

**ADVISORY NO. 425**

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**TOPIC: UPDATE ON PERFORMANCE BASED OVERSIGHT**

The Division of Workers' Compensation is finalizing plans for the 2009 Performance Based oversight (PBO) report cards.

Texas Labor Code Ann. Sec. 402.075 requires that the Division establish a performance-based oversight system that includes development of key regulatory goals for assessing insurance carriers and health care providers, tiering of insurance carriers and health care providers based on performance, and development of regulatory incentives to promote compliance. The process is designed to allow the Division to focus its regulatory resources more strategically on overall compliance issues and history affecting an insurance carrier or a health care provider, placing emphasis on participants with continuing compliance problems in the workers' compensation system.

The Division established a working group of stakeholders to solicit input regarding the 2009 process. That group has been meeting since February 2008 in order to make recommendations to the Commissioner on behalf of system stakeholders.

The working group has made recommendations on the following PBO topics: key regulatory goals; 2009 measures; selection process; time frames; tiering; potential weights for measures; process.

Division staff will take the working group recommendations to the Commissioner for his review within the next two weeks. We anticipate that the Commissioner will announce the Division's plans for the 2009 PBO process sometime in July 2008.

The 2009 PBO initiative is likely to involve at least one data call to carriers, although the purpose of the call will be to assist the Division with a provider measure. That data call will likely be a limited data call and will probably involve a call for data on the timeliness of DWC-73 filings.

Carriers are likely to be graded on four measures this year, rather than the three measures the Division graded carriers on in the 2007 process. Providers are likely to be graded on three measures this year, up from a single measure in 2007.

FO&L is monitoring this process carefully and will advise you as soon as the Division announces its measures for the 2009 PBO process. If you have questions regarding the PBO process in the meantime, please contact Steve Tipton or Bobby Stokes.

FLAHIVE, OGDEN & LATSON