

ADVISORY NO. 392
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TOPIC: COMMISSIONER'S BULLETIN # B-0005-06

The Commissioners of the Texas Department of Insurance and the Division of Workers' Compensation have issued a joint bulletin clarifying their position on the use of "voluntary" or "informal" networks. A copy of the bulletin is attached to this advisory. The latest bulletin (Bulletin No. B-0005-06), clarifies Commissioner's Bulletin No. B-0071-05.

Significantly, the most recent Bulletin states:

Consistent with Section 413.011(d), Labor Code, an insurance carrier may utilize a third party as its authorized agent to obtain a contractual fee arrangement that is different from the Division's fee guidelines. However, if the carrier chooses to use a third party as its authorized agent to obtain a contractual fee arrangement, there should be:

- a contract between the carrier and the third party that authorizes the third party to contract with health care providers on the carrier's behalf; and
- a contract or contract amendment between the third party, as authorized agent for the carrier, and the provider that names the carrier and clearly states the fee arrangement is between the health care provider and the third party as authorized agent on the carrier's behalf.

For medical fee disputes that arise regarding non-network and out-of-network care, the Division may request that copies of the contracts under which fees are being paid be submitted to the Division under Rule 28 TAC §133.307(l) for review. The insurance carrier, pursuant to Section 413.011(d), Labor Code, may be required to pay in accordance with the Division's medical fee guidelines if the contract:

- is not provided;
- does not include a specific fee schedule; or
- does not clearly state that the contractual fee arrangement is between the health care provider and the named insurance carrier or the named insurance carrier's authorized agent.

Carriers that contract for fee arrangements that are not consistent with Section 413.011(d), Labor Code may be subject to enforcement action and charges under Sections 415.002 and 413.020, Labor Code.

If you have questions, you may contact our office to discuss this Bulletin. Should you have questions to direct to the Department of Insurance, direct those questions to: Margaret Lazaretti, Deputy Commissioner, Health and WC Network Certification & QA Division, Texas Department of Insurance, at wcnnet@tdi.state.tx.us.

FLAHIVE, OGDEN & LATSON