

**ADVISORY NO. 450**

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**TOPIC: DIVISION CONTEMPLATES ABANDONMENT OF  
4<sup>TH</sup> EDITION OF AMA GUIDES**

The Division of Workers' Compensation is considering the system impact of staying the with 4th Edition of the American Medical Association's Guides to the Evaluation of Permanent Impairment (AMA Guides), or adopting the 5th or 6th Editions. In this connection, the agency is accepting comments on informally proposed Rule 28 Texas Administrative Code (TAC) §130.1 regarding Certification of Maximum Medical Improvement and Evaluation of Permanent Impairment.

The informal working draft rule can be viewed on the TDI website at <http://www.tdi.state.tx.us/wc/rules/drafts.html>. The comment period closes Monday, March 1, 2010 at 5p.m. (Central Standard Time).

This informal working draft rule is not a formal rule proposal. Accordingly, your response will not be treated as a formal public comment for the purposes of the Administrative Procedure Act. In addition, you will also have the opportunity to make formal comments after the rules are formally proposed and officially published in the Texas Register. The Division anticipates formal publication of the rule in calendar year 2010. The informal working draft may contain drafting notes and formatting which will be changed as necessary to comply with the Texas Register formatting.

Comments may be submitted to TDI-DWC by e-mailing:  
[InformalRuleComments@tdi.state.tx.us](mailto:InformalRuleComments@tdi.state.tx.us);

Or, you may submit by mail or delivery to

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The purpose of the informal working draft rule is to request input from workers' compensation system participants regarding the 4th, 5th, and 6th Edition of the American Medical Association (AMA) Guides to the Evaluation of Permanent Impairment. The Division plans to propose this rule in order to reflect changes made by the AMA to the guides for evaluating and determining permanent impairment.

FLAHIVE, OGDEN & LATSON

The Division has proposed a series of questions to be considered when reviewing the informal working draft rule and when providing comments. The stakeholder survey includes the following questions regarding the impact that such a change would have on the adequacy of income benefits

- Which edition produces impairment ratings that adequately compensate injured employees for permanent impairments resulting from a compensable injury under the current statutory income benefit structure in Texas (i.e., which edition more accurately compensates injured employees for economic duress that occurs or may occur as a result of the permanent impairment)?
- What impact, if any, will a change in the AMA Guides have on the average impairment rating?
- Are there categories of injuries that will be overcompensated or under-compensated when using a certain edition of the AMA Guides?
- What impact, if any, will a change in the AMA Guides have on the number of injured employees who qualify for Supplemental Income Benefits (SIBs)? What are the pros and cons of that impact, if any?
- What impact, if any, will a change in the AMA Guides have on Maximum Medical Improvement (MMI) determinations? Will a different edition of the AMA Guides result in earlier determinations of MMI for injured employees?
- Will the impact, if any, on the adequacy of income benefits be immediate or will there be a graduated impact over time?

In addition, the Division has asked stakeholders to comment along the following lines on the impact that such a change would have on return-to-work outcomes

- Would a change in the AMA Guides have a positive, negative or no impact on return-to-work outcomes overall?
- If a positive or negative impact, would this impact be significant and sustaining or temporary?
- If a positive or negative impact, what categories of injuries or industries will be impacted the most?

Most importantly, the Division will survey how a change from the 4th Edition to the 6th Edition may impact claim costs. System stakeholder respondents to the survey should consider how they would respond to the question of what cost impact, if any, would such a change in the AMA Guides have on:

- Temporary Income Benefits (TIBs)
- Impairment Income Benefits (IIBs)
- Supplemental Income Benefits (SIBs)
- Medical costs (e.g., diagnostic tests)
- Insurance rates and premiums
- Will the cost impact, if any, be immediate or will there be a graduated impact over time?

The Division will examine the impact of such a consequential change on the dispute resolution process. Stakeholders have also been asked to address:

- Which edition of the AMA Guides produces better inter-rater consistency?
- What impact, if any, will a change in the AMA Guides have on the number of requests for designated doctor examinations?
- What impact, if any, will a change in the AMA Guides have on the number of impairment rating and MMI disputes seen in the system?
- Will the dispute impact, if any, be immediate or will there be a graduated impact over time?

The Division will also consider the impact of such a change on health care providers. The following questions are proposed in this regard:

- If a change to the AMA Guides was enacted, what training and testing requirements are needed for evaluating providers?
- If a change to the AMA Guides was enacted, what effective date should be considered to provide adequate time for providers to be trained and tested?

Finally, on a general basis, the Division is expected to ask system stakeholders to answer the following questions:

- Overall, what are the advantages and drawbacks to: 1) staying with the 4th edition; 2) using the 5th edition; or 3) using the 6th edition of the AMA Guides?
- Which edition of the AMA Guides most accurately represents “evidence- based medicine?”

- Does the 5th or 6th edition of the AMA Guides represent the most modern medical science in terms of disability evaluation? Why or why not?

Please see the complete memo with questions at the following link:  
<http://www.tdi.state.tx.us/wc/rules/documents/dr130amamemo1209.pdf> .