



## Texas Department of Insurance

### Division of Workers' Compensation

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#### MEMORANDUM

**DATE:** October 9, 2007

**TO:** Workers' Compensation System Participants

**FROM:** Robert E. Lang, Deputy Commissioner for Hearings

**RE:** Guidance for Implementation of Legislative Changes

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#### **Requesting a Medical Contested Case or SOAH Hearing (H.B. 724)**

House Bill (H.B.) 724, 80th Regular Session, became effective September 1, 2007. The bill provides that system participants may request a Texas Department of Insurance, Division of Workers' Compensation (TDI-DWC) contested case hearing (CCH) or a hearing by the State Office of Administrative Hearings (SOAH) after the issuance of a Medical Fee Dispute Resolution (MR-04) Decision or to appeal an Independent Review Organization (IRO) Decision.

Requesting a Medical CCH or SOAH Hearing – To request a medical CCH or SOAH hearing, system participants may file a *Request for a Medical Contested Case or SOAH Hearing* (Interim Form DWC-045A), with a copy of the adverse decision (MR-04 or IRO Decision) attached, either by mail or facsimile. The Interim Form DWC-045A is available for download from the TDI website at <http://www.tdi.state.tx.us/forms/dwc/dwc045amedcch.pdf>. To file the request by mail, send the completed form and adverse decision to the Division of Workers' Compensation Chief Clerk of Proceedings, 7551 Metro Center Dr., Ste.100, Austin, TX 78744-1609. To file the request by facsimile, send the completed form and adverse decision to (512) 804-4011.

When completing the form, please note that per H.B. 724 a medical fee dispute exceeds \$2,000 if the "amount of reimbursement sought by the requestor in its request for medical dispute resolution" is more than \$2,000.

Scheduling a Medical CCH with TDI-DWC – A medical CCH will be scheduled upon receipt of the request.

Requesting Medical Hearings with SOAH – Information on the practices and procedures for requesting workers' compensation medical hearings before SOAH can be found in 28 Tex. Admin. Code (TAC) Chapter 148 or on the TDI-DWC website at: <http://www.tdi.state.tx.us/wc/rules/tableofcontents/rulesoptions.html>. SOAH hearings must be requested within 20 days in accordance with 28 TAC §148.3. The hearings conducted by SOAH will be held at the State Office of Administrative Hearings, William P. Clements Bldg., 300 West 15th Street, 4th Floor, Austin, Texas 78711-3025 as required by 28 TAC § 148.6.

System participants should note that a SOAH rule allows for a party to file a motion to appear by telephone or videoconference. SOAH requires the motion to be filed with SOAH, and the rule may be found at 1 TAC §155.45. System participants are encouraged to review the Frequently Asked Questions page on the SOAH website at <http://www.soah.state.tx.us/AboutUs/faq.htm>.

**Guidance on Interlocutory Orders Issued by Benefit Review Officers (H.B. 473 and S.B. 1169)**

The interlocutory order process has been changed by H.B. 473 and Senate Bill (S.B.) 1169, Texas Legislature, 80<sup>th</sup> Regular Session (2007). See Texas Labor Code §410.032, effective September 1, 2007.

The TDI-DWC will accept verbal and written requests for interlocutory orders for the payment or suspension of benefits at a benefit review conference. Disputes over the medical necessity of specific treatments, preauthorization and specific medical bills are not within the jurisdiction of a benefit review officer. Parties that prefer to make their request for an interlocutory order in writing may find it convenient to use the *Written Request for Interlocutory Order* (DWC Form-058) to request an interlocutory order at the benefit review conference. The DWC Form-058 is available for download from the TDI website at <http://www.tdi.state.tx.us/forms/dwc/dwc058interloc.pdf>.

Upon receipt of a request for an interlocutory order, the opposing party will be provided the opportunity to respond to the request. If a request is granted, the presiding benefit review officer will issue the interlocutory order not later than the third day after the date of the receipt of the request. Copies of the signed interlocutory order will be provided to all parties. The interlocutory order is effective on the date signed by the presiding benefit review officer.

**New Reimbursement Request for Payment Made By Health Care Insurer (H.B. 724)**

Pursuant to H.B. 724, Texas Legislature, 80<sup>th</sup> Regular Session (2007), TDI-DWC has developed the new *Reimbursement Request for Payment Made by Health Care Insurer* (DWC Form-026). The new form is available for download from the TDI website at <http://www.tdi.state.tx.us/forms/dwc/dwc026hcpreim.pdf>.

The DWC Form-026 must be used by health care insurers to request reimbursement from workers' compensation insurance carriers for health care services provided on claims that have been accepted as or determined to be compensable. The form must be filed with the workers' compensation insurance carrier from which reimbursement is being requested.