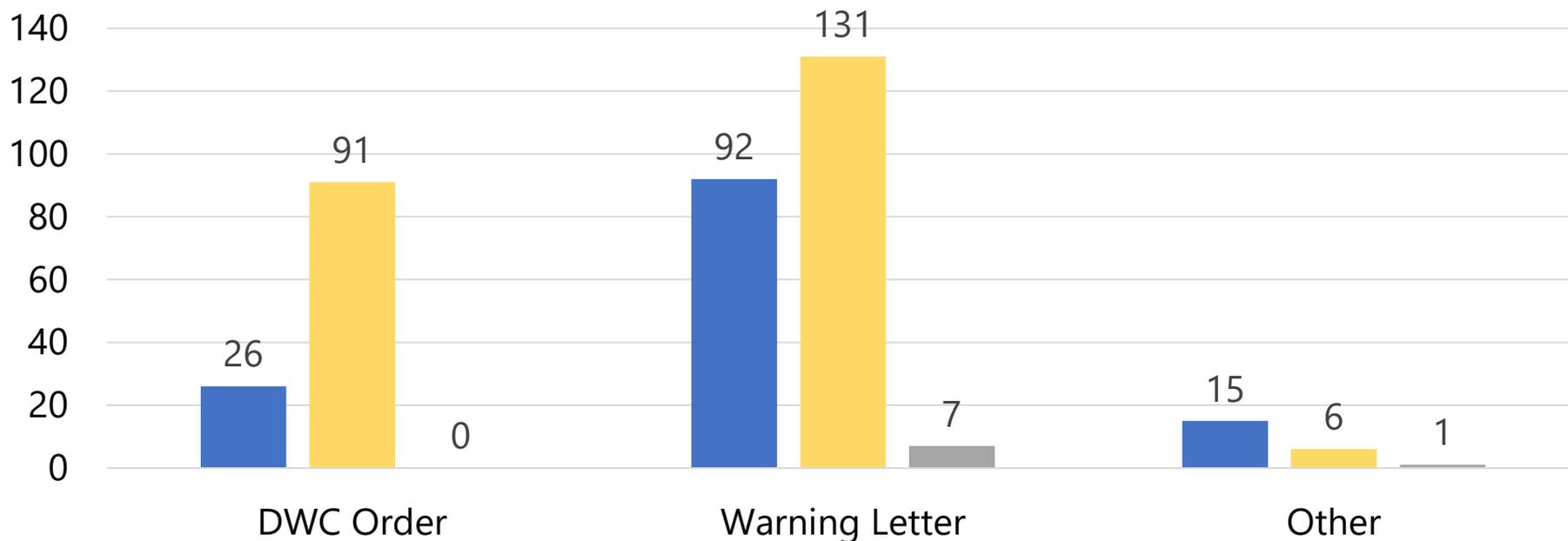


2021	Health Care Provider	Insurance Carrier	Other
Cases	133	228	8

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
DWC Order	26	91	0
Warning Letter	92	131	7
Other	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 meetings for all stakeholders and focus group meetings for:

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

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

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 navigation:

- 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?

Updates on Electronic Data Interchange (EDI)

Martha Luévano, Director
Enterprise Automation Services (EAS)

Claims EDI R3.1

- EDI Technical Workgroup Oct 25, 2021
 - Technical requirements review (EDI Tables)
 - Update on rule project
 - Agenda and handouts will be available at edisupport@tdi.texas.gov
- Next steps

EDI Reminders & Notices

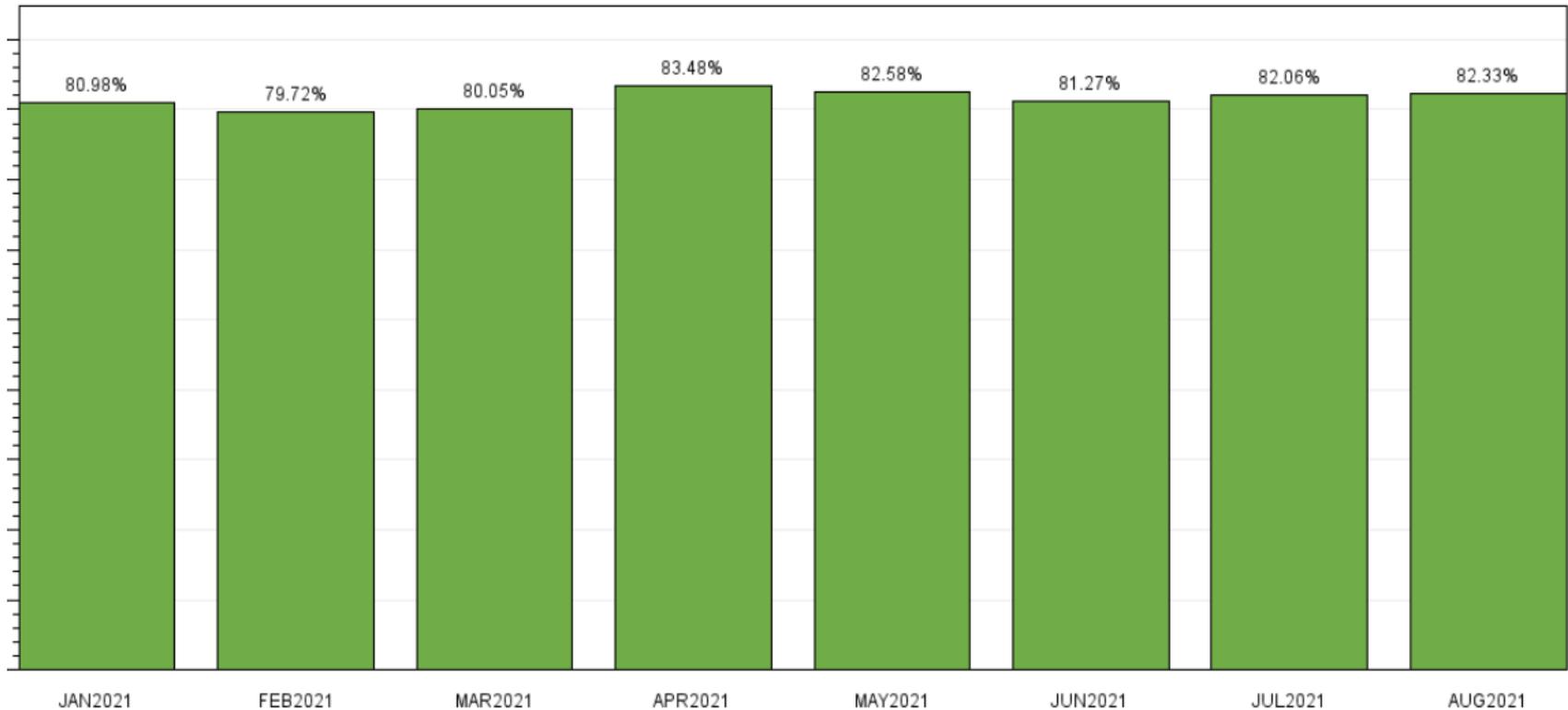
- PLN-15 & reprocessing of COVID claims
 - You may file a 148 00 to indicate that the claim was accepted after reprocess.
 - You may file a 148 04 if you maintain your denial after reprocess.
- If claims are moved from one claim administrator to another claim administrator, the new claim administrator should file an EDI FROI AU for each claim acquired.
- If you deny for lack of coverage, a DWC 148 04 denial and PLN-1 must be filed.
 - Employer data, including policy data, is not required on the EDI denial for no coverage.



Insurance Carrier SCORECARD

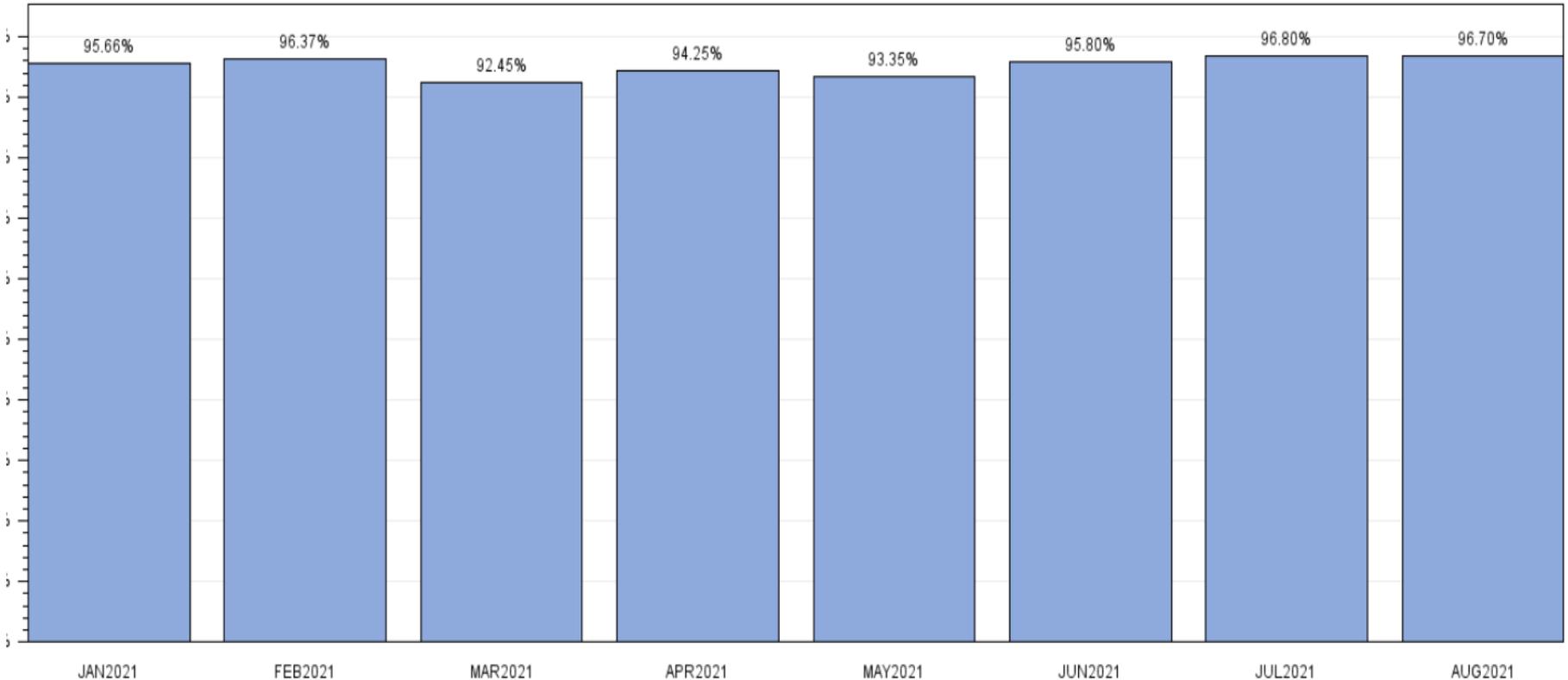
- Found at <http://tdi.texas.gov/wc/carrier/index.html>.
- DWC uses raw or unprocessed data to create monthly snapshots.
- Used by carriers to oversee timeliness of payments and EDI filings.
- The monthly snapshots are not refreshed or re-calculated.

Timeliness of Initial TIBS Payment 2021



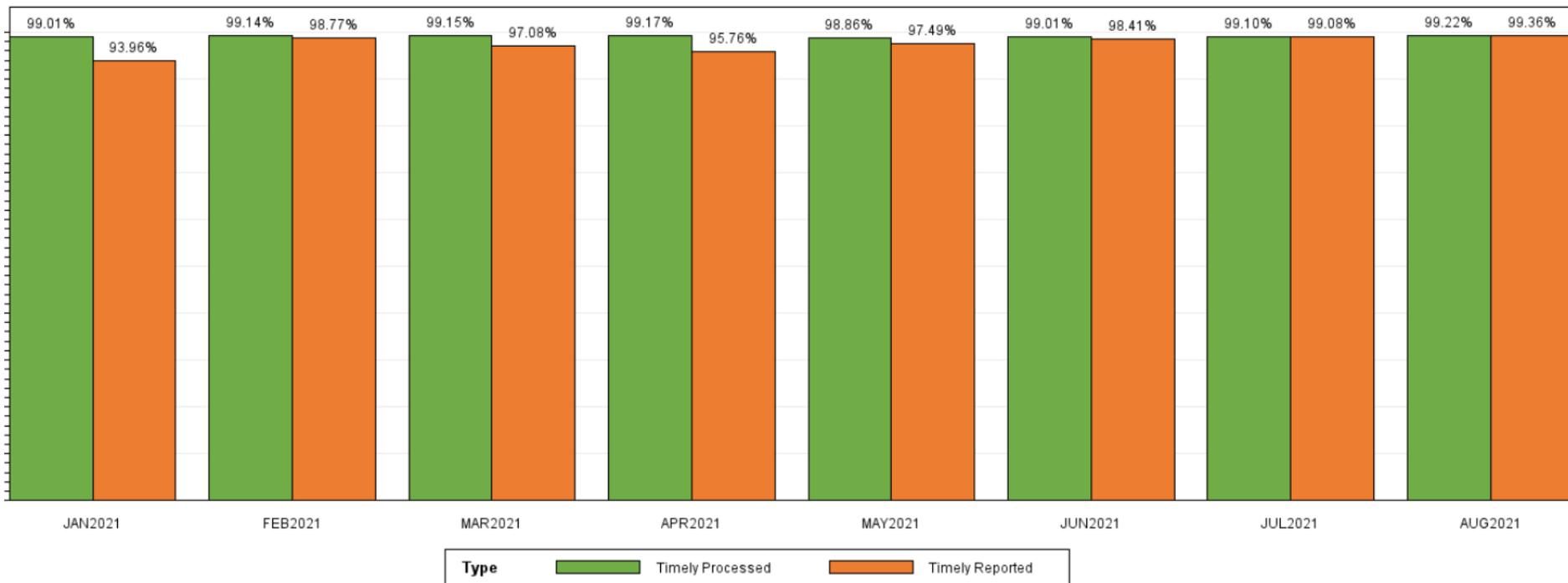
Jan	Feb	Mar	Apr	May	Jun	Jul	Aug
80.98%	79.72%	80.05%	83.48%	82.58%	81.27%	82.06%	82.33%

Timeliness of Initial TIBS Reporting 2021



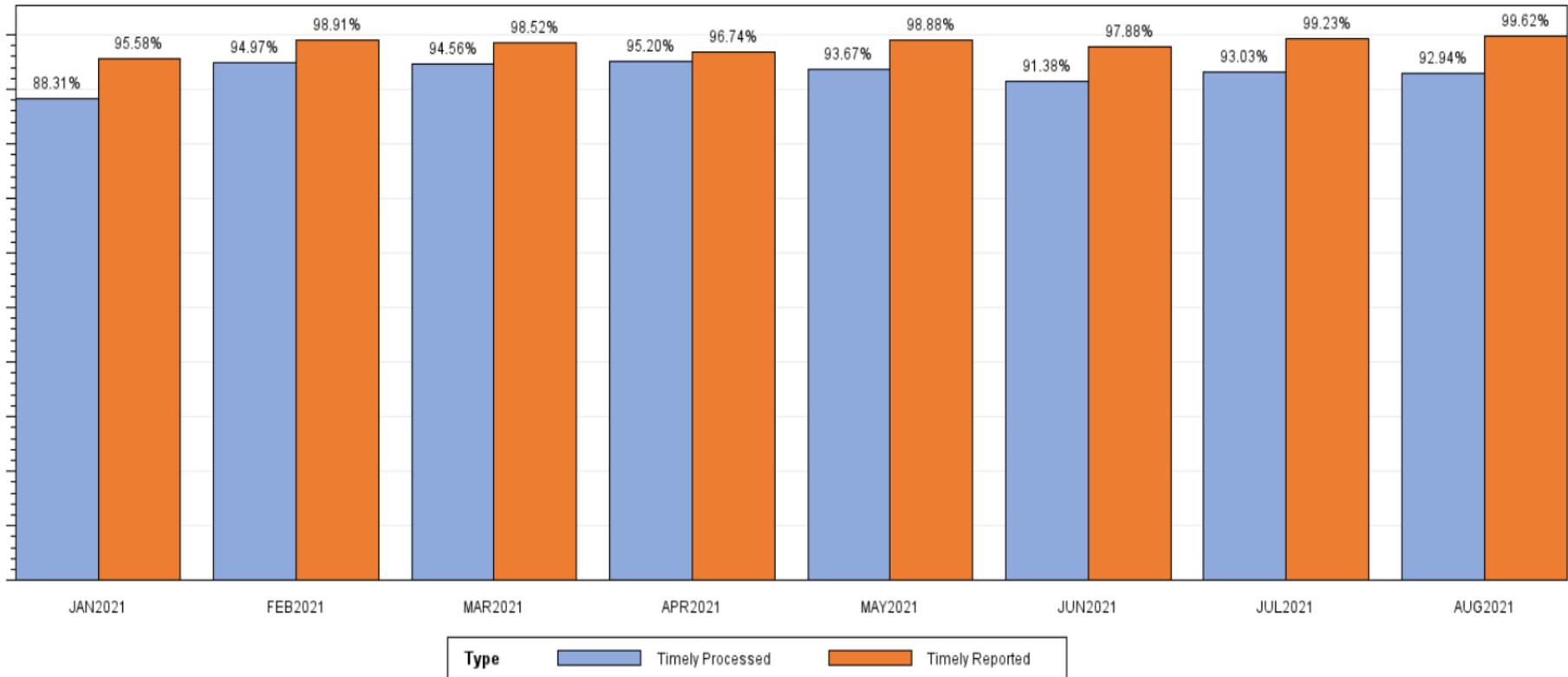
Jan	Feb	Mar	Apr	May	Jun	Jul	Aug
95.66%	96.37%	92.45%	94.25%	93.35%	95.80%	95.80%	96.70%

Timeliness of Bill Processing 2021



	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug
Processed	99.01	99.14	99.15	99.17	98.86	99.01	99.10	99.22
Reported	93.96	98.77	97.08	95.76	97.49	98.41	99.08	99.36

Timeliness of Recon Bill Processing 2021



	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug
Processed	88.31	94.97	94.56	95.20	93.67	91.38	93.03	92.94
Reported	95.58	98.91	98.52	96.74	98.88	97.88	99.23	99.62

Questions?

Contact me at martha.luevano@tdi.texas.gov or
call (512) 804-4858

Legislative Update

Jeff Nelson, Director
External Relations

Questions?

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?

Hearings Update

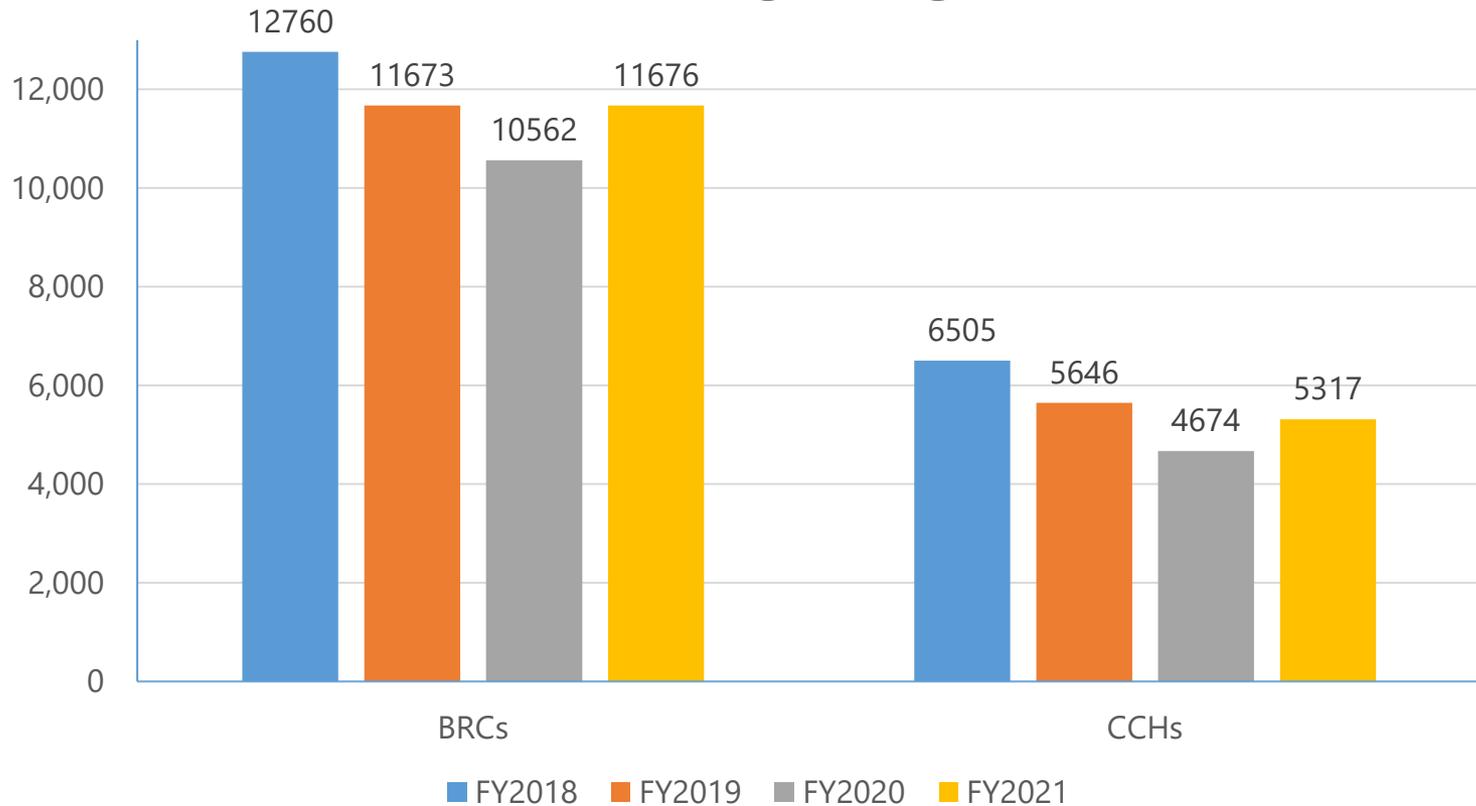
Allen Craddock, Deputy Commissioner
Hearings

New Regional Directors

- Northwestern – Gerri-Lyn Thomas
 - Based in Dallas field office
- Southeastern – Ana Thornton
 - Based in San Antonio field office

Proceedings Held

FY - Through August



Electronic Documents

- Hearing will continue to allow the use of electronic documents.
- Exhibits should be filed with DWC and exchanged with other parties at least three business days before the hearing.
- ALJs are now verifying exhibit numbers and pages at the beginning of each hearing.

Electronic Document

- ✓ Ensure the number of pages indicated on the cover sheet matches the number of pages in the exhibit.
- ✓ Ensure the exhibits are properly labeled in the lower righthand corner (CR 1, pg 1).
- ✓ If possible, consecutively number all pages.

Communication

- Please file responses timely.
- Please do not send multiple copies of documents.
- Please do not send emails to presiding officers.

Communication

- Secure file transfer protocol (SFTP)
- Emails
 - [BRC Exchanges@tdi.texas.gov](mailto:BRC_Exchanges@tdi.texas.gov)
 - [CCH Exhibits@tdi.texas.gov](mailto:CCH_Exhibits@tdi.texas.gov)
- Hearings' Fax
 - 512-804-4011

Questions?

Closing

Dan Paschal, Deputy Commissioner
Policy and Customer Services