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WORKERS' COMPENSATION UPDATE

PERFORMANCE-BASED OVERSIGHT "ALICE THROUGH THE LOOKING GLASS"

As a result of House Bill 7, Texas Labor Code Section 402.075 was created, which requires the DWC to conduct performance-based oversight (PBO). This includes: (1) assessing the performance of carriers and health care providers at least biennially; (2) developing regulatory tiers distinguishing among high performers, average performers and poor performers; and (3) developing incentives, including public recognition of high performers as well as sanctions for poorer performers.

After a year long study of how to best approach the legislatively mandated PBO reviews of carriers' performance, and stakeholder meetings to discuss the intent, process, and critical elements of the reviews, on June 8, 2007, the DWC sent out the first summaries and samples of data being reviewed in relation to PBO. This data consists of information regarding initial payments of income benefits, medial billing and payment data, contested case hearing decisions and medical dispute decisions.

Carriers are to review the data for accuracy and respond to DWC. The first summaries indicate that the responses must be done by July 27, 2007. On June 15, 2007, the DWC has sent out a letter of clarification explaining that the June 8th data mistakenly included both timely and late payments. The June 15th letter of clarification included only late payment data. Carriers are encouraged to complete their "review for accuracy" and submit it to DWC timely. The DWC will take into account the carriers' responses and plans to issue final performance assessments by August 3, 2007.

In addition to issuing the data summaries, the DWC has also published an informal draft of a monitoring and enforcement rule addressing performance based oversight and incentives. Additionally, work groups and stake holder meetings continue to take place to discuss the implementation and utilization of the performance based management process. The next such meeting will be held Friday, June 22, 2007 starting at 1:30 p.m. at the DWC Central Office.

As always, feel free to contact us with any questions.