ADVISORY NO. 397
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TOPIC: PERFORMANCE BASED OVERSIGHT ISSUE

The Performance Based Oversight issue is going to be discussed again during at least one, and possibly as many as three sub-group meetings. At the July 19 meeting, the sub-group agreed to focus on the remaining two key regulatory goals:

1. Ensure each injured employee shall have access to prompt, high-quality, cost-effective medical care and
2. Limit disputes to those appropriate and necessary.

The PBO sub-group meetings are on Wednesdays and begin at 9 a.m. Central Daylight Time. The PBO sub-group will meet at least 2 more times, maybe 3 if there is a need. The schedule for those meetings is listed below:

July 26 - 1:30 - 4:30
August 2 - 9 - 12
August 9 - 9 - 11:30 (if needed)

To participate in the sub-group meetings via conference call, please follow the instructions below.

1. Dial in: 1-888-391-2102
2. Enter the passcode: 9063381#

While the call-in sub-group meeting will focus on the two key regulatory goals listed above, participants should keep in mind the following questions upon which the Division of Workers' Compensation has requested stakeholder feedback:

1. Does Section 402.075 of the Texas Labor Code envision three simple tiers for all participants, or something more complex?

2. Should the placement of system participants into a tier be done relative to a performance standard, relative to each other (bell curve), or via a combination of these?
    - What should the performance standards be?
    - If the bell curve is used, what percentage of participants should be on each tier?

- If the entire curve of participants falls well below any reasonable standard of acceptable performance, is it really appropriate to call any of them high performers?
- If a high percentage of participants have performance above 95%, or some other pre-determined number, is it appropriate to call any of them average or poor performers?

3. Should participants with a data volume in the review period that is insufficient for statistical analysis be placed in the Average Tier? Placed into a Default Tier? Not be tiered at all? Performance assessed and placed into sub-tiers?

4. Should a participant be able to appeal their placement in a tier, and if so, how do you envision the appeals process would work?

5. Should each new performance assessment and tier placement be done without regard for the previous one (i.e., "clean slate")?

6. For participants with a data volume in the review period that is sufficient for statistical analysis, is it necessary to distinguish between larger volume participants and smaller volume participants if everyone's performance is expressed as a percentage? (Example: A carrier processes medical bills timely X% of the time, where the numerator is the number of timely processed bills in the review period and the denominator is the total number of bills received in the review period).

7. How should a participant's performance assessments relative to multiple KRGs be combined to achieve a final tier placement?

8. Should individual KRGs or Measures be weighted, and if so, how?