



ADVISORY NO. 523

TOPIC: SB 22 - REPROCESSING COVID CLAIMS

The Division of Workers' Compensation (DWC) recently sent out reminder notices and sample requests to reprocess COVID-19 claims to claimants who fall under the provisions of SB 22 and the carrier or self-insured denied the claim. SB 22 applies to detention officers, custodial officers, firefighters, peace officers, and emergency medical technicians.

Claims of injury for COVID-19 for these first responders fall under three categories. The first is for an injury date between March 13, 2020 and June 14, 2021, which was the effective date of SB 22. A claimant could pursue those claims regardless of timeliness so long as their claim was filed no later December 14, 2021. After that date, the carrier or self-insured has the ability to raise a late filing defense to the claim.

The second category is claims with an injury date that occurred between March 13, 2020 and June 14, 2021 that were filed before June 14, 2021 and were denied. A claimant with one of those claims may request reprocessing, but such a request must be filed no later than June 14, 2022.

The third category is for claimants with an injury date on or after June 14, 2021. There are no special provisions or rules that apply to these claims other than the potential applicability of the presumption.

Given the notices the DWC sent out, it is likely that claimants from all three categories will submit requests to reprocess regardless of the carriers prior determinations as to compensability. However, note that reprocessing is only available for claimants that filed a claim for benefits on or after March 13, 2020 but prior to June 14, 2021. As such, any claims that were submitted on or after June 14, 2021 are not appropriate candidates for reprocessing.

When a carrier or self-insured receives a request to reprocess, the carrier has 60 days to review the request, investigate the claim, and either approve or deny it. These obligations are mandatory even if the claim was previously denied, the claim was filed untimely, or the DWC issued a decision regarding the dispute.

The carrier or self-insured must use the PLN 15 to respond to a request to reprocess. For claims to which the reprocessing provision is applicable, the carrier should perform an investigation as though it is receiving a new COVID-19 claim, then use the PLN 15 to explain whether it is maintaining its prior denial or has decided to accept the claim instead. The carrier should also ensure that the reprocess includes evaluation of the presumption afforded to first responders per

Texas Government Code Section 607.0545.

In scenarios where the reprocessing provision is applicable but the carrier or self-insured previously accepted the claim, the carrier should still use the PLN 15 to timely respond to the claimant and explain that the claim has already been accepted.

For claims to which the reprocessing provision is not applicable, carriers and self-insureds should still respond to any such request using the PLN 15. However, the carrier should note on the PLN 15 that the claim is not a candidate for reprocessing, and thus the carrier or self-insured's previous determination regarding the compensability of the claim is still in effect.

If you should have any questions, please contact FO&L.