

ADVISORY NO. 417
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TOPIC: TDI TO OVERHAUL TPA RULES

On October 18, 2007, the Texas Department of Insurance moderated a system stakeholders meeting during which the agency discussed its plans to increase Third Party Administrator oversight under HB 472. The Agency also sought stakeholder input regarding the nature of any rulemaking that might be needed in order to implement the provisions of the new law.

TDI intends to completely rewrite its TPA rules rather than to amend existing rules to incorporate the agency's new regulatory authority over workers' compensation administrators, said Doug Danzeiser, TDI Deputy Commissioner for Regulatory Matters.

An informal rulemaking comment period will precede the January 2008 publication of a formal proposed rule. Comments to the formal rule will be due to be filed on or about February 21, 2008. The agency hopes to adopt a final rule to take effect around April 21, 2008. The informal draft will be posted on the department's website in the next few weeks.

The discussion at the meeting was clearly focused on permitting agency staff to gather a greater understanding of third party administrator contracting procedures and administrative organizational structure before the proposed rules are drafted and posted.

From the discussion, it appears that the Insurance Department believes that its TPA rules should cover issues like audit requirements under HB 472, regulation of data and paper record transfers between administrators when contracts expire with their clients, as well as banking practices.

Agency staff advised attendees that it expects to undertake a separate rulemaking initiative covering large deductible insured practices sometime after the first of the year. Those rules may intersect with the TPA rules.

There was very little discussion of the details of how the agency intends to undertake its regulation of these matters. Rather, the meeting was clearly an effort by agency staff to learn how administrators currently handle these business areas. TPA system stakeholders were given ample opportunity during the meeting to educate agency staff members.

The agency learned that administrators are currently subject to many audits as a result of business demands. Moreover, it was clear during the discussion that such audits vary widely depending upon contractual agreements, and because of multi jurisdictional regulatory requirements.

The meeting included an important discussion of the administrators' obligation to notify policyholders and injured workers of the TPA's involvement in the claims process. The agency is working its way toward answering the question of how an injured worker or his health care provider can identify the proper claims adjuster or eBilling clearinghouse when claims administration is handled by a claims administrator rather than by the carrier directly. While no answers were directly disclosed, some parties did note that the statute provides that the notice requirements can be satisfied by inclusion of claims administrator contact information on the workplace coverage poster that is required to be posted by all covered employers.

The agency intends to update its TPA licensing FAQ, which is currently located at <http://www.tdi.state.tx.us/licensing/agent/hb472frequentl.html>.

The agency expects to conduct a second stakeholders' meeting once a draft of its proposed rules is posted on the TDI website in late November.