TDInSight
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October/November 2003

TDI Completes Rate Reviews

First steps taken toward stable homeowners market

CITING THE NEED for more stability and fairness in the marketplace, Texas Governor Rick Perry declared homeowners insurance an emergency issue for the 78th Legislature. Responding to this declaration, lawmakers passed sweeping insurance reform that will fundamentally change the way the insurance market is regulated in Texas.

The major result of these legislative reforms was Senate Bill 14. When SB 14 was signed into law by Governor Perry on June 11, the clock started ticking. All insurers had 20 days to file their homeowner rates with the Texas Department of Insurance. TDI then had 40 days to review the rates of the 32 company groups with over $10 million in premium and approve them or order adjustments. TDI had an additional 30 days to review rates of the remaining companies.

On August 8, TDI issued the first rate reduction notices under the authority of the new legislation. Of the initial 32 company groups reviewed, 24 were notified to lower their rates. Hanover Insurance received the largest rate reduction, being notified to lower its rates by 31 percent. The smallest adjustment went to the Texas Farm Bureau, which was notified to lower its rates by 1.5 percent. Of the state's top three insurers, all were notified to lower their rates significantly: 12 percent for State Farm, 18.2 percent for Allstate and 17.5 percent for Farmers. Those three companies write nearly 60 percent of the Texas market. The Farmer's rate reduction was in addition to the 6.8 percent reduction already taken by the company as part of last year's record $117-million settlement of a lawsuit alleging unfair pricing of homeowner policies.

On September 9, TDI released results of its final round of reviews. Of the remaining 29 smaller companies, 5 insurers were notified to reduce rates from between 10 percent and 22.4 percent. Taken as a whole, 61 companies' rates were reviewed. Of those, 29 were notifed to reduce rates. The rate reductions represent a savings of more than a half billion dollars ($510 million) for Texas consumers.

Governor Perry said the rate adjustments ordered by TDI will "level the playing field for consumers and the insurance industry." The Governor also called the action an affirmation that legislative reforms signed into law were already being put to work for Texas homeowners.

Insurance Commissioner Jose Montemayor has heard strong complaints from the industry. "I know the rate cuts are significant, but they had to be," said Montemayor. "All the rate reductions are fair. I'm confident each company will continue to turn a profit doing business in Texas."

State law requires that premiums cannot be excessive, inadequate, unreasonable or unfairly discriminatory for the risks to which they apply. Montemayor says he expects the rate reductions will stand based on their agreement with those standards.

Under the rules drafted to implement Senate Bill 14, companies notified to lower their rates had 10 days to either accept the modification or provide

Please see **Rate Cuts** *on page 8*

InSide

Commissioner's InSight

A New Day

by **Jose Montemayor, Commissioner of Insurance**

SEPTEMBER 2003 marks the beginning of a new era for insurance regulation and the insurance market. Texans have endured a difficult last few years but now strong signs of stabilization are emerging in the Texas homeowners market and in the industry as a whole.

This past legislative session, the Texas Legislature gave TDI a mandate: fix the homeowners insurance market. This summer, we have taken the first steps toward fulfilling that ambitious mission. And we are doing it in a way that will bolster both the industry and Texas consumers.

On the way out are an antiquated and uneven homeowners regulatory environment, unknown credit scoring models, and unfairly restrictive market policies. We have taken numerous actions to reduce excessive rates while phasing in a modern regulatory system that will ensure fairness and competitiveness in the marketplace.

The Texas Legislature gave TDI powerful new tools to positively impact the lives of all Texans through reasonable regulatory actions. I am greatly optimistic about our ability to use those tools wisely to benefit those who live here as well as those who do business here. This is an exciting time for TDI and our employees.

To chart these changes and kick-off this new era in Texas insurance, we have launched this brand new publication: ***TDInSight*.**

TDInSight will be the official and most prominent publication of the Texas Department of Insurance, chronicling not only the new insurance reforms but also the changes in the entirety of the Texas insurance market. Our goal is to provide an accurate snapshot, every two months, of the realities of the insurance marketplace.

A new day has dawned for the world of Texas insurance. I look forward to the journey ahead with a great deal of optimism.

A note to our subscribers:

WE HOPE you enjoy your first issue of ***TDInSight,*** and we want to assure you that your old subscription to **TIN** will be honored, issue for issue. Our goal is to ensure that every **TIN** subscriber receives twelve issues of **TIN** or ***TDInSight*** by automatically extending subscriptions to compensate both for the new bimonthly cycle and for the fact that this new cycle skipped September 2003. If you choose to renew your subscription to ***TDInSight,*** you will receive six issues—one every other month—for the new rate of $20.00.

We are excited about the premiere of ***TDInSight,*** and hope that you will continue to turn to TDI for the latest information about insurance and industry regulation.

TDInSight

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By necessity, summaries of proposed and adopted rules cannot explain their full complexity. Readers interested in complete information about administrative rules should consult the versions published in the Texas Register.

To the best of the staff's ability, information presented in this newsletter is correct as of the publication date, but scheduled dates and proposed rules and amendments may change as the adoption process goes forward.

Consumer Protection Has Record Breaking Year

InBrief

TDI's CONSUMER PROTECTION DIVISION returned more than $48 million to Texas consumers over the past year. That money came in the form of premium refunds and claim payments, made after TDI investigations of consumer complaints. The amount is a new one-year record. But it was only one of several new highwater marks set by the division during fiscal 2003.

Consumer Protection also answered a record number of inquiries in 2003, responding to more than 650,000 telephone calls and email questions—29,000 more than in 2002.

Other record marks for the Consumer Protection Division included distributing more than 800,000 insurance rate guides and more than 2.7 million publications.

Consumer Protection resolved more than 41,000 complaints in 2003, with an average resolution time of just 55 days. Last year, the division closed 34,000 complaints.

The **Consumer Help Line** is **1-800-252-3439.** Consumer information and publications are also available on TDI's website at **www.tdi.state.tx.us**.

Operators of Illegal Health Plan Fined $12.5 Million

COMMISSIONER Jose Montemayor issued fines to the operators and chief marketer of Employers Mutual LLC, an unlicensed health care plan. More than 7,000 Texas residents were enrolled in the fraudulent scheme and many were left with unpaid medical claims. A single unpaid Texas claim totaled $70,000. And nationwide patients, doctors and other health care providers were left with an estimated $50 million in unpaid claims.

Montemayor's order fined William R. Kokott and Nicholas E. Angelos, both of Carson City, Nevada, $5 million each. Kokott and Angelos were the sole managers and officers of Employers Mutual. The order also levied a $2.5 million fine against American Benefit Society (ABS), later renamed Association Benefit Society of Turnersville, New Jersey.

Agents who sold the plan have been ordered to pay the unpaid health care claims of their victims. The licenses of many of those agents have been revoked. Additional agent cases are pending.

Fraud Unit Helps Put Thief Behind Bars

CONVICTED OF 1st degree felony theft, Grandbury insurance agent Raymond Kilpatrick will spend the next five years in prison. In August, Kilpatrick pleaded guilty in Austin to misappropriating nearly three-quarters of a million dollars over a sevenyear period.

In June 2001, World/Omaha Woodmen Life Insurance Society sent a letter to the Texas Department of Insurance informing TDI of fraud allegations involving their agent, Kilpatrick. The Major Case Team of TDI's Insurer Fraud Section initiated an investigation.

Kilpatrick stole more than $745,000 from at least six victims through a scheme of selling them what he said were "short-term investment products." Those securities were bogus. He provided false reports to his victims showing the performance of their investments. And when pressed, he would even issue payments for "interest earned."

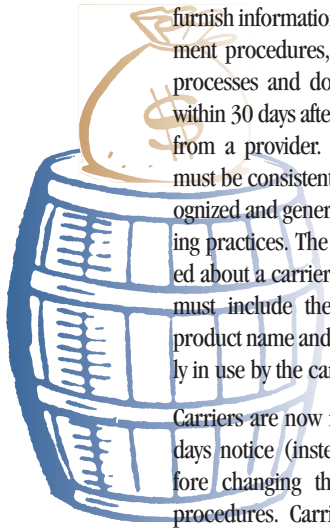
The Fraud Section's findings were presented to the Travis County District Attorney's Insurance Fraud Unit.

TDI Adopts Prompt Pay Rules

Senate Bill 418

THE TEXAS DEPARTMENT OF INSURANCE has adopted final rules to implement Senate Bill 418, the prompt pay legislation passed by the 78th Legislature. These rules will apply to all health care provider contracts that are entered into or renewed on or after October 5, 2003 and to certain non-contracted providers for services provided on or after that date.

Senate Bill 418 made significant changes in the laws requiring HMOs and preferred provider insurance carriers to promptly pay clean claims submitted by contracted physicians and providers. Some of the rules also apply to non-contracted physicians and providers who offer emergency care or other services.



Claim Payment Processing Information

As under previous rules, carriers must furnish information on their claim payment procedures, including bundling processes and down-coding policies, within 30 days after receiving a request from a provider. Bundling processes must be consistent with nationally recognized and generally accepted bundling practices. The information provided about a carrier's bundling software must include the publisher's name, product name and the version currently in use by the carrier.

Carriers are now required to give 90-days notice (instead of 60-days) before changing their claim payment procedures. Carriers may not make retroactive changes to these procedures.

A provider's permissible uses of claim payment information received from a carrier was expanded to include "other business operations" and communications with government agencies that regulate health care and insurance.

Providers that receive claim payment procedure information from a carrier may terminate their contracts, without penalty, within 30 days after receiving the information. Those enrolled in the plan must be given advance notice as required by existing law before such a termination may occur. Carriers may require providers to keep updated information about a patient's other health benefit plan coverage in their records.

Effective January 1, 2004, coverage identification cards issued by insurers and HMOs must bear a symbol to show that the coverage is subject to state regulation. A card must either show the first date that coverage is in force or include a toll-free number that providers may call to obtain that date.

Preauthorization

Within 10 business days after receiving a request from a provider, a carrier must provide information about the carrier's preauthorization process along with a list of services so that the provider may determine which services require preauthorization.

After receiving a request for preauthorization, a carrier must meet response deadlines as outlined below:

- Within a time appropriate to the circumstances and to the condition of the patient but not to exceed one hour, for post-stabilization treatment and life-threatening conditions
- Within 24 hours for concurrent hospitalization care
- And no later than three days for all other services

After preauthorizing treatment, a carrier may not deny or reduce payment for reasons of medical necessity or appropriateness of care unless the provider misrepresented the proposed services or substantially failed to perform the preauthorized services.

A carrier approving a preauthorization also must issue a "length of stay" for admitting the patient into a health care facility based on the provider's recommendation and the carrier's written screening criteria and review procedures.

When issuing an adverse determination in response to a request for preauthorization, a carrier must provide notice to the plan member, a person acting on the member's behalf or the member's provider of record. The plan member has the right to appeal an adverse determination.

Verification

The new rules specify 13 items of information that a request for verification must contain. These include:

- the patient's relationship to the enrollee or subscriber
- presumptive diagnosis, or the presenting symptoms
- description of proposed procedures or procedure codes
- place where services will be provided
- proposed date of service
- group number, if included on a health care coverage ID card
- name and contact information of any other carriers

A provider may request verification by telephone, in writing or by any other means agreed to by the provider and carrier, including the internet.

If a provider requests verification, a carrier may make one request for additional information. Such a request would have to be made within one day after the carrier receives the request for verification.

A carrier is required to issue either a verification or a declination without delay, but not later than one hour for

See **Senate Bill 418** *on Page 10*

TDI Rides the Wave of SERFF Upgrades

SERFF: the System for Electronic Rates & Form Filings

THE NATIONAL ASSOCIATION of Insurance Commissioners (NAIC) first developed the concept of SERFF in the early 1990s. The idea was to take advantage of technology and create a more efficient way to handle the paper-intensive process of insurance companies filing new policy forms and rates with the various state regulators. It was dubbed the "speed to market initiative." More than 10 years into the process, TDI, like most of the other state insurance agencies, is still making the transition, slowly accepting more filings from the insurance companies electronically.

Filing and Operations Deputy Commissioner Angelia Johnson says that's not necessarily a bad thing. "Phasing in our use of the SERFF system was a conscious decision for us," said Johnson. "TDI was using electronic systems to process form filings and rule changes years before SERFF was ready to launch." While that had some advantages, it also posed some distinct challenges, compared to states that are only now beginning to transition away from paper-only systems. Texas has to make its current systems work with the NAIC's central hub.

"That's the big challenge we're facing, building an interface between TDI's Oracle-based systems and SERFF's internet-based system," Johnson said. She says TDI has already developed an intermediate solution, a "mini-interface" that allows some information to be automatically transferred between systems but it still requires some baby-sitting. The next step will be to increase the sophistication of that interface to allow for even more automation. Officials with the NAIC are offering technical assistance to help develop an interface that will allow the two systems to better communicate.

In the meantime, TDI continues to make strides using the current SERFF system. The latest upgrades allow group and individual annuity product filings to be accepted electronically here in Texas. The new offerings began in August. TDI has been accepting several property and casualty filings on SERFF for years, including inland marine, commercial and personal automobile, commercial property, general liability and homeowners forms.

The SERFF system is voluntary and only a fraction of filings are received electronically. But Johnson says those companies that are using the system are eager to see it expand. She's heard from several companies asking when they'll be able to file their new rates via SERFF.

Electronic filings are the future. New York State regulators recently announced they will be making the use of SERFF mandatory and do away with paper filings all together. Other states will follow.

Besides speed and accuracy, using SERFF also provides several other convenient benefits on both ends. One of the big pluses for the insurance companies is having a central location to research what is required of filings in various states. Companies also get immediate feedback, acknowledging receipt of their filings by TDI and tracking their progress through the system. For TDI, the agency has less paperwork to physically handle and takes fewer phone calls from companies inquiring about their filings. That allows analysts to focus more attention on actually reviewing the filings. Johnson says ultimately the "speed to market initiative" is good for consumers as well. If an insurance company can get new products reviewed and approved sooner, their customers benefit from new innovations and more choices.

Automobile

Exempt Adoption

Disclosures by Rental Car Company Employees

- Commissioner Jose Montemayor has amended Rule 141, Rental Car Companies, of the *Texas Automobile Rules and Rating Manual* concerning mandatory disclosures to automobile renters.

Rental car company employees are no longer required to verbally inform prospective renters that they may already have insurance coverage that duplicates the auto rental liability insurance offered by the company. The amendment also repealed a requirement that prospective renters be told verbally that purchase of automobile rental liability insurance is not required as a condition for renting a car. Both disclosures must, however, still be made in writing, and an employee is required to verbally mention the written disclosures prior to any offer to sell auto rental liability insurance.

Car rental companies petitioned for the repeal of the verbal disclosure requirements. They said the verbal disclosures slowed rental transactions, had no consumer benefit and were required only by Texas. TDI's staff petition pointed out that the underlying statute had been amended since the original rules were adopted and may be subject to an interpretation that written disclosures would suffice.

Publication: *28TexReg6955 August 22, 2003*
Effective date: *September 6, 2003*
Reference No: *A-0603-13-I*
Further information: *512 463-6327*

Financial

APA Adoption

Provider-Sponsored Organizations

- Commissioner Jose Montemayor has amended 28 TAC §§ 11.2301, 11.2305, 11.2306 and 11.2315 concerning financial requirements for provider-sponsored organizations (PSOs). The rule changes require PSOs to comply with the same solvency requirements as HMOs.

The amendments were necessary because of the expiration on November 1, 2002, of a federal law that, in certain instances, allowed waiver of state solvency requirements for PSOs participating in the federal Medicare+Choice program.

Under the rule changes, a PSO that already has a certificate of authority must show that it satisfies the solvency requirements for an HMO or, alternatively, file a business plan demonstrating it will be in compliance by December 31, 2006. PSOs that apply for a certificate of authority after November 1, 2002, must comply with the solvency requirements for HMOs as a condition for obtaining licensure.

Publication: *28TexReg6276 August 8, 2003*
Effective date: *June 2, 2003*
Further information: *512 463-6327*

Licensing

APA Proposal

New Rules for Public Insurance Adjusters

- Becoming a public insurance adjuster in Texas will soon require more than just a self-proclamation of insurance expertise and a stack of business cards. The new Article 21.07-5 of the *Texas Insurance Code* requires the licensing of public insurance adjusters. The Texas Department of Insurance recently proposed an administrative rule for implementation and clarification of the new law.

Definitions

Insurance adjusters are generally employees of an insurance company, or contract with an insurer. They evaluate the merit of claims made by policyholders. They make recommendations to the insurance company and are often the last word on what, if any kind of settlement, will be offered.

Public insurance adjusters, on the other hand, are individuals or companies that represent the person or entity making the insurance claim. Public insurance adjusters don't enter the process unless hired by the individual making the claim. Public insurance adjusters negotiate with the insurance company, and its adjusters, on behalf of their clients. The public insurance adjuster's goal is to secure the largest possible settlement and as payment for their services, they claim a percentage of the settlement.

Senate Bill 127

New law passed during the 78th Legislative session requires public insurance adjusters to be licensed by the state. In order to get that license, public insurance adjusters will have to pass an exam, testing their knowledge of insurance law and various property codes. Applicants for the license must provide fingerprints and submit to a background check. The new licenses will be valid for two years. In order to keep their license, public insurance adjusters will have to show proof of continuing education efforts, to make sure they stay current with the ever-evolving *Texas Insurance Code*.

The law defines various business practice requirements, including several new disclosures that will have to be made in all advertising. Those requirements include the public insurance adjuster's name, business address and license number.

Senate Bill 127 by Senator Troy Frasier and Representative Gene Seaman also sets limits on the fees that public adjusters can collect. Under the new law, acting on behalf of someone making an insurance claim can earn you no more than 10 percent of any settlement from the insurance company. And if the insurance company agrees to pay the policy limits associated with a particular claim within 72 hours after the loss is reported, the public adjuster will not be allowed to collect a fee that is based on the amount of the settlement.

SB 127 also addresses the issue of prompt responses by insurance companies to water claims. The legislation authorized the Commissioner to develop and issue a set of rules regarding water claims in residential situations, including establishing time frames under which certain actions have to be taken, such as responding to claims, sending an inspector to the property, and authorizing repairs.

The legislation also prohibits an insurance company from using a prior appliance-related water claim against a customer if the problem has been properly addressed—such as repairing or replacing the appliance that caused the leak.

Publication: *28TexReg6704 August 22, 2003*
Earliest possible adoption: *September 21, 2003*
Further information: *512 463-6327*

Fire Marshal

APA Adoption

New Fire Alarm Rules

- Insurance Commissioner Jose Montemayor has adopted new rules regarding the standards for fire alarms installed in Texas buildings.

In an effort to protect public safety and provide more flexibility to the Texas towns and cities that adopt these sets of building and fire protection codes, the commissioner has approved two new options, the International Building/Fire Code and the National Fire Protection Association Building/Fire Prevention Code.

Effective September 29, 2003, fire alarm companies, licensed through the State Fire Marshal's Office, will be able to choose from any of the approved model building and fire codes adopted by Texas cities and stay in compliance with the minimum standards of the *Texas Insurance Code*.

Expanding the list of accepted model codes for the installation of fire alarms and fire detection systems provides for a greater level of public safety, by allowing for the incorporation of new technology, while permitting communities to continue using previously approved codes.

Along with the two newly approved sets of model building and fire codes normally used in commercial construction, the commissioner also adopted the International Residential Code for One and Two Family Dwellings.

Projected publication date: *September 26, 2003*
Further information: *512 463-6327*

Rate Cuts

... from page 1

TDI with notice that they planned to appeal. Companies could appeal the rate reduction modification by requesting a public hearing before the Commissioner of Insurance. The company may further appeal to district court.

Twelve companies filed formal appeals with the TDI. However, 10 of the 12 withdrew their appeals and agreed to settlements. For companies not appealing, rate adjustments took effect immediately.

Two companies, Farmers and State Farm Lloyds, had their appeals heard by Commissioner Montemayor in early September. On Sept. 12, the Commissioner announced that he had denied the appeals and affirmed the reductions.

Texas Governor Rick Perry said the rate adjustments will "level the playing field for consumers and the insurance industry."

Montemayor says the review process did what it was intended to do—take a critical look at what insurance companies were charging their customers, and determine if those rates were justified. "I can now say with confidence that wherever consumers go for homeowners insurance in Texas, they will be paying a fair price."

The Commissioner says taking action now under this "prior approval system" was needed to quickly stabilize the market that had been turbulent during the artificial, mold-driven crisis of 2000 and 2001. But he also believes this kind of wholesale oversight and regulation will be the exception rather than the rule.

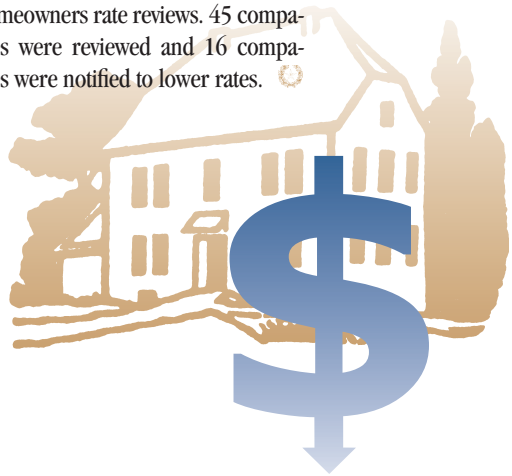
"Now that the playing field has been leveled, I expect market forces will again become the main driver of insurance prices, as it should be," added Montemayor.

Beginning in December 2004, Texas will transition to an even more flexible "file and use system." While rating standards will still apply, companies will be allowed to file their rates with TDI and begin using them right away, without having to wait for a departmental review.

"It's the best of both worlds," said Montemayor. "I'll still be able to quickly act, if needed, in those rare occasions when the system goes awry. But for the most part, market forces will be in control. Competition and consumers will be the true regulators of the insurance industry."

For a complete listing of rate reductions, visit the Texas Department of Insurance web site:
www.insurance.tx.gov

As required by SB 14, TDI also undertook reviews of each companies previously unregulated rates for tenant (renters), condominium, residential fire and allied lines to determine if their rates were reasonable, excessive or adequate. These reviews were undertaken simultaneously with the homeowners rate reviews. 45 companies were reviewed and 16 companies were notified to lower rates.



FBI Investigates Allegations of Money Laundering

A STATE DISTRICT COURT JUDGE in Austin placed Good Samaritan Life Insurance Co. of Richardson into receivership in July, freezing the company's assets and appointing Commissioner Jose Montemayor as receiver.

The FBI is investigating alleged mail fraud and money laundering at the company. In the receivership petition, the state alleged that Good Samaritan had no assets and liabilities of $1.2 million.

"This insolvency is due to the seizure of all of Defendant's (Good Samaritan's) known assets by the Federal Bureau of Investigation on or about March 20, 2003, pursuant to an investigation and criminal complaint," the petition said.

Good Samaritan had been in confidential conservatorship since that seizure and was ordered to stop writing new business. Good Samaritan had 93 active life insurance policies and 81 pending applications. With no meaningful assets, there are no plans to appoint a special deputy receiver.

Conseco Reorganization Approved & Implemented

CONSECO INC. emerged from Chapter 11 bankruptcy protection on September 10. The company's Sixth Amended Joint Plan of Reorganization was approved by the U.S. Bankruptcy court the previous day. That cleared the way for Conseco, Inc., to shed most of its existing debt and reissue shares of new common stock to its creditors.

Conseco CEO, William Shea thanked insurance regulators, partners and customers for their support, promising Conseco would emerge "a re-energized company with greatly reduced debt and a single business focus."

Texas Insurance Commissioner Jose Montemayor said he was pleased with the outcome and called the entire process healthy. "Conseco management went out of its way to make the process as transparent as possible to regulators and insurance rating firms."

Under the court approved plan, Conseco sold its consumer finance unit and will focus on a narrower range of insurance products.

Conseco Inc. filed for federal Chapter 11 protection in December 2002, becoming the third-largest U.S. company to file for bankruptcy. The filing included Conseco's top-tier holding company and certain other non-insurers.

TDI's Legal & Compliance Division Returns Millions to Texas Consumers

OVER THE PAST fiscal year the work of TDI's Legal and Compliance Division yielded $34.5 million for the State of Texas and Texas consumers.

Insurance Commissioner Jose Montemayor issued 292 orders stemming from cases opened by Legal and Compliance involving monetary penalties or restitution due Texas consumers.

Cases referred to Legal and Compliance ran the gamut from high profile efforts aimed at reining in unauthorized insurers to settlements from companies caught charging premiums with a history in race-based pricing structures. What all the cases had in common were alleged violations of the state insurance code.

Of the $34.5 million dollars, $19.8 million came in the form of direct restitution to consumers. The other $14.7 million involved penalties ordered by Legal and Compliance.

Cases investigated by the Legal and Compliance Division were generally referred to the division from other program areas within TDI—with many generated by complaints first collected on TDI's Customer Help Line and Fraud Reporting Line.

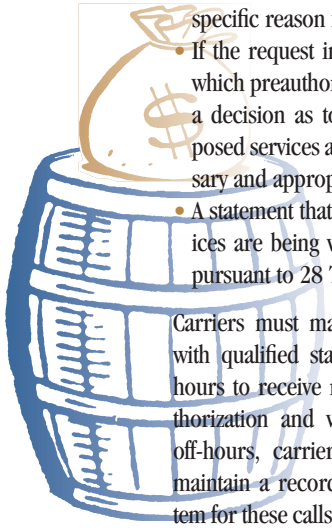
Senate Bill 418

...from page 4

post-stabilization care or in life-threatening situations and without delay but no later than 24 hours for concurrent hospitalizations. For all other services, verification and declinations must be given without delay and as appropriate to circumstances, but not later than five days after the receipt.

A carrier may deliver a determination in writing or by telephone followed by a written response within three days. In both cases, a written response must include, among other things:

- A specific description, including relevant procedure codes, of the services that are verified or declined
- If the services are verified, the effective period for the verification, which may not be less than 30 days
- If the services are verified, any applicable deductibles, co-payments or coinsurance for which the enrollee is responsible
- If the verification is declined, the specific reason for the declination
- If the request involves services for which preauthorization is required, a decision as to whether the proposed services are medically necessary and appropriate
- A statement that the proposed services are being verified or declined pursuant to 28 TAC §19.1724



Carriers must maintain call centers with qualified staff during specified hours to receive requests for preauthorization and verification. During off-hours, carriers are required to maintain a recording/answering system for these calls. As a result, carrier must return calls within 24 hours for preauthorization and two days for verification. A carrier that issues a verification may not deny or reduce payments for those services if they are provided on or before the expiration date for the verification. That expiration date may not be sooner than 30 days. The carrier may deny or reduce payments if the provider materially misrepresented or substantially failed to perform the proposed services.

Claims Submission Deadline

Providers must file claims within 95 days after performing a covered health care service. A provider that misses the 95-day deadline forfeits the right to payment unless the delay resulted from a catastrophic event. Carriers and providers may agree by contract to a longer (but not shorter) time frame for providers to file their claims.

What is a Clean Claim?

For non-electronic submissions (mail, fax or hand delivery), a claim is "clean" if it contains all the required data elements set forth in the rules and, if applicable, the amount paid by the primary plan or other valid coverages. Claims submitted electronically are considered clean if they are submitted in the ASC X12N 837 format and comply with requirements of the federal Health Insurance Portability and Accountability Act (HIPAA) for electronic health care claims.

Payment Deadlines

By law, carriers must take action on a claim within 45 days after receiving a non-electronically submitted claim, within 30 days after receiving a claim submitted electronically and within 21 days after affirmative adjudication of an electronically submitted pharmacy claim.

Requests for Additional Information

A carrier may make only one request to the provider for additional information needed to process a claim. The request must be made within 30 days after receiving the claim. The carrier must be specific about the additional information necessary and may request only information that is in the patient's medical or billing records and is relevant to the resolution of the claim. A request for additional information to the provider suspends the deadline for the carrier to act on the claim until the provider sends the information or responds that the provider does not have it. A carrier must then act within 15 days after receiving the requested information or by the statutory deadline, whichever is later.

Audits

A carrier must notify a provider in writing within the statutory (21-, 30- or 45-day) deadline if it intends to audit a claim and must pay 100 percent of the claim. The explanation of payment must clearly indicate that the claim is being audited. A carrier that audits a claim may request additional information within the audit period, and the provider must furnish that information within 45 days. If the provider fails to meet that deadline, the carrier may recover the amount paid. A carrier must complete an audit within 180 days of the date it received the claim. Providers have 30 days to appeal the results of an audit.

Coordination of Benefits

Carriers may not require providers to investigate coordination of benefits with other coverages. However, providers must maintain information about a patient's other coverages. In instances where multiple coverages apply, the provider must file a claim with the secondary payor within 95 days after receiving the primary payor's determination. If a secondary payor overpays a claim, it must look to the primary payor for recovery of the overpayment. However, if the primary payor already has paid the claim, the secondary payor could recover the overpayment directly from the provider.

Submitting Duplicate Claims

A duplicate claim is defined as any claim for payment for the same health

care service provided to a particular individual on a particular date of service that was included in a previously submitted claim. Providers may not submit duplicate claims before the expiration of the statutory (21-, 30-, or 45-day) payment deadline. A duplicate claim does not include corrected claims or additional information provided to satisfy a carrier's request. Providers must indicate on the claim form whether the claim is a duplicate claim or a corrected claim.

Overpayments

As provided by Senate Bill 418, carriers must request refunds of overpayments within 180 days after a provider receives such a payment. A carrier that misses the 180-day deadline forfeits the refund. A provider has 45 days to appeal an overpayment notice. A carrier may not recover an overpayment from a provider who has not already arranged to make a refund until the later of the 45th day after the provider has received the overpayment notice or the date when the provider has exhausted all appeal rights.

Late Payment Penalties

Carriers are subject to the following statutory penalties for late payment of contracted providers' claims:

- A carrier that pays a clean claim between one and 45 days late must pay the full contracted rate for the services provided, plus either 50 percent of the difference between the billed charges and the applicable contracted rate or $100,000, whichever is less.
- If payment is 46 days to 90 days late, the carrier must pay the full contracted rate for the services provided, plus either 100 percent of the difference between the billed charges and the applicable contracted rate or $200,000, whichever is less.
- If a clean claim is paid 91 or more days late, the carrier must pay the full contracted rate for the services provided, plus either 100 percent of the difference between the billed charges and the applicable contracted rate or $200,000, whichever is less. In addition, the carrier must pay 18 percent annual interest on the penalty amount, accruing from the date payment was originally due and through the date of actual payment.

"Billed charges" are defined as the charges for medical care or health care services included on a claim submitted by a physician or provider. Billed charges must comply with all other applicable requirements of law. In an effort to monitor concerns about potential overcharging, TDI will encourage physicians, providers, consumers, and insurers to file complaints with the department concerning allegations of fraudulent or unreasonable charges. Where warranted those complaints will be referred to the appropriate enforcement entity.

Carriers are also are subject to the new statutory penalties for late underpayment of clean claims. The rule contains a formula for calculating underpayments.

Extension of Deadlines Because of Catastrophic Events

The statutory claims submission and payment deadlines are suspended because of catastrophic events under the following conditions:

- Within five days of the event, the carrier or provider must notify TDI that it is unable to meet its statutory deadlines because of a catastrophic event that interrupted its normal business operations for at least two consecutive business days.
- Within 10 days of returning to normal operations, the carrier or provider must provide TDI with a sworn affidavit specifying the specific nature of the event and the length of time normal operations were suspended.
- The statutory claims payment period is suspended only for the period of time that the carrier's operations were interrupted.

Administrative Penalties

Senate Bill 418 and the adopted rules authorize TDI to assess administrative penalties against carriers that fail to comply with the statutory payment deadlines on more than 2 percent of the clean claims submitted to the carriers. Compliance will be determined on a quarterly basis and will be calculated separately for claims submitted by institutional and non-institutional providers. Carriers with a noncompliance rate greater than 2 percent on either type of claim may be assessed penalties of up to $1,000 per day for each claim not in full compliance with the prompt pay law and rules.

Reporting Requirements

Carriers are required to submit quarterly and annual reports to TDI on their claims processing activities, catastrophic events and verifications.

All interested persons should read the full text of the rules themselves. Copies of the adopted rules are available online at **www.tdi.state.tx.us**. The rules are also summarized in the TAC order.

InDiscipline

NAME	CITY	ACTION TAKEN	VIOLATION	ORDER	DATE
American Bankers Life Assurance Company of Florida	Miami FL	$25,000 fine plus restitution to consumers	Consent order; Alleged to have engaged in unfair or deceptive act or practice	03-0676	7/25/03
AMIL International Inc.	Austin	$40,000 fine plus restitution and reevaluation of denied claims	Consent order: Alleged to have engaged in unfair discrimination denying claims related to ADD/ADHD, alleged violation discovered in triennial examination	03-0652	7/22/03
Bellet & West Premium Finance	Dallas	$1,000 fine	Failed to file annual operations report	03-0701	8/5/03
Brister, Matthew Ryan		Limited Lines License probated suspension through Dec. 31, 2008	Engaged in fraudulent and dishonest acts	03-0794	8/28/03
Brumfiel, Ellen Roach	Longview	One year probation	Misdemeanor theft by worthless check	03-0703	8/5/03
Bushong, Edmond Bruce	Dallas	$4,000 fine subject to dollar-for-dollar reduction by restitution to $2,000	Acted as agent for unauthorized insurer	03-0700	8/5/03
Cahill, Robert E.	Dallas	$750 fine	Misrepresentation on license application	03-0648	7/22/03
Carpenter, Sheila Linnette	Mesquite	General Property and Casualty License denied	Fraudulent or dishonest acts; Misrepresentation on license application	03-0624	7/14/03
Causey, Juanita	Houston	$4,500 fine, subject to dollar-for-dollar reduction by restitution to insureds down to a minimum fine of $2,500	Acted as agent for unauthorized insurer	03-0629	7/16/03
Centre Life Insurance Company	Boston MA	$5,000 fine	Failed to submit HIPPA questionnaire	03-0802	8/29/03
Davis, John Robert	Brownsville	$750 fine	Allowed unlicensed employees to act as agents	03-0636	7/1703
Dennie, Donald Lewis	Allen	$3,000 fine, subject to dollar-for-dollar reduction by restitution to insureds down to a minimum fine of $1,000	Acted as agent for unauthorized insurer	03-0621	7/14/03
Devoto, Kevin Mario	Fort Worth	Revocation of General Life, Accident, Health and HMO License	Felony conviction for crime of moral turpitude; Fraudulent or dishonest acts	03-0626	7/15/03
Dominguez, Elizabeth Marie	San Antonio	General Property and Casualty License denied	Misdemeanor conviction involving dishonesty directly related to the duties of licensed occupation	03-0625	7/15/03
Ellison, Jerry	Fort Worth	Funeral Prearrangement Life Insurance License denied	Engaged in fraudulent or dishonest acts; Misrepresentation on license application	03-0583	7/3/03
Employers Mutual LLC *et al*	Carson City NV	Fines totalling $12.5 million against William Kokott, Nicholas Angelos and American Benefit Society	Unauthorized insurance and deceptive trade practices	03-0668	7/24/03
Everett, Dan R.	Plano	Revocation of General Life, Accident, Health and HMO License	Engaging in fraudulent and dishonest acts or practices	03-0581	7/3/03
Fleming, Kenneth Roy (II)	Magnolia	$15,000 fine subject to dollar-for-dollar reduction by restitution to $7,500	Unauthorized insurance; Failed to report change of address	03-0708	8/7/03
General American Life Insurance Company	St. Louis MO	$3,000 fine	Failed to submit HIPPA questionnaire	03-0707	8/7/03
Guarantee Trust Life Insurance Co.	Glenview IL	$4,500 fine	Used a policy form not approved by TDI	03-0653	7/22/03

NAME	CITY	ACTION TAKEN	VIOLATION	ORDER	DATE
Herrera, Santiago	McAllen	General Life, Accident, Health and HMO License denied	Misrepresentation on license application	03-0656	7/22/03
Jones, Wyatt M. (Jr.)	Clute	Qualified Inspector Appointment canceled	Certified structure before construction completed	03-0630	7/16/03
Kirk, Cynthia	San Antonio	General P&C License probated suspension through March 15, 2004	Misdemeanor conviction related to the business of insurance	03-0777	8/20/03
Kouri, Raphael C.	Fort Lauderdale FL	General Life, Accident, Health and HMO License and Limited Lines License revoked	Felony conviction for crime of moral turpitude; Engaged in fraudulent and dishonest acts	03-0787	8/25/03
Lasley, Kelli	San Antonio	1 year probated suspension of General Property and Casualty License	Conviction of misdemeanors directly related to the duties of licensed occupation	03-0649	7/22/03
Lefavour, John	Houston	$50,000 administrative penalty; General Life, Accident, Health and HMO License revoked	Acted as agent for unauthorized insurer; Engaged in fraudulent or dishonest acts	03-0715	8/7/03
Marcontell, David Lynn	Duncanville	$5,000 fine	Acted as agent for unauthorized insurer	03-0622	7/14/03
Mid-Continent Casualty Co.	Tulsa OK	$70,000 fine; Cease and desist using unapproved forms; Make restitution and reopen denied claims	Used endorsement forms not approved by TDI	03-0594	7/8/03
Mony Life Insurance Company	New York NY	$1,000 fine	Failed to submit HIPPA questionnaire	03-0756	8/14/03
Morris, Carlos Leron	Dallas	Adjuster Property and Casualty License denied	Felony conviction for crime of moral turpitude	03-0582	7/3/03
Morris, Wayne Thomas	Tyler	$7,500 fine subject to dollar-for-dollar reduction by restitution to $5,000	Unauthorized insurance; Failed to register assumed names	03-0709	8/7/03
Mynhier, Elmer Tyrone	Conroe	$4,000 administrative penalty subject to dollar-for-dollar reduction by restitution to $2,000	Acted as agent for unauthorized insurer	03-0726	8/11/03
Optimum Property & Casualty Insurance Co.	Dallas	$4,000 fine	Alleged to have provided nonrenewal notices before submitting a plan of withdrawal to TDI	03-0619	7/14/03
Parr, Raymond Gene	Jasper	General Life, Accident, Health and HMO License and General P&C License revoked	Felony conviction for crime of moral turpitude; Engaged in fraudulent or dishonest acts	03-0729	8/11/03
Peterson, Brian Stanley	Spring	$10,000 administrative penalty, plus restitution; General Life, Accident, Health and HMO License revoked	Acted as agent for unauthorized insurer; Failed to respond to TDI request for information	03-0727	8/11/03
Pizza Risk Management	McKinney	$1,000 fine	Failed to file an annual operations report or submit assessment fee	03-0654	7/22/03
Porter, Rhonda	Plano	$50,000 fine plus restitution; revocation of General Life, Accident, Health and HMO License	Acted as agent for unauthorized insurer; Violated emergency cease and desist order	03-0593	7/8/03
Preferred Restaurant Services	Addison	$9,000 administrative penalty	Unauthorized insurance	03-0711	8/7/03
Rivas, Francisco	Stafford	County Mutual License denied	Felony conviction	03-0657	7/22/03
Roberts, Michael Eugene	Tomball	$10,000 administrative penalty, plus restitution; General Life, Accident, Health and HMO License revoked	Acted as agent for unauthorized insurer; Failed to respond to TDI request for information	03-0713	8/7/03

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InDiscipline

NAME	CITY	ACTION TAKEN	VIOLATION	ORDER	DATE
Rushmore Premium Finance	Austin	$1,000 fine	Failed to file annual operations report	03-0702	8/5/03
Sherman, Lisa	Allen	General Life, Accident, Health and HMO License and General P&C License revoked	Engaged in fraudulent and dishonest practices; Failed to report change of address	03-0712	8/7/03
Smith, Donald R.	Plano	Revocation of General Life, Accident, Health and HMO License; $150,000 fine; restitution to claimants	Acted as national marketing manager for unauthorized health plan; Violated cease and desist order	03-0535	6/26/03
Spann, Curtis R.	Houston	General Life, Accident, Health and HMO License denied	Misrepresentation on license application; Engaged in fraudulent or dishonest acts	03-0714	8/7/03
Talbert, Willie Gene (III)	Houston	Limited Lines License denied	Felony conviction for crime of moral turpitude	03-0658	7/23/03
Thomas, Norman Leon	Longview	Revocation of General Life, Accident, Health and HMO License and General Property and Casualty License	Misappropriation and conversion of funds; Engaging in fraudulent or dishonest acts or practices	03-0569	7/1/03
Thompson, Kevin	Houston	$500 fine	Failed to meet continuing education requirements	03-0623	7/14/03
Thompson, Kyle Warren	Cypress	$5,000 Fine, subject to dollar-for-dollar reduction by restitution to insureds down to a minimum fine of $2,500	Acted as agent for unauthorized insurer	03-0595	7/8/03
Thompson, Tommy	Houston	Funeral Prearrangement Life Insurance License denied	Conviction of misdemeanor directly related to the duties of licensed occupation	03-0599	7/10/03
Usher, Debbie Lee	Spring	$8,000 fine, subject to dollar-for-dollar reduction by restitution to insureds down to a minimum fine of $5,000	Acted as agent for unauthorized insurer	03-0620	7/14/03
USI Administrators, Inc.	Fort Worth	$1,500 fine	Operated as a TPA without written agreement with insurer	03-0650	7/22/03
Williamson, Karel Anne	Coppell	$11,000 fine subject to dollar-for-dollar reduction by restitution to $1,000	Unauthorized insurance; Failed to register assumed names	03-0710	8/7/03

InLicensing

NEW COMPANIES

COMPANY NAME	LOCATION	DATE LICENSED
Abercrombie, Simmons & Gillette, Inc.–TPA	Houston	6/30/03
Accountable Partners Healthcare System, LP–TPA	El Paso	10/23/02
ACN Group, Inc.–TPA	Minnetonka MN	10/15/02
AFIC Administrators, Inc.–TPA	Jackson MS	6/30/03
America First Lloyd's Insurance Co.	Dallas	11/21/02
American Country Insurance Co.	Chicago IL	5/7/03
American Summit Insurance Co.	West Des Moines IA	9/17/02
Babbitt Municipalities, Inc.–TPA	Chicago IL	7/30/03
BeneMetrics Corporation, *dba* EMS Administrators–TPA	Fort Worth	7/30/03
BeniComp, Inc.–TPA	Fort Wayne IN	10/15/02
Business Administrators & Consultants, Inc.–TPA	Columbus OH	4/21/03
C. L. Frates and Co.–TPA	Oklahoma City OK	5/23/03
Caterpillar Insurance Co. (new company from receivership shell: Caterpillar Insurance Co. (63330))	Jefferson City MO	11/26/02
CNL/Insurance America, Inc.	Macon GA	12/17/02

NEW COMPANIES

COMPANY NAME	LOCATION	DATE LICENSED
Columbian National Title Insurance Co.	Topeka KS	11/8/02
Cypress Texas Lloyds	Austin	2/13/03
Dakota Truck Underwriters	Sioux Falls SD	2/14/03
Delta Dental Plan of California–TPA	San Francisco CA	6/18/03
Disability Management Alternatives, LLC–TPA	Salem MA	5/23/03
Eastern Alliance Insurance Co.	Lancaster PA	4/22/03
EBRX, Inc.–TPA	Pittsburgh PA	3/12/03
Ecca Managed Vision Care, Inc., *dba* Ecca Managed Vision Care–TPA	San Antonio	1/9/03
Educators Employment Protection Corporation	Austin	4/1/03
ERN Holdings, Inc.–TPA	Fort Worth	9/13/02
Esis, Inc.–TPA	PhiladeLPhia PA	5/23/03
Farmington Administrative Services, Inc.–TPA	Farmington CT	5/23/03
Fidelity National Insurance Co.	Santa Barbara CA	12/10/02
Fidelity National Lloyds	Austin	11/7/02
Financial Designs, Inc.–TPA	Novi MI	11/19/02
Flexben Corporation–TPA	Mequon WI	10/15/02
Foresight, Inc., *dba* Foresight TPA, Inc.-TPA	Norman OK	10/15/02
General Fire & Casualty Co.	Boise ID	5/23/03
Germania Select Insurance Co.	Brenham	10/29/02
The Gray Casualty Co.	Metairie LA	1/7/03
Group Management Services, Inc.–TPA	Omaha NE	6/18/03
Healthscope Benefits, Inc., *dba* Health Benefits of Arkansas, Inc.–TPA	Wilmington DE	7/30/03
Healthspring, Inc., *dba* Texas Healthspring, Incorporated	Nashville TN	10/31/02
Hudson Insurance Co. (rescinded order and cancelled C/A 7/31/03 due to surplus lines activity)	New York NY	7/23/03
Ingenium Benefits, Inc.–TPA	Omaha NE	6/30/03
Insurance Co. of Scott and White	Temple	5/23/03
Intrepid Insurance Co.	Farmington Hills MI	3/3/03
Kazdon, Inc.–TPA	Austin	6/18/03
Lifeplans, Inc., *dba* LTC Services, Inc.–TPA	Waltham MA	3/12/03
Medco Health, L.L.C.–TPA	Wilmington DE	5/23/03
Mede America Corporation of Ohio–TPA	Twinsburg OH	2/4/03
Medical Benefits Administrators of Md, Inc., *dba* Medical Benefits Administrators of Maryland, Inc.–TPA	Abingdon MD	2/26/03
MedPayExpress, L.L.C.–TPA	Lake Charles LA	6/18/03
MedSolutions of Texas, Inc., *dba* Rad MSO of Texas, Inc.–TPA	Franklin TN	9/13/02
MemberHealth, Inc.–TPA	Cleveland OH	3/27/03
Midlands Claim Administrators, Inc.–TPA	Oklahoma City OK	6/30/03
MIIX Insurance Co.	Lawrenceville NJ	7/22/03
National Benefits Partner Insurance Agency, LLC–TPA	Salt Lake City UT	7/30/03
National Health Systems, Inc.–TPA	Denver CO	5/23/03
Nations Bonding Co.	Austin	4/16/03
Old Glory Insurance Co.	Tyler	2/24/03
Paychex Agency, Inc.–TPA	Rochester NY	2/4/03
Peerless Indemnity Insurance Co. (new company from redo shell: Atlas Assurance Co. of America (93401))	Lisle IL	4/30/03
Professional Solutions Insurance Co.	West Des Moines IA	7/23/03
Scripnet, Inc.–TPA	Las Vegas NV	12/5/02
Sompo Japan Fire & Marine Insurance Co. of America (domestication from Nissan Fire & Marine Insurance Co. (05538))	New York NY	11/26/02

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InLicensing

NEW COMPANIES

COMPANY NAME	LOCATION	DATE LICENSED
Summit Administrators, Inc.–TPA	Houston	9/13/02
Texas Fair Plan Association	Austin	12/20/02
Texas HealthSpring I, LLC–HMO	Houston	4/1/03
Texas Transplant Institute–TPA	San Antonio	9/13/02
TMG Health, Inc.–TPA	Wilmington DE	3/27/03
Total Administrative Services Corporation–TPA	Madison WI	6/30/03
Tufts Benefit Administrators, Inc., *dba* Tufts Health Plan–TPA	Waltham MA	7/30/03
United Home Life Insurance Co.	Indianapolis IN	11/26/02
United National Casualty Insurance Co.	Hammond IN	9/10/02
Utilimed, Inc., dba American Imaging Management, Inc.–TPA	Northbrook IL	4/2/03
Virtue Physician Services, P.L.L.C.–TPA	Kingwood	4/21/03
Waterstone Benefit Administrators, Inc.–TPA	Oklahoma City OK	12/5/02
Wellington Insurance Co.	Oklahoma City OK	2/4/03
Western Continental Insurance Co. of New York (licensed to merge Western Continental Insurance Co. (85600) into–redo w/shell)	New York NY	5/28/03
Worklife Solutions, Inc.–TPA	Austin	10/15/02

NAME CHANGES

COMPANY NAME	LOCATION	CHANGED TO	DATE LICENSED
AUSA Life Insurance Co., Inc.	Purchase NY	TransAmerica Financial Life Insurance Co.	7/2/03
Combined Specialty Insurance Co.	Glenview IL	Virginia Surety Co., Inc.	7/11/03
Gallagher Braniff, Inc.–TPA	Houston	Arthur J. Gallagher of Texas, Inc.	7/17/03
Seguros InterAmericana, S.A., Grupo Financiero Prime Internacional	Mexico City MX	AIG Mexico Seguros InterAmericana, S.A. de C.V.	7/11/03
The Mountbatten Surety Co., Inc.	Bala Cynwyd PA	First Sealord Surety, Inc.	7/23/03
USI Administrators, Inc.–TPA	Wilmington DE	CBCA Administrators, Inc.	7/17/03

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