

Frequently Asked Questions House Bill 7

- **How does this legislation affect an injured workers' choice of doctor?**

In theory, under current law an injured worker can select any doctor on the Texas Workers' Compensation Commission's Approved Doctor List (ADL) who is willing to treat him or her. In practice, as the Senate Select Committee and Sunset Advisory Commission found, fewer and fewer doctors are willing to do so.

The ADL can be thought of as an any-willing-provider network in which the state sets fees, medical review requirements, dispute processes, and the specifics of other medical care delivery issues. The success of the ADL network model can be evaluated by examining the status of the current system, in which Texas has among the highest medical costs and poorest outcomes in the country.

Under HB 7, a worker would choose a doctor from within an adequate network panel, similar to the way doctors are chosen in group health plans. A worker would not be subjected to calling searching among doctors on the ADL who might or might not see him or her, as in the current system - he or she would instead have guaranteed access to care, and could focus more quickly on recovery and return to work.

- **Are the networks under HB 7 HMOs, PPOs, or something different?**

The networks under HB 7 are tailored to meet the specific factors present in workers' compensation health care. One major difference between workers' compensation health care and group health is that workers' compensation medical is fully paid (workers do not pay co-pays or deductibles). Since that is the case, it is difficult to use a PPO delivery model (an open network with higher deductibles and co-pays for out of network care) in workers' compensation.

The networks in HB 7 would be restricted to a particular set of providers, but also be held to requirements that they make care available and accessible. The bill allows existing HMOs and PPOs to become certified as workers' compensation health care networks, along with any other entity that meets the certification requirements.

- **What will the bill do to improve the system for those who are not in networks?**

HB 7 makes several improvements to the system in addition to the network aspect. The bill would place more emphasis on care according to evidence-based treatment guidelines, and on up-front treatment planning for those out-of-network claims where necessary care may be in dispute. The return to work and income benefit enhancements in the bill would also apply to both network and non-network claims. In addition, improvements in the operations of the agencies charged with administering the workers' compensation system would benefit all workers in the system.

- **What specifically does HB 7 do to improve return-to-work outcomes in the system?**

Many features of the bill - use of networks, more focus on evidence-based treatment guidelines, and others - will place greater emphasis on effective medical care that will improve return-to-work outcomes for injured employees. HB 7 also requires TDI to submit a biennial report to the legislature on the effects of this reform on medical costs and worker outcomes, including return-to-work outcomes. Additionally, the bill requires networks to be compared in a report card, including a comparison of the return-to-work outcomes for injured workers receiving medical care in those networks.

HB 7 also makes return to work a fundamental, statutory goal of TDI, through the Division of Workers' Compensation, and requires the division to engage in extensive outreach with employers and employees on return-to-work issues. The bill also acknowledges some employers, particularly small employers, will face greater challenges in bringing their injured employees back into the workforce. HB 7 creates a pilot program to provide reimbursements to small employers who expend funds in accommodating injured employees' return to work.

Further, HB 7 requires TWCC and the Department of Assistive and Rehabilitative Services (DARS), to work together on identifying and assisting injured workers who must be retrained with new skills in order to re-enter the workforce.

- **How will the governance and state agency changes in HB 7 improve the system?**

Since 1991, the Texas Workers' Compensation Commission has been governed by a six-member board, with three members each representing employers and employees, respectively. Prior to 1991, TWCC's predecessor, the Industrial Accident Board (IAB) was governed by a three-member board.

Under both structures, the agencies struggled and ultimately failed to manage a complex system, provide direction and leadership, and respond to needed changes. The two major workers' compensation bills of the 79th Legislative session, SB 5 and HB 7, offered differing views of improved governance. SB 5 focused on creating a Commissioner of Workers' Compensation who could be held accountable for the system's success or failure; HB 7 focused on consolidating TWCC into TDI.

The final language in HB 7 draws on the strengths of both approaches by consolidating TWCC into a new division of TDI headed by a Governor - appointed commissioner. This ensures accountability, allows for TDI's expertise in insurance regulation to be fully integrated into the division's operations, and also ensures proper focus and attention are placed on workers' compensation issues.

Of critical importance also is the creation in HB 7 of the Office of Injured Employee Counsel (OIEC). The OIEC would incorporate the existing TWCC ombudsman program, which provides assistance to injured employees, and add an additional focus on advocacy for injured employees as a whole and provide better oversight of the ombudsmen.