



## ADVISORY NO. 490

### TOPIC: INCREASE IN VIOLATION REFERRALS INVOLVING THE DESIGNATED DOCTOR PROCESS

---

In the last three months there has been a steep increase in the number of violation referrals being pursued against carriers for their actions during the designated doctor process. The following represent the primary problem areas:

1. Not submitting a copy of the DWC-32 (Request for Designated Doctor Exam) to the claimant and the claimant's representative, if any when the DWC-32 is filed with the Division. The requirement is set out at Rule 127.1(b)(10);
2. Not timely submitting the medical records and analysis letter to the designated doctor. The carrier is required to ensure that the medical records in its possession and its analysis letter (if any) are received by the designated doctor no later than three working days prior to the date of the designated doctor's examination. This requirement is at Rule 127.10(a)(1) and (3);
3. Not sending the designated doctor all medical records in the carrier's possession. This is required under Rule 127.10(a)(1). Thus, if a carrier is using a vendor for the handling of the designated doctor process, the adjuster must ensure that the vendor has all of the medical records that are in the adjuster's possession up to the point of the examination itself. Accordingly, there will be a gap between the date that the vendor originally receives the assignment and the date of the designated doctor exam. If the vendor receives the medical records at the time it receives the assignment, then it follows that the adjuster will probably receive additional medical records between that date and the date of the exam and thus, the adjuster is required to forward those additional records to the vendor to ensure that the designated doctor has all of the medical records;
4. Failing to accurately complete the DWC-32 form. Each time the Division amends the DWC-32 form, there are more boxes on that form that are required to be completed and completed accurately. This is required pursuant to Rule 127.1(b)(1-8 and 11);

5. Failing to reimburse the designated doctor at the correct reimbursement rate. The reimbursement rate may be found at Rule 134.204(i – n);
6. Failing to timely reprocess medical bills that have disputed extent of injury when a designated doctor is appointed on extent of injury and has opined that the compensable injury extends to something not previously accepted by the carrier. Under those circumstances, the carrier is required to reprocess the medical bills within 21 days of receipt of the designated doctor’s report. This is required at Rule 127.10(h).

Partly in response to the recent increase in violation referrals concerning the DWC-32 process, the Division will be conducting an audit in 2014. The audit issue type is “proper completion of DWC form 32”. It will be used to determine if insurance carriers are properly and accurately completing the request for the designated doctor examination. The review will consist of examining submitted forms for completion in the manner and form prescribed by TDI-DWC and in accordance with Rule 127.1. The audit samples will consist of randomly selected records drawn from the TDI-DWC database. The sample data will be drawn from DWC-32s submitted to TDI-DWC during the period of November 1, 2013 - January 31, 2014. Thus, the audit period has already begun.

**FOL recommends that carriers take steps to be compliant with its duties associated with the designated doctor rules. FOL handles the designated doctor process for many of our clients.**

**For assistance you may contact our Designated Doctor Department as follows:**

**Email: [ddr@fol.com](mailto:ddr@fol.com)  
Phone: 512-435-2251  
Fax: 512-241-3349**

The Division itself has in some cases, contributed to carrier’s not timely submitting medical records and the analysis letter to the designated doctor. In those cases, the Division’s Designated Doctor Department is not timely submitting the DWCOA32A (Notice of the Designated Doctor Exam) to the carrier until it is too late for the carrier to comply with its duty to ensure that the medical records and analysis letter are received by the designated doctor at least three working days prior to the date of the exam. We recommend that each time you receive a DWCOA32A, that you review both the date of that document and the date that document identifies as the date of the designated doctor exam. The DWCOA32A is an order. It is placed into the Carrier’s Division Representative Box. The carrier is treated as having received that document one working day after the date of the document. For example, if the date of the DWCOA32A is

November 15, 2013, which is a Friday, then the carrier is treated as having received it on Monday, November 18, 2013. If the designated doctor exam is less than three working days after the November 18, 2013 date, then the Division has made it impossible for the carrier to comply with its duty. Under such circumstances, the violation referral, if any is defensible. Retain proof of the date that the designated doctor's office received the medical records and the analysis letter. That proof should be verifiable.

If you have any questions about this advisory, please contact James Sheffield ([jrs@fol.com](mailto:jrs@fol.com)) or Bobby Stokes ([rds@fol.com](mailto:rds@fol.com)).