



# HWCN News

A publication of the Health and Workers' Compensation Networks Division

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## Welcome

Welcome to the first issue of the HWCN News, published by the Health and Workers' Compensation Network Certification and Quality Assurance Division (HWCN) of the Texas Department of Insurance (TDI). The purpose of this publication is to provide helpful information about Health Maintenance Organizations (HMOs), Utilization Review Agents (URAs), Independent Review Organizations (IROs) and Certified Workers' Compensation Networks (WCNs). HWCN News will provide information, give tips, and strive to improve communication between interested parties and TDI.

The HWCN News will be published quarterly. Questions or comments about the HWCN News may be emailed to [HMOGrp@tdi.state.tx.us](mailto:HMOGrp@tdi.state.tx.us).

## Overview of the HWCN Division

As a result of House Bill 7 (HB7) the HMO Division became the HWCN Division. In addition to the role the division played in the regulation of HMOs, HB7 also required the certification and regulation of Certified Workers' Compensation Networks.

The HWCN Division is staffed with approximately thirty two (32) staff members that provide assistance to complainants, injured employees, enrollees, HMOs, WCNs, URAs, IROs, industry

representatives and other members of the public. Some day to day operations include, but are not limited to:

- Review applications for registration and/or certification as a URA;
- Review applications for certification as a certified WC Network; and
- Review applications for certification as an IRO.
- Review requests for HMO and Certified Workers' Compensation Network Service Area Expansions (SAEs) and Service Area Reductions (SARs).
- Review portions of a HMO's application for a certificate of authority.
- Handle complaints, which helps TDI monitor the trends and activities of the regulated entities referenced above.
- Assign IRO Requests for Health, WC Network, and WC Non Network cases.
- Review Form Filings for compliance with Texas Insurance Code (TIC) and Texas Administrative Code (TAC) for the regulated entities referenced above.
- Compose rules as a result of legislative sessions.
- Conduct Exams to monitor the activities of HMOs, certified WC Networks, URAs and IROs.
- Provide educational workshops and conferences in an effort to reach out to the community and industry.

The HWCN Division may be contacted toll free at **1-866-554-4926**, local at **(512) 322-4266** or by fax at **(512) 490-1013**. You may also email your questions or concerns to [HMOGrp@tdi.state.tx.us](mailto:HMOGrp@tdi.state.tx.us).

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## Got an idea for an article or a "Did You Know"?

The HWCN Division would like to hear from you! Is there a subject you would like more information on or that needs additional clarification? Please email your ideas for articles to [HMOGrp@tdi.state.tx.us](mailto:HMOGrp@tdi.state.tx.us).

## Reviews by Independent Review Organizations

IROs are organizations certified by TDI. The purpose of an IRO is to provide an independent review of health care services that are denied by certain entities regulated by TDI. These entities include utilization review agents, health maintenance organizations, insurance carriers, and workers' compensation networks (companies). Currently, there are approximately 30 such IROs certified by TDI to perform these reviews.

When TDI assigns a request for an independent review to a certified IRO, the IRO selects a qualified health care provider to review the medical records related to the denied service. Before performing the review, the reviewer is required to certify his/her independence from any party that may be involved with the denial of the services. Parties involved or related to the review can include the patient, provider that received the denial, the carrier/payor, the utilization review agent, other providers with relevant records, and the person acting on behalf of patient. The IRO reviewer provides an independent opinion as to whether the denial of the health care services issued by the company should be upheld or overturned.

The types of denials that may be reviewed by an IRO are denials based on the company's determination that the services are not medically necessary or appropriate. These denials are sometimes referred to as adverse determinations. In most cases, the next step to dispute the denial is to request that the company reconsider the denial. The reconsideration review process is sometimes referred to as an appeal. One exception to the requirement of asking for an appeal through the reconsideration process is when the patient has a life threatening condition and the services have not yet been performed. When this is the case, the request for review by an IRO may be requested immediately following the company's initial denial.

After the company issues the denial(s) of the health care services on the basis that the services are not medical necessary, the patient, a person acting on the patient's behalf or the health care provider can request a review by an IRO by completing an LHL009 Form, Review by an Independent Review Organization. If a life threatening condition exists, it should be indicated in the appropriate section on the LHL009 form. The LHL009 form contains a section for the requesting party to describe the services which were denied and are being submitted for review by an IRO. It is not necessary for the person requesting the IRO review to attach copies of the denials that were issued by the company to the LHL009 form. Once completed, this form must be returned to the company that actually issued the denial. The company then reports the request to TDI electronically within 1 working day and faxes supporting documentation to TDI. Upon receipt of the form TDI reviews the request. If the request is eligible for a review by an IRO, TDI assigns the review to a certified IRO.

Once TDI assigns the request to an IRO, all parties are notified in writing. TDI sends the notices of assignment by facsimile if a fax number is provided. Otherwise, the notices are sent to the involved parties by mail. Upon notification of the assignment, the company is required to send the documentation they used to perform their review or have received related to the request to the IRO for review. Health care providers and patients that want to submit medical documentation to the IRO for review should send that information directly to the assigned IRO. The name of the assigned IRO and the IRO contact information is provided on the TDI notice of assignment. Once the IRO has completed its review, the IRO notifies all of the involved parties in writing of the IRO's decision.

Three types of coverage for which a request for a review by an IRO may be submitted are:

- Health (Non Workers Compensation) (HC)
- Workers Compensation Non Network (WC)
- Workers Compensation Network (WCN)

TDI has prepared detailed flow charts that illustrate the IRO request and review process for each of the three coverage types. These flow charts may be reviewed using the following links to the TDI website: [http://www.tdi.state.tx.us/hmo/iro\\_requests.html#FlowCharts](http://www.tdi.state.tx.us/hmo/iro_requests.html#FlowCharts). These flow charts are for illustration purposes only.

The applicable statute and rule that govern the IRO process are referenced below:

### **Health (Non Workers Compensation) (HC)**

<i>Texas Insurance Code</i>	<i>Texas Administrative Code</i>
• Chapter 4202	• Chapter 12
• Chapter 4201	• Chapter 19, Subchapter R

### **Workers Compensation Non-Network (WC)**

<i>Texas Insurance Code</i>	<i>Texas Administrative Code</i>	<i>Texas Labor Code</i>
• Chapter 4202	• Chapter 12	• Chapter 413
	• Chapter 133, Subchapter D	
	• Chapter 134, Subchapter G	

### **Workers Compensation Network (WCN)**

<i>Texas Insurance Code</i>	<i>Texas Administrative Code</i>	<i>Texas Labor Code</i>
• Chapter 4202	• Chapter 12	• Chapter 413
• Chapter 4201	• Chapter 10, Subchapter F	
• Chapter 1305	• §133.305	
	• §133.308	

For more information on the IRO Process online please see the links below  
[http://www.tdi.state.tx.us/hmo/iro\\_requests.html](http://www.tdi.state.tx.us/hmo/iro_requests.html)  
<http://www.tdi.state.tx.us/hmo/indexura.html>

For any questions call **866-554-4926** or email at [URAGrp@tdi.state.tx.us](mailto:URAGrp@tdi.state.tx.us).

## **Know a friend or colleague who may be interested in the HWCN News?**

If you know a friend or colleague who may be interested in the HWCN News please forward them the link to our current issue and let them know how simple it is to join our mailing list. To be added all that is needed is a quick email to **HMOGrp@tdi.state.tx.us** titled "Subscribe HWCN News". Please include the email address that you wish to be subscribed under.

## **Examinations of HMOs-Requirements and Tips**

You are probably asking why TDI needs to do an article about HMO examinations. After all, TDI has examined some HMOs many times over in the last decade and many of you are probably saying, "we already know what to do for an examination so I don't need to read this article." There are at least 3 reasons for encouraging you to read this article: (1) Much has changed in the past decade, such as laws and TDI examination processes; (2) All processes can be improved and we want to tell you what TDI is doing to improve and streamline examination processes; and (3) Because examinations can be stressful and disruptive to your operations, we want to provide some tips about making the examination easier for both the HMOs and TDI.

### **New Laws**

Obviously, one article cannot tell you about every law that has changed in the past decade. However, there are a couple of laws that can have a noteworthy affect on HMO examinations. As all HMOs know, examiners request many documents during an examination. Among them are quality improvement (QI) and credentialing policies and procedures and credentialing files. The gathering and the review of policies and procedures and files are onerous tasks to both TDI and HMOs.

### **QI Program**

Did you know that an HMO's QI program may be presumed to be in compliance with TDI requirements if the HMO has received nonconditional accreditation by a national accreditation organization? "Presumed compliance" is possible as long as the national accreditation organization's accreditation requirements are the same, substantially similar to, or more stringent than TDI's requirements. Thus, if the HMO being examined has been granted nonconditional accreditation from, for example, the National Committee for Quality Assurance (NCQA) and TDI confirms such an accreditation, it will not be necessary to request or review the HMO's QI program. Please look at [TIC Chapter 847](#) and [28 TAC Chapter 21, Subchapter GG](#) for requirements about "presumed compliance."

### **Credentialing**

"Presumed compliance" is also available to HMOs under [TIC Chapter 1452](#) and [28 TAC §11.1902](#). The law provides that an HMO's credentialing process must comply with NCQA standards, to the extent that those standards do not conflict with other laws of Texas. Thus, if the HMO being examined has been granted nonconditional accreditation for its credentialing program from NCQA and TDI

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## **Examinations of HMOs-Requirements and Tips**

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confirms such an accreditation, it will not be necessary to request or review the HMO's credentialing policies and procedures or its credentialing files.

In sum, "presumed compliance" for QI and/or credentialing results in a stream lined, short and effortless examination of these specific HMO requirements.

### **TDI's Examination Process**

TDI continually strives to improve and simplify the examination process. Not only do we want to do the best we can with the resources and time allotted for examinations, we also want to make the process less painful for HMOs. One change that we have made in the past year is to shorten or eliminate the on site portion of the examination. Whenever possible, we will ask that most if not all examination documents and information be sent to TDI prior to the on site examination. If we have everything we need and compliance can be ascertained solely through documentation, it may not be necessary to physically visit the HMO. However, should an on site visit be needed, this visit, barring any unforeseen problems, will be a one day visit only. The benefits are numerous. For the HMO, if an on site examination is not necessary, the HMO saves examination expenses and experiences less disruption of its operations. The same is true for TDI, that is less expense and disruption to TDI's own duties.

### **What can the HMO do to make the examination easier for itself and for TDI?:**

The following are several examples that HMOs should consider:

- **"Document, Document, Document":** More often than not, our findings are the result of a lack of adequate documentation to evidence compliance. For example, when we review complaint files, we require the copies of the complaint response(s) in order to confirm that the letters were actually sent. When copies are not in the complaint file, our finding must be that the HMO failed to comply with the applicable requirements. Another example relates to utilization review. Prior to issuing an adverse determination, the HMO or its utilization review agent (URA) must afford the requesting provider an opportunity to discuss the health care services being requested. This requirement is described in TIC §4201.206. Very often, we find that, although the HMO or its URA complied with this requirement, it failed to adequately document that this event took place. Consequently, a finding of non compliance is inevitable due to lack of evidence. The HMO can help itself and TDI by making sure that each file or each policy contains the required elements of compliance.
- **Electronic Submission:** "Paperless" is the goal for several reasons. But the benefits for examination purposes are many. Here are a few examples: HMOs can reduce or eliminate copying and mailing expenses, as well as reduce or eliminate the waste of valuable resources (paper). For TDI, the benefits are virtually the same. Another benefit is space efficiency. *Continued on page 6.*

## **Examinations of HMOs-Requirements and Tips**

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- **The Use of Microsoft Excel:** There is information that TDI prefers to receive in an Excel format. For example, provider directories/lists. This format facilitates assessment of network adequacy because we can sort the data in ways that allow us to view “snapshots” of the network. Without this format, our review is more time consuming and may lead to requests for additional information from the HMO.
- **Use of Examination Tools and Checklists:** HMOs should take full advantage of TDI’s resources located in our website. Please see the list of website and compliance resources below. These resources are valuable for ascertaining current compliance and for monitoring ongoing compliance with all TDI requirements. We have also completed several examination tools that will be added to the website in the very near future. These tools relate to every aspect of what is examined during an examination. By consistently using and applying the tools and checklists, the HMO can practically guarantee that its policies and procedures, programs and files (complaints, utilization review, credentialing) will be compliant with TDI requirements.

## **Website Resources**

Though the [TDI website](#) is going through a redesign there is still valuable information, resources and tools currently available.

The [HMO page](#) includes links to [HMO forms and checklists](#), [HMO company profiles](#), [HMO Financial Reports](#), and the ability to search for HMOs by county, among other information.

The [IRO page](#) includes forms for requesting a [review by an IRO](#), a [listing of currently certified IROs](#), application and attachments, applicable law and rules, and IRO decision templates.

The [URA page](#) includes the ability to search for a specific URA by name or download the complete list of URAs. This page also includes information and forms for certification and renewal, applicable laws and rules, and reporting requirements.

The [Workers’ Compensation Health Care Networks page](#) includes a section on the latest news, a [listing of certified workers’ compensation networks](#), applicable rules and regulations, open conference call agendas and minutes, frequently asked questions (FAQs) and links to each edition of the WCNet News newsletter.

The above is just a sample of information on the TDI website. We invite you to explore the website to find information that may be useful to you. We appreciate your patience while the website is being revamped to become a more effective tool for everyone.

If you are unable to find the information you need on the TDI website or have questions about information on the TDI website please feel free to contact us toll free at **1-866-554-4926**, locally at **(512)322-4266** or via email at **HMOGrp@tdi.state.tx.us**.

## Legislation Enacted 80th Texas Legislature

The Commissioner issued several bulletins during 2007 that provided a summary of legislation that was enacted during the 80th Texas Legislature. While TDI has attempted to include all recently enacted relevant legislation, ***the bulletins and attachments may not list all legislation that may affect you.*** Moreover, ***it may not list every action you need to take to maintain compliance and implement new legislation.*** While we encourage you to use the bulletins and attachments to aid your compliance efforts, you are responsible for ensuring compliance with all enacted legislation affecting the business you conduct.

BULLETIN NUMBER	DATE	REFERENCE	SUBJECT
<b>B-0036-07</b>	September 4, 2007	Legislation Enacted - 80th Legislative Session	Life Health & Licensing
<b>B-0039-07</b>	October 10, 2007	Recent Workers' Compensation Legislation from the Texas Legislature (80th Session-2007)	Division of Workers' Compensation
<b>B-0051-07</b>	December 18, 2007	Legislation Enacted - 80th Legislative Session	Commissioner/ Property and Casualty

## Compliance Resources

### Primary HMO Requirements\*

The laws that primarily provide for the licensing and operation of HMOs in Texas are codified in [the Texas Insurance Code \(TIC\), Chapter 843](#).

The rules which primarily provide for the licensing and operation of an HMO in Texas are designated under [Chapter 11, Texas Administrative Code \(TAC\)](#).

**\*COMPLIANCE NOTE:** *While the laws in Ch. 843, TIC and the rules in Ch. 11, TAC, primarily apply to a Texas licensed HMO, there are other laws and rules that also apply to a Texas licensed HMO. For example, to see a list of all of the requirements that apply to an HMO Provider contract, an HMO evidence of coverage (EOC), an HMO Delegated Entity/Delegation Agreement and an HMO Access Plan, you may use the following link to access each checklist: [http://www.tdi.state.tx.us/forms/form9hmo\\_filings.html](http://www.tdi.state.tx.us/forms/form9hmo_filings.html)*

### Certificate of Authority (COA)

The license to operate an HMO in Texas is called a "Certificate of Authority" (COA). To obtain a COA, a person must submit to TDI an application which complies with the requirements under §843.078, TIC, and 28 TAC §11.204. (Source: §843.071, TIC)

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## Compliance Resources *Continued from page 7*

### HMO COA Duration

An HMO COA does not have to be renewed; it continues in effect while the certificate holder meets the requirements of Ch. 843, TIC, until the commissioner suspends or revokes the COA, or until the commissioner terminates the COA at the request of the certificate holder. (Source: §843.084, TIC)

### “HMO” vs. “Insurer”

Unless it has a separate license to offer insurance products, an HMO is not considered to be an insurer in Texas. A Texas licensed HMO that is not also licensed as an insurer may not use in its name, contracts, or literature the word(s) "insurance," "casualty," "surety," or "mutual," or any other words that are descriptive of the insurance, casualty, or surety business or deceptively similar to the name or description of an insurer or surety corporation engaging in business in Texas. (Source: §843.005, TIC)

### “Evidence of Coverage” vs. “Policy”

The document that a Texas licensed HMO uses to describe the coverage to which the HMO's enrollees are entitled is called “Evidence of Coverage” (EOC). An EOC is not a health insurance policy. (Source: §1271.003, TIC)

A health insurance policy includes any policy or contract that provides insurance against loss resulting from accidental bodily injury, accidental death or sickness. A policy is a contract between an insurer and an insured and includes riders, endorsements, and the application, if attached. (Source: §1201.001, TIC)

### Evidence of Coverage (EOC)

An EOC or an EOC amendment may not be issued or delivered to a person in Texas until the form of the EOC or amendment has been filed with and approved by the commissioner. (Source: §1271.101, TIC)

### EOC Requirements

The requirements that primarily apply to a Texas licensed HMO's EOC are codified under Chapter 1271, TIC and designated under the Texas Administrative Code, Chapter 11, Subchapter F. However, there are other laws and rules that also apply to an EOC.

**\*NOTE:** *While the laws in Ch. 843, TIC and the rules in Ch. 11, TAC, primarily apply to a Texas licensed HMO, there are other laws and rules that also apply to a Texas licensed HMO. To see a list of all of the requirements that apply to an HMO EOC, please access and view the [EOC checklists on the TDI Web site](#).*

### Checklists

The HWCN Division staff use checklists as tools when reviewing HMO filings to determine if the HMO form filings comply with applicable requirements.

Depending on the type of EOC the HMO offers, a Texas licensed HMO is required to cover certain services and benefits:

- basic service (a medical HMO plan); OR
- limited service (a mental health/chemical dependency/long term care HMO plan); OR
- single service (a dental or vision HMO plan).

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## **Compliance Resources** *Continued from page 8*

An HMO plan may cover:

- an individual; or
- a small employer group (between 2 and 50 employees); or
- a large employer group (51 or more employees).

For a complete listing of all of the requirements that apply to each type of EOC, you may refer to the applicable EOC checklist and to the “Mandated Benefits Chart for an HMO,” at the end of this listing of checklists. All of TDI’s HMO checklists are available on line at the following links:

### **HMO Evidence Of Coverage (EOC) Checklists**

[Individual EOC LHL 011](#)

[Small Employer EOC LHL 380](#)

[Large Employer EOC LHL 381](#)

### **Consumer Choice Benefit Plan (CCBP) Checklists**

[Individual CCBP LHL 359](#)

[Small Employer CCBP LHL 358](#)

[Large Employer CCBP LHL 360](#)

### **HMO-Physician/Provider contract**

An HMO Physician/Provider contract must include certain mandatory provisions and may not include certain prohibited provisions. The HMO Physician/Provider Contract Checklist can be found at this link:

[HMO Physician/Provider Contract checklist LHL 012.](#)

### **HMO Access Plan Checklist**

An HMO is required to provide an adequate network for its entire service area. This means that all of the HMO’s covered services must be accessible and available so that travel distances for an enrollee from any point in the HMO’s service area to a point of service are no greater than 30 miles for primary care and general hospital care; and 75 miles for specialty care, specialty hospitals, and single healthcare service plan physicians or providers.

If any covered health care service or a participating physician and provider is not available to an enrollee within the required distances, the HMO must submit an access plan to TDI for approval. To view the this checklist please click on the link below:

[HMO Access Plan Checklist LHL 398](#)

### **HMO Delegated Entities/Delegated Third Parties Checklist**

When an HMO delegates certain functions to another entity, such as contracting with physicians/providers, handling complaints or performing utilization review to another party (a Delegated Entity) the delegation must be in writing and the delegation agreement must include certain mandatory provisions. (Source Chapter 1272, TIC)

The Delegated Entities & Delegated Third Parties checklist can be found at:

[Delegated Entities/Delegated Third Parties LHL 385](#) *Continued on page 10.*

## **Compliance Resources** *Continued from page 9*

### **Mandated Benefits Chart for an HMO Plan**

An HMO that covers basic health care services must also cover other additional benefits, which are generally referred to as “mandated benefits.” These two checklists can be found at:

[Mandated Benefits Chart for an HMO Plan PDF Format](#)

[Mandated Benefits Chart for an HMO Plan MS Word Format](#)

### **Rules, Rules, Rules - New & Revised**

TDI is required to ensure that the TIC and other laws regarding insurance and insurance companies are executed. (Source: §31.002, TIC)

At the end of each legislative session, if the Texas Legislature has enacted insurance-related legislation, TDI enters a rulemaking phase and TDI staff members begin to develop draft rules, as necessary. Rulemaking is one way in which TDI and the Commissioner of Insurance ensure that the TIC and other laws regarding insurance are executed. Rules help to implement new legislative requirements and may help to clarify the meaning of new laws.

TDI staff usually posts an “informal working draft” of a proposed rule on its Internet homepage for viewing by stakeholders and other members of the public. TDI welcomes comments on proposed rules.

At the bottom of the cover page, each posted draft rule includes information on how, where and by when stakeholders and members of the public should submit their comments for consideration.

To keep up with the most recent rules, you may refer to [TDI's list of Proposed and Adopted Rules for 2008](#).

Anyone with questions relating to any HMO rule, current or proposed, may call by telephone, toll-free, **1-866-554-4926** or send their questions via e-mail to the HMO Group at **HMOGrp@tdi.state.tx.us**.