

SUBCHAPTER A. GENERAL RULES FOR MEDICAL BILLING AND PROCESSING.

[~~28 TAC §§133.4 AND 133.5.~~]

SUBCHAPTER D. DISPUTE OF MEDICAL BILLS.

[~~28 TAC §133.309.~~]

INTRODUCTION. The Texas Department of Insurance, Division of Workers' Compensation (DWC) proposes to repeal 28 TAC §§133.4 and 133.5, concerning informal and voluntary networks, and §133.309, concerning medical disputes for workers' compensation claims. Section 133.4 implements Labor Code §413.011, §133.5 implements Labor Code §413.0115, and §133.309 implements Labor Code §413.031. Sections 133.4, 133.5, and 133.309 were identified for repeal in an earlier rule review.

EXPLANATION. Repealing §§133.4 and 133.5 is necessary because they expired on January 1, 2011, when Labor Code §413.011(d-1) - (d-3) and (d-6) expired. Repealing §133.309 is necessary because the Third Court of Appeals, Austin, Texas, declared it invalid in 2008. *Texas Dept. of Ins. v. Insurance Council of Texas*, No. 03-05-00189-CV, 2008 WL 744681(Tex. App.- Austin March 21, 2008, no pet.). Repealing these rules is necessary to ensure that the rules in the subchapters are relevant, which reduces clutter and confusion.

FISCAL NOTE AND LOCAL EMPLOYMENT IMPACT STATEMENT. Deputy Commissioner for Health and Safety Mary Landrum has determined that during each year of the first five years the proposed repeals are in effect, there will be no measurable fiscal impact on state and local governments as a result of enforcing or administering the sections, other than that imposed by the statute. This determination was made because the proposed repeals do not add to or decrease state revenues or expenditures, and because local and state government entities are only involved in enforcing or complying

with the proposed repeals when acting in the capacity of a workers' compensation insurance carrier. Those entities will be impacted in the same way as an insurance carrier and will realize the same benefits from the proposed repeals.

Deputy Commissioner Landrum does not anticipate any measurable effect on local employment or the local economy as a result of this proposal.

PUBLIC BENEFIT AND COST NOTE. For each year of the first five years the proposed repeals are in effect, Deputy Commissioner Landrum expects that enforcing and administering the proposed repeals will have the public benefits of ensuring that DWC's rules conform to the Labor Code and case law and are current and accurate, which promotes transparent and efficient regulation.

Deputy Commissioner Landrum expects that the proposed repeals will not increase the cost to comply with the Labor Code and case law because they do not impose requirements beyond those in the statute. Labor Code §413.011(d-1) - (d-3) and (d-6), along with 28 TAC §§133.4 and 133.5, expired on January 1, 2011, and §133.309 was declared invalid in 2008 by the Third Court of Appeals, Austin, Texas. As a result, any cost associated with the repeals does not result from the enforcement or administration of the proposed repeals.

ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS. DWC has determined that the proposed repeals will not have an adverse economic effect or a disproportionate economic impact on small or micro businesses, or on rural communities because the proposed repeals remove obsolete references to expired and overruled law only. The proposed repeals do not change the people the rule affects or impose additional costs. As a result, and in accordance with Government Code §2006.002(c), DWC is not required to prepare a regulatory flexibility analysis.

EXAMINATION OF COSTS UNDER GOVERNMENT CODE §2001.0045. DWC has determined that this proposal does not impose a possible cost on regulated persons. As a result, no additional rule amendments are required under Government Code §2001.0045.

GOVERNMENT GROWTH IMPACT STATEMENT. DWC has determined that for each year of the first five years that the proposed repeals are in effect, the proposed repeals:

- will not create or eliminate a government program;
- will not require the creation of new employee positions or the elimination of existing employee positions;
- will not require an increase or decrease in future legislative appropriations to the agency;
- will not require an increase or decrease in fees paid to the agency;
- will not create a new regulation;
- will expand, limit, or repeal an existing regulation;
- will not increase or decrease the number of individuals subject to the rule's applicability; and
- will not positively or adversely affect the Texas economy.

DWC made these determinations because the proposal is a simple repeal. It does not change the people the rule affects or impose additional costs.

TAKINGS IMPACT ASSESSMENT. DWC has determined that no private real property interests are affected by this proposal, and this proposal does not restrict or limit an owner's right to property that would otherwise exist in the absence of government action.

As a result, this proposal does not constitute a taking or require a takings impact assessment under Government Code §2007.043.

REQUEST FOR PUBLIC COMMENT. DWC will consider any written comments on the proposal that DWC receives no later than 5:00 p.m., Central time, on November 10, 2025. Send your comments to RuleComments@tdi.texas.gov; or to Texas Department of Insurance, Division of Workers' Compensation, Legal Services, MC-LS, P.O. Box 12050, Austin, Texas 78711-2050.

To request a public hearing on the proposal, submit a request before the end of the comment period to RuleComments@tdi.texas.gov; or to Texas Department of Insurance, Division of Workers' Compensation, Legal Services, MC-LS, P.O. Box 12050, Austin, Texas 78711-2050. The request for public hearing must be separate from any comments. If DWC holds a public hearing, it will consider written and oral comments presented at the hearing.

SUBCHAPTER A. GENERAL RULES FOR MEDICAL BILLING AND PROCESSING.

~~[28 TAC §§133.4 AND 133.5.]~~

STATUTORY AUTHORITY. DWC proposes repealing §§133.4 and 133.5 under Labor Code §§402.00111, 402.00116, 402.061, 413.011, and 413.0115.

Labor Code §402.00111 provides that the commissioner of workers' compensation shall exercise all executive authority, including rulemaking authority under Title 5 of the Labor Code.

Labor Code §402.00116 provides that the commissioner of workers' compensation shall administer and enforce this title, other workers' compensation laws of this state, and other laws granting jurisdiction to or applicable to DWC or the commissioner.

Labor Code §402.061 provides that the commissioner of workers' compensation shall adopt rules as necessary to implement and enforce the Texas Workers' Compensation Act.

Labor Code §413.011 provides health care reimbursement policies and guidelines.

Labor Code §413.0115 provides requirements for certain voluntary or informal networks.

CROSS-REFERENCE TO STATUTE. Section 133.4 implements Labor Code §413.011 enacted by House Bill (HB) 752, 73rd Legislature, Regular Session (1993) and amended by HB 473, 80th Legislature, Regular Session (2007). Section 133.5 implements Labor Code §413.0115 enacted by HB 473, 80th Legislature, Regular Session (2007).

TEXT.

§133.4. Written Notification to Health Care Providers of Contractual Agreements for Informal and Voluntary Networks.

§133.5. Informal Network and Voluntary Network Reporting Requirements to the Division.

SUBCHAPTER D. DISPUTE OF MEDICAL BILLS.

[~~28 TAC §133.309.~~]

STATUTORY AUTHORITY. DWC proposes repealing §133.309 under Labor Code §§402.00111, 402.00116, 402.061, and 413.031.

Labor Code §402.00111 provides that the commissioner of workers' compensation shall exercise all executive authority, including rulemaking authority under Title 5 of the Labor Code.

Labor Code §402.00116 provides that the commissioner of workers' compensation shall administer and enforce this title, other workers' compensation laws of this state, and other laws granting jurisdiction to or applicable to DWC or the commissioner.

Labor Code §402.061 provides that the commissioner of workers' compensation shall adopt rules as necessary to implement and enforce the Texas Workers' Compensation Act.

Labor Code §413.031 outlines medical dispute resolution.

CROSS-REFERENCE TO STATUTE. Section 133.309 implements Labor Code §413.031, enacted by HB 752, 73rd Legislature, Regular Session (1993) and amended by Senate Bill 1742, 86th Legislature, Regular Session (2019).

TEXT.

§133.309. Alternate Medical Necessity Dispute Resolution by Case Review Doctor.

CERTIFICATION. The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Issued in Austin, Texas, on September 26, 2025.



Kara Mace
General Counsel
TDI, Division of Workers' Compensation