

DWC COVID-19 Related Actions- August 10, 2020

DWC Operations

DWC has made modifications in their operations during the COVID-19 pandemic.

BRC exchanges and CCH exhibits

- Due to COVID-19, TDI is conducting dispute resolution by teleconference. You can call to join a BRC or CCH proceeding by calling in by phone or using the Zoom app. For more information on how to do this go [here](#).
- Electronic documents may be exchanged, including with injured employee

Austin Representatives Boxes

- The Austin representative boxes have been converted to electronic format with documents normally placed in the carrier box now handled through SFTP box.

Cancellations

The Division of Workers' Compensation (DWC) is cancelling the Designated Doctor and MMI/IR Required Certification Training in Austin scheduled for June 5-6, 2020 to help prevent the spread of COVID-19. DWC will issue refunds for registrants.

The DWC 2020 WC conference is cancelled and full refunds will be issued.

For an updated list of DWC events and cancellations go [here](#). [More details and contact information for BRC and CCH](#) can be found on the [landing page of the DWC COVID-19 webpage](#).

Regulatory and Process Changes

Suspension of Labor Code and DWC Rules

- Work search compliance standards for supplemental income benefits under Labor Code Section 408.1415(a) and 28 Texas Administrative Code Section 130.102(d).
- Testing, training, and application requirements for designated doctor and maximum medical improvement and impairment rating recertification under 28 TAC Sections 127.110(b)(1) and (3), 127.110(d), and 180.23.
 - As a result, DWC will issue the interim recertifications to doctors whose prior certifications lapse March 27, 2020 through August 31, 2020. All interim recertifications will expire December 31, 2020. DWC will continue to evaluate the need to issue interim recertifications for doctors with DD and MMI/IR certifications lapsing after August 31st. Read Commissioner Brown's bulletin [here](#).

DD and RMEs

- Required medical exams under 28 TAC Section 126.6(a)- DWC-22 Form:
 - To ensure continued availability of your selected RME doctor, DWC recommends you do not submit any DWC Form-22s until further notice.
 - If you submitted a DWC Form-22 but haven't received an order do not submit a new one. DWC suspended processing RME requests on March 27, 2020.
- Orders for designated doctor exams and scheduling required medical exams, designated doctor, and referral exams- DWC Form-32.
 - You may still submit a request for a DD exam. DWC suspended processing DD exam requests on March 25, 2020.
 - System participants must dispute a first certification of MMI or assigned IR by requesting and setting a Benefit Review Conference-if a DD has not been appointed- by submitting DWC Form-32 to request a DD exam. You fulfill the requirement to dispute a certification of MMI and IR timely if DWC receives your DWC Form-032 within 90 days from the date the first MMI or IR determination was delivered to the injured employee.
 - Electronic signatures are acceptable.
 - MMI/IR exams by a treating doctor can occur if the injured employee and the treating doctor agree. These exams are not allowed through telemedicine or telehealth.
- **On June 15, 2020 doctors with DD or MMI and IR certifications and referral doctors may resume scheduling and conducting DD examinations and RMEs previously ordered by DWC.** Since the work search requirements are still suspended, DWC notes that doctors should not perform any portions of the exam or reports related to the injured employee's ability to return to work or disability as a direct result of the compensable injury. DWC will allow these examination issues to resume at a later date. Read the bulletin [here](#).
- **On June 22, 2020, DWC will resume processing requests for DD examinations and RMEs except for the issues of return to work or disability as a result of the compensable injury.** DWC will only order approved pending DD examination requests for the issues of MMI, IR, extent of injury, or other similar issues. Approved pending RME requests will only be ordered for the evaluation of a DD determination for the issues of MMI, IR, extent of injury, other similar issues, or requests to assess the appropriateness of health care. Read the bulletin [here](#).

Tolling of medical billing deadlines

- Failure to submit a timely medical bill will be deemed an exception due to a catastrophic event under Labor Code Section 408.0272(b)(2). DWC will consider the challenges system participants are facing when considering enforcement actions.

Public Safety Employees

- Governor Abbott has suspended Texas Government Code Section 6-7.002(1) and (2) to the extent necessary to allow public safety employees, who were likely to have been exposed to COVID-19 while in the course of their employment, to be entitled to the reimbursements set forth in 607.002 of the Government Code. The suspension is in effect until terminated by the Governor or until the March 13, 2020 disaster declaration is lifted or expires.
- The suspension does not impact an employee's eligibility to workers' compensation benefits.

First Responders

- Governor Abbott has waived certain reporting and testing requirements for emergency responders through the duration for the disaster declaration. The 10-day testing requirement in the Health & Safety Code applies to law enforcement officers, firefighters, EMS, and correctional officers.

Telemedicine

- As a result of the COVID-19 situation, health care providers are urged to expand the use of technology to provide care while limiting community spread.
- It is already permitted regardless of geographic location. DWC is considering all options to try and expand this while receiving quality care necessary to return to work.
- TDI is extending emergency rule 28 TAC Section 35.1, which requires insurers cover telemedicine services, including mental health visits, at the same rate as in-person visits. The emergency rule was in response to the COVID-19 pandemic, took effect on March 17th, and was set to expire on July 14th. There can be one 60-day extension to an emergency so the rule will remain in effect until September 12th. To read more about the rule go [here](#).
- On April 13th DWC issued emergency rule [28 TAC Section 35.1](#) related to telemedicine/telehealth. This rule allowed health care providers licensed to perform physical medicine and rehabilitation services, including physical therapists, occupational therapists, and speech pathologists to bill and be reimbursed for services currently allowed under CMS telemedicine and telehealth billing codes. This rule was set to expire today, August 10th. DWC is extending it for 60 more days and it will be in effect until October 8, 2020. Read the DWC notice [here](#).
- For up to date information visit the DWC telemedicine page [here](#).