

ADVISORY NO. 413
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TOPIC: CARRIERS MUST REVIEW THEIR TPA CONTRACT BEFORE 09/01/07
/THE IMPACT OF HB 472 ON HIGH DEDUCTIBLE POLICIES

House Bill 472 is a bill that brings workers' compensation third party administrators under the regulatory authority of the Texas Department of Insurance. Effective September 1, 2007, third party administrators that provide services in connection with large deductible policyholders must have a contract with the carrier that complies with all of the requirements of chapter 4151 of the Code. In addition the contract must provide that:

- 1) The insurance carrier is responsible for "setting standards used in the handling of claims;" and
- 2) The insurance carrier is responsible for arranging for the payment of claims.

Insurance carriers and TPAs should review their master service agreements and revise them as necessary to maintain compliance with the requirements of HB 472.

The new standards implicate several other insurance code provisions and rules. Section 2053.203 of the code states that an optional deductible policy must provide that the insurance carrier issuing the policy pay all benefits that are payable from the deductible amount and that the policyholder shall make reimbursements periodically.

Rule XIX (F) of the Texas Workers' Compensation and Employers' Liability Manual states that all claims shall be paid by the insurer. The rule goes on to state that the "policyholder shall then reimburse the insurer for any deductible amounts paid by the insurer. The policyholder shall be liable for reimbursement up to the limit of the deductible amount chosen. An insurer may not *request* reimbursement more frequently than monthly."

We have conferred with Department staff and are advised that, in the Department's view, the statute and rule permit initial funding of the insurer's claim payment account by either the insurer or the policyholder. Policyholders may continue to fund the account periodically, as often as is necessary. However, an insurer may not insist upon funding of the account more frequently than on a monthly basis. TDI does not intend the rule to prohibit funding more often than monthly if this is the choice of the policyholder.

The Department is evaluating the impact of HB 472 on existing rules and is preparing to revise existing rules as necessary to comply with the new statutory requirements. When such rules are proposed, the Department may consider a change to Rule XIX (F) to provide for funding on a

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more frequent basis according to the agreement of the parties.

If you have questions regarding the impact of this legislation on any program that you administer, please feel free to contact our office and to speak with Jack Latson, Bobby Stokes or Steve Tipton.