

FLAHIVE, OGDEN & LATSON

ADVISORY NO. 4

TOPIC:When will the deadlines, sanctions, and penalties become effective?

DISCUSSION: The new Workers' Compensation Act imposes very strict deadlines, formidable new duties and standards of conduct, and stiff administrative violations for any infraction of these standards. The Act becomes effective January 1, 1991. Beginning on June 1, 1991, any violation of the Act will be subject to fine.

For all fines actually imposed, the Commission will consider, among other things, "the history and extent of previous administrative violations." Sec. 10.21(c)(2). The Commission will capture data on carrier performance after January 1, 1991, through May 31, 1991, for the purpose of imposing fines.

Furthermore, the statute provides for internal audits of carrier claims-handling procedures. This audit will be conducted by Commission staff in the carrier's offices and at the insurance carrier's expense. Four of the major insurance underwriters in Texas probably will be audited prior to June 1, 1991.

Accordingly, even though there is not an immediate sanction attaching to our failure to comply with the Act, it will impact the amount of the fines assessed for administrative violations occurring after June 1st.