

Workers Compensation Claim State Environmental Guide - Texas

TEXAS – <http://www.tdi.texas.gov/wc/indexwc.html>

Indemnity issues

Temporary Total Benefits	Temporary Income Benefits: AWW calculated using 13 weeks of wages immediately prior to the date of injury. If paid less than \$10/hr carrier pays 75% of AWW for first 26 weeks and then 70% for remaining weeks. If paid \$10/hr or more, then carrier pays 70% of AWW for all weeks. Current weekly TT max \$913, min \$137. Disability must exceed 7 days before TT benefits are due. Weekly minimum and maximum rates determined by date of injury. 7-day waiting period that is paid retroactively after the 14 th day of disability. Initial payment due by the 15 th day of disability. Cap on TT benefits is 104 weeks from the 8 th day of disability. Medical Disability Advisor disability guidelines are to be considered.
Temporary Partial Benefits	Same as above for TT. Carrier pays 70% or 75% of the difference between the AWW and actual earnings if the injured worker is not earning pre-injury wages. Limited to 104 weeks from the 8 th day of disability.
Permanent Partial Benefits	Impairment Income Benefits: Once assessed at MMI, an impairment rating is assigned. Carrier pays 3 weeks for every 1% of impairment assigned. Weekly minimum and maximum rates determined by date of injury. Current max \$639, min \$137. Rating is assigned based on whole body impairment as assigned by AMA guidelines 4 th edition 1 st -4 th printing. Supplemental Income Benefits: Also paid under PP. If impairment rating is greater than 14%, injured worker may apply for SIBs on a quarterly basis. The injured worker must be either totally unable to work, making efforts to find work within his/her ability to work, actively participating in a DARS vocational rehabilitation program, or working at reduced earnings due to the injury. Payment is made on a monthly basis. Same max and min apply as with PP benefits.
Permanent Total Benefits	Lifetime Income Benefits: If criteria of Sec 408.161 are met, lifetime income benefits paid at 75% of the AWW. Current max \$913, min \$137. For the first year of benefits, the max rate applies. The max rate does not apply to the 3% annual increase.
Fatality Benefits	Death Benefits: If beneficiaries exist, weekly benefits of 75% of AWW paid to surviving spouse, children or other beneficiaries. Children eligible until age 18 or age of 25 if enrolled as a full time student in an accredited educational institution. Half paid to spouse and the other half evenly distributed among other beneficiaries. If spouse remarries, 104-week lump sum paid to spouse, except first responders. If no legal beneficiaries exist, carrier pays 364 weeks of benefits to the Subsequent Injury Fund. Carrier pays up to \$10,000 in burial expenses.

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Vocational Rehabilitation	Not required in Texas. Vocational retraining paid by Texas Department of Assistive and Rehabilitative Services (DARS), not work comp.
Settlement Allowed	No, only agreements resolving specific disputed issues (e.g., AWW, compensation rate, dates of disability, entitlement to current/future SIBs).
Cap on benefits, exceptions	TT benefits capped at 104 weeks. Total indemnity benefits are limited to 401 weeks from the date of injury with the exception of lifetime benefits (PT) and fatality benefits.

Medical issues

Initial Choice of Provider	Employee. If employer is enrolled in certified HCN, injured worker must choose a certified treating provider within the network. If employer is not enrolled, injured worker has choice of doctors as long as the provider was not removed from the state's Approved Doctor's List (ADL) prior to abolition on September 1, 2007. If sent to doctor by employer, that provider becomes the injured worker's choice of doctors unless he/she selects their own doctor within 60 days.
Change of Provider	If in HCN, employee is allowed one change to another certified treating doctor in the HCN. Network must approve any subsequent changes. If not in HCN, injured worker must get approval from DWC to change doctors.
Medical Fee Schedule	Yes. While the fee schedule is based on Medicare, Texas utilizes a varied conversion factor based on the specific service provided. Professional services are 148% of Medicare and facility fees vary anywhere from 108% to over 200%.
Managed Care	Only allowed through participation in the certified HCN. For more information, please refer to the <u>WC Managed Care Quick Reference Chart by State Guide</u> .
Utilization Review	DWC has list of 14 items that require preauthorization for non-HCN care found in Rule 134.600 (p). Carrier must make determination within 3 working days of receipt of request. Carrier determines preauthorization items within the HCN.
Treatment Guidelines	For healthcare provided on or after 5/1/07 the DWC has adopted the most current version of the <i>Official Disability Guidelines Treatment in Workers' Comp</i> , excluding the return to work pathways, published by Work Loss Data Institute.
Generic Drug Substitution	The state mandates generic substitution.
Medical Mileage Reimbursement Rate	If similar treatment cannot be found within 30 miles of residence entitlement to current reimbursement of \$0.535/mile.
Network Information	The HCN is currently certified in 231 of 254 counties. The remaining 23 counties account for less than 1% of the claim activity in the state. Network is managed by First Health. Voluntary PPO networks were eliminated effective 01/01/11. HCN enrollment information can be found at www.travelers.com/txhcn .
Ability to Terminate Medical Treatment	Injured worker is entitled to lifetime reasonable and necessary medical treatment related to the compensable injury, barring any new intervening injuries to the same body part. Carrier may suspend payment of medical benefits until the injured worker has proven that he/she has exhausted any recovery from a third party settlement for medical treatment related to the claim.
Settlement Allowed	No settlement allowed on any type of benefits.
Cap on benefits, exceptions	No

Other Issues

WC Hearing Docket Speed	Vastly improved with limitation on Benefit Review Conferences (BRC) (2 per
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Other Issues

	issue). Approximately 45 days to set initial BRC from date of request. Contested Case Hearings (CCH) are set within 60 days of the BRC. Hearing outcomes vary greatly depending on handling Hearing Officer (many of whom are former plaintiff attorneys). Overall state outcomes are pro-employee based on liberal interpretations of the Act.
Staff Counsel	<p>Dallas: David Klosterboer & Associates (214-570-6288) 1301 E Collins Blvd, Ste. 490 Richardson, TX 75081</p> <p>Houston: David Klosterboer & Associates (281-606-8950) 4650 Westway Park Blvd., Ste. 150 Houston, TX 77041</p> <p>San Antonio: David Klosterboer & Associates (210-525-2100) 9601 McAllister Frwy., Ste. 910 San Antonio, TX 78216</p>
Hearings require attorney or claim handler participation	Benefit Review Conferences are handled by Legal Specialists when available. Contested Case Hearings and higher are handled by attorneys. Claim handler participation is not required.
Occupational Diseases	Compensable if caused by the employment.
Second Injury Fund availability	Exists but difficult to recover from.
Other Offset Opportunities	Contribution for prior injuries to the same body part allowed if the prior injury was work-related. Carrier must obtain peer review to address percentage of contribution prior to making request.
EDI	Claims EDI Release 1: FROI only (9/1/1995) Medical EDI Release 1 (2/1/2005)
In-State Adjusting Required	Yes
License or Certification Required	Yes. Must obtain 24hours of CEU every 2 years, which includes 2 hours specifically related to ethics.