Division of Workers' Compensation – Texas Department of Insurance

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Division at a Glance

As a division of the Texas Department of Insurance (TDI), the Division of Workers' Compensation (DWC) regulates and administers the workers' compensation system in Texas. Workers' compensation insurance provides employees injured on the job with medical care and income replacement benefits. While mandatory for governmental entities and companies that contract with the government, purchasing a workers' compensation insurance policy is optional for private employers in Texas. However, in most circumstances, state law gives employers who choose to provide these benefits immunity from further liability related to a workplace injury.

The Division's regulation of the workers' compensation system aims to accomplish four basic goals established by the Legislature, including ensuring that each employee: is treated with dignity and respect when injured on the job; has access to a fair and accessible dispute resolution process; has access to prompt, high-quality medical care; and returns to employment as soon as considered safe and appropriate.

The Division performs the following major functions:

- oversees the workers' compensation benefit delivery system;
- administers a dispute resolution process for income benefits, medical care, and payment for medical treatment;
- develops and adopts fee and treatment guidelines for medical services;
- provides safety resources, education services, and training for system participants;
- certifies employers who choose to self-insure as their own workers' compensation insurance carriers; and
- investigates complaints and conducts performance and compliance audits, and enforces compliance with statutes and rules.

Nearly six years after sweeping reforms, Texas' workers' compensation agencies are still in the wake of incredible transition.

Summary

Among growing concerns of high utilization and increasing medical costs, limited access to high-quality medical care, and poor return-to-work rates, the 79th Legislature made sweeping changes to the workers' compensation system. These extensive reforms included abolishing the standing regulatory agency and splitting its functions between TDI and a newly created injured employee advocacy agency – the Office of Injured Employee Counsel.

Nearly six years later, the Sunset review of DWC found the agency, and the system as a whole, still in the wake of incredible transition. Overall the system seems to be healthier, with stabilizing medical costs, fewer claims and disputes, lower insurance rates, fewer lost days of work, and better return-to-work outcomes. In addition, the structural transition of the Division into TDI has worked, although many aspects of the reforms are still very much in the implementation phase.

The timing of the current Sunset review presented both challenges and opportunities. Since not enough time has passed to allow for evidence of longterm, concrete outcomes, many of the system-wide changes are not yet ripe for evaluation. Given these challenges, the review identified possibilities to fine-tune past reform efforts, improve major program areas, and address lingering statutory questions needing further directive.

The following material summarizes the Sunset Commission's recommendations on the Division of Workers' Compensation.

Issue 1

The Division's Complicated Dispute Resolution Process Often Fails to Provide a Quicker, More Accessible Alternative to the Courts.

An effective administrative dispute resolution process is vital to a well-functioning workers' compensation system. The Division's dispute resolution process allows dissatisfied parties, particularly injured employees, the opportunity to appeal the denial or reduction of services through low-cost, accessible means, instead of through the formal and costly court system. The Sunset review assessed the dispute resolution process as a whole, as well as the impact of recent legislative changes.

Different dispute resolution paths exist depending on the type of dispute, the amount of the dispute, and how the employee received medical care. These differences create inequities within the dispute resolution process, unfairly subjecting system participants to varied levels of formality during hearings, and ultimately depriving participants of a quick, accessible means to resolution. The system is also hampered by more than 13,000 requests a year to reschedule informal Benefit Review Conferences (BRCs), primarily due to parties requesting a BRC despite not having the necessary documents.

Recommendations

Change in Statute

1.1 Require parties to a dispute to prove preparedness as a prerequisite to a Benefit Review Conference.

This recommendation would require injured employees, employers, health care practitioners, insurance carriers, and other parties to a dispute to obtain information necessary to facilitate resolution of the

dispute as part of the initial request for a BRC. In evaluating a BRC request, Division staff would be authorized to deny the request for a BRC if participants have failed to attest to having necessary documentation, such as medical records. Under this recommendation, the Division would be required to adopt rules outlining what types of documents would be needed to approve a request for a BRC, as well as the process used by Division staff for evaluating submitted information.

Under this recommendation, parties to a dispute would also be required to provide notice to the Division before rescheduling a Benefit Review Conference. The Division would develop circumstances, by rule, in which rescheduling a BRC would be authorized for good cause, as well as the timeframes by which a request to reschedule must occur. Rescheduled Benefit Review Conferences would not automatically be reset on the agency's docket; rather the participant requesting the reset would be required to re-submit a request for a Benefit Review Conference for Division approval, and comply with all requirements of an initial request for a BRC.

Failure to abide by the Division-approved system for rescheduling would result in forfeiting an opportunity to attend a Benefit Review Conference. Parties to a dispute who reach the statutory two-BRC limit could resolve the dispute themselves or proceed to a formal Contested Case Hearing.

1.2 Require parties to a non-network medical fee dispute to attempt a low-level mediation, through a Benefit Review Conference, before appealing to the Contested Case Hearing level.

This recommendation would require parties to a non-network medical fee dispute to participate in a BRC administered by DWC as a prerequisite to filing an appeal for a Contested Case Hearing. Non-network medical fee disputes would remain subject to an initial staff review and decision process, however, parties dissatisfied with the staff decision would file an appeal for mediation as a prerequisite to proceeding to a Contested Case Hearing.

Under this recommendation, the mediation process for non-network medical fee disputes would mirror the structure for BRCs held on indemnity disputes. As part of the mediation process, parties to the dispute would be able to resolve issues, such as billing discrepancies. However, parties would not be authorized to negotiate fees outside of the Division's adopted fee guidelines. This recommendation would only affect appeals of staff-level medical fee dispute decisions issued on or after the effective date of the Sunset bill.

1.3 Establish an administrative appeal mechanism for network medical necessity disputes.

This recommendation would augment the current appeal process for network medical necessity disputes by restructuring appeals of Independent Review Organization (IRO) determinations to include a Contested Case Hearing (CCH) before the Division, instead of a direct appeal to district court. Contested Case Hearings held on network medical necessity disputes would conform to the same procedures outlined in the Labor Code as those CCHs conducted on appeals of non-network medical necessity disputes. Division Hearings Officers would be required to weigh a network's adopted evidence-based treatment guidelines, in adjudicating the appeal just as they currently weigh Division-adopted treatment guidelines for medical care delivered by a non-network health care provider.

Because IROs conduct desk reviews of medical records that are not formal, recorded proceedings, under this recommendation, the Contested Case Hearing process would produce a record admissible to court during an appeal for judicial review. As a result, network medical necessity disputes would no longer be subject to a trial de novo standard of judicial review. Instead, network medical necessity

disputes would be subject to a substantial evidence review, allowing the judge to review the formal record resulting from a Contested Case Hearing before the Division.

1.4 Streamline the process for resolving medical disputes, requiring the Division to conduct all medical necessity Contested Case Hearings and SOAH to conduct all medical fee Contested Case Hearings.

Under this recommendation the State Office of Administrative Hearings (SOAH) would no longer have a role in performing Contested Case Hearings for workers' compensation medical necessity disputes. Instead, all Contested Case Hearings for medical necessity cases would be held before the Division. Appeals of medical necessity CCH decisions, including those decisions related to spinal surgery cases, would not be subject to the Division's Appeals Panel review, and could be appealed directly to district court.

As part of this recommendation, the Division would no longer have a role in conducting medical fee Contested Case Hearings. Instead, all medical fee Contested Case Hearings would be held before SOAH. Also, as part of this recommendation, the losing party appealing the Division's staff-level medical fee decision would be required to pay all associated Contested Case Hearing costs and the Division would be authorized to intervene in SOAH hearings involving significant issues of fee guideline interpretation.

This recommendation would only affect appeals of IRO medical necessity decisions and staff-level medical fee dispute decisions issued on or after the effective date of the Sunset bill.

1.5 Authorize the Division's Appeals Panel to issue written affirmations in limited circumstances.

This recommendation would allow the Division's Appeals Panel to issue written decisions affirming Contested Case Hearing decisions on only the following types of cases:

- cases of first impression;
- cases that are impacted by a recent change in law; and
- cases involving errors which require correction but which do not affect the outcome of the dispute, including:
  - findings of fact for which there is insufficient evidence;
  - incorrect conclusions of law;
  - findings of fact or conclusions of law which were not properly before the hearing officer; or
  - other legal errors.

This recommendation would only affect appeals of CCH decisions issued on or after the effective date of the Sunset bill.

Management Action

1.6 The Division should require a review of all Contested Case Hearing decisions to ensure consistency amongst field office staff.

Under this recommendation, the Division should require a review of all Hearing Officers' contested case decisions before releasing the final order. By practice, all Hearing Officers are already requesting this review; however, the Division should ensure that this practice continues in the future.

Issue 2

The Division's Medical Quality Review Process Needs Improvement to Ensure Thorough and Fair Oversight of Workers' Compensation Medical Care.

The medical quality review process is a key part of DWC's efforts to ensure system participants make appropriate decisions regarding the type, level, and quality of medical care needed by an injured employee. The Division's Medical Advisor, along with a Panel of outside health care providers, play significant roles in this review process. Several inadequacies in the process threaten the meaningfulness of the Division's review efforts, potentially compromising the impartiality of review outcomes. In fact, the Division discarded medical quality review cases referred to enforcement because of questions regarding the objectivity of the case selection process. In addition, the Division does not ensure that medical quality review process members have the qualification and training needed to ensure high-quality review outcomes.

Recommendations

Change in Statute

2.1 Require the Division to develop guidelines to strengthen the medical quality review process.

This recommendation would require the Division to develop criteria, subject to the Commissioner's approval, to further improve the medical quality review process. In developing such guidelines, the Division would be required to consult with the Medical Advisor and consider input from key stakeholders. The Division should also define, at a minimum, a fair and transparent process for the handling of complaint-based cases, and selection of health care providers and other entities for review.

Once developed, the Division would be required to make the adopted process for conducting both complaint-based and audit-based reviews available to stakeholders on its website.

2.2 Establish the Quality Assurance Panel in statute.

This recommendation would establish the Quality Assurance Panel (QAP) in statute and require the Division to hold QAP meetings as a means to assist the Medical Advisor and the Medical Quality Review Panel (MQRP), while providing a second level evaluation of all reviews.

Management Action

2.3 Improve the medical quality review process by clarifying the Quality Assurance Panel's involvement.

In conjunction with Recommendation 2.2, but as a management action, the Commissioner would adopt procedures, subject to input from the Medical Advisor, to further define the QAP's role in the medical quality review process and establish the frequency of QAP meetings. At a minimum, such procedures should include:

- a process for selecting QAP members from the pool of appointed MQRP members, including health care professionals from diverse health care specialty backgrounds and individuals with expertise in utilization review and quality assurance;
- a policy outlining the length of time a member may serve on the QAP;
- procedures to ensure QAP members are kept informed of enforcement outcomes of cases under review; and
- formal procedures to clarify the roles and responsibilities of QAP members and Division staff at QAP meetings.

Change in Statute

2.4 Require the Division to develop additional qualification and training requirements for Medical Quality Review Panel members.

This recommendation would require the Commissioner, subject to input from the Medical Advisor, to adopt rules outlining clear prerequisites to serve as a MQRP expert reviewer, including necessary qualifications and training requirements. In developing these policies, the Division could use the Texas Medical Board's expert reviewer process as a guide. At a minimum, rules on qualifications should include:

- a policy outlining the composition of expert reviewers serving on MQRP, including the number of reviewers and all health care specialties represented;
- a policy outlining the length of time a member may serve on MQRP;
- procedures defining areas of potential conflicts of interest between MQRP members and subjects under review and the avoidance of such conflicts; and
- procedures governing the process and grounds for removal from the Panel, including instances when members are repeatedly delinquent in completing case reviews or submitting review recommendations to the Division.

As part of this recommendation, the Division would also develop rules on training. Under this recommendation, MQRP members would be required to fulfill training requirements to ensure panel members are fully aware of the goals of the Division's medical quality review process and the Texas Workers' Compensation Act. Training topics should include, at a minimum, the following areas:

- administrative violations affecting the delivery of appropriate medical care;
- confidentiality of the review process and the qualified immunity from suit granted to MQRP members under the Labor Code; and
- medical quality review process guidelines adopted under Recommendation 2.1.

The Division could also include training on topic areas such as the Division's adopted treatment and return-to-work guidelines, other evidence-based medicine resources, and the impairment rating process.

Under this recommendation, the Division would also be required to work to better educate Panel members about the status and enforcement outcomes of cases resulting from the medical quality review process.

2.5 Require the Division to work with health licensing boards to expand the pool of Medical Quality Review Panel members.

Under this recommendation, the Division, in consultation with the Medical Advisor, would be required to work with health licensing boards, beyond just the Texas Medical Board and the Texas Board of Chiropractic Examiners, as necessary, to expand the pool of health care providers available as expert reviewers. The Division should also work with the Texas Medical Board to increase the pool of specialists available, as necessary, enabling the Division to better match a MQRP member's expertise to the specialty of a physician under review.

As part of this recommendation, when selecting the composition of expert reviewers serving on MQRP, the Medical Advisor would advise the Division by identifying areas of medical expertise that may not require ongoing representation on the MQRP. In such circumstances, the Division would develop a method to partner with these other agencies to access outside expertise on an as-needed basis.

Management Action

2.6 Direct the Division to develop an ex parte communication policy relating to cases under investigation.

The Division should, by rule, develop an ex parte communication policy that extends to any case under investigation in which the Commissioner of Workers' Compensation would be the ultimate arbiter in a final enforcement action. The adopted policy should prohibit ex parte communication before the minimum timeframes outlined in the Administrative Procedures Act and should aim to preserve the agency's enforcement process.

Issue 3

The Division Cannot Always Take Timely and Efficient Enforcement Actions to Protect Workers' Compensation System Participants.

The Division monitors the activities of all system participants and takes enforcement action against violators of law, rule, and order using a variety of administrative sanctions. However, the Division lacks some enforcement tools that would allow for meaningful enforcement actions and ensure that TDI, as a whole, has an efficient agency-wide enforcement process. In addition, some Labor Code provisions that govern the Division's enforcement are confusing and outdated.

Recommendations

Change in Statute

3.1 Clarify that the Division can conduct announced and unannounced inspections.

This recommendation would amend the Division's current investigative authority to clarify that it can conduct onsite inspections in investigating potential violations of the law, rule, or order. In addition, the recommendation would authorize DWC to perform both announced and unannounced inspections. To ensure that all regulated entities are treated fairly and consistently, the Division would develop clear procedures defining the entities and records subject to inspection, and how it will use its unannounced inspection authority.

3.2 Authorize DWC to refuse to renew Designated Doctor certifications.

This recommendation would clarify the Division's authority to refuse to renew a Designated Doctor's biennial certification. Under the recommendation, doctors disagreeing with DWC's decision to refuse to renew would be entitled to a hearing at the State Office of Administrative Hearings.

3.3 Authorize the Commissioner to issue emergency cease-and-desist orders.

Under this recommendation, the Commissioner of Workers' Compensation would be able to issue cease-and-desist orders in emergency situations. The Division could use this authority if a system participant's actions were violations of law, rule, or order, and would result in harm to the health, safety, or welfare of other participants. The recommendation would provide for notice and opportunities for expedited hearings, similar to the Insurance Code's provisions relating to emergency cease-and-desist authority. In addition, DWC would be authorized to assess administrative penalties against persons or entities violating cease-and-desist orders.

3.4 Specify that the judicial review standard for appeals of DWC enforcement cases is substantial evidence.

This recommendation would add language to the Labor Code specifying that any appeal of a Commissioner enforcement order is subject to the substantial evidence rule.

3.5 Authorize the Commissioner to make final decisions on enforcement cases involving monetary penalties.

This recommendation would remove final decision authority from SOAH in enforcement cases involving monetary penalties, and require the Commissioner of Workers' Compensation to enter final orders upon consideration of a proposal for decision from SOAH. As part of this recommendation, the Commissioner would adhere to provisions in the Administrative Procedures Act governing how an agency may consider, adopt, or change proposals for decision. The Division would also amend its current memorandum of understanding with SOAH to include procedures for handling SOAH proposals for decision for monetary penalties, as it is already generally required to do by statute.

As part of this recommendation, the Commissioner of Workers' Compensation should adopt internal policies to prevent any ex parte communication within the Division on enforcement cases as TDI and DWC have already done for SOAH proposals for decision that return to the agency for final decision currently.

3.6 Remove outdated and confusing enforcement provisions in the Labor Code.

Under this recommendation, statute would be amended to remove outdated language referencing specific classes of violations or penalty amounts. The recommendation would also remove language relating to notice requirements for subsequent violations under the Code that suggest conflict with DWC's broader administrative penalty authority. As part of this recommendation, statute would be changed to clarify what DWC's full range of administrative sanctions are for all system participants, and locate all sanctioning authority in the same piece of statute, to ensure that system participants are aware of DWC's complete enforcement authority.

3.7 Deposit all administrative penalties assessed and collected by the Division in the General Revenue Fund, instead of the Texas Department of Insurance operating account.

This recommendation would amend the Labor Code to require that all administrative penalties assessed and collected by the Division be deposited into the General Revenue Fund, aligning the administrative penalty collection process with other state agencies and resulting in a gain to General Revenue.

Issue 4

The Division's Oversight of Designated Doctors Does Not Effectively Ensure Meaningful Use of Expert Medical Opinions in Dispute Resolution.

Designated Doctors provide a neutral assessment of an injured employee's medical condition that DWC uses to resolve disputes, especially in circumstances in which an insurance carrier's doctor and an injured employee's treating doctor disagree. The presumptive weight of Designated Doctor opinions in legal disputes necessitates that Designated Doctors are able to consistently provide high-quality, independent medical assessments. However, the way that the Division certifies and schedules Designated Doctors lacks sufficient parameters to ensure that applicants can adequately perform the specific statutory duties required.

Recommendations

Change in Statute

4.1 Require the Commissioner to develop qualification requirements for Designated Doctors.

This recommendation would require the Commissioner of Workers' Compensation to develop a certification process, in rule, that effectively uses the spectrum of eligibility, training, and testing to assess the general proficiency of Designated Doctors. This recommendation would require the Division to revisit the current minimal requirements and adopt any changes in rule. Under this recommendation, the Division should develop a process that ensures doctors have either the appropriate specialty qualification, through educational experience or previous training, or demonstrated proficiency, through additional training and testing, to serve as a Designated Doctor.

At a minimum, the Division should develop standard course materials and testing for initial and renewed Designated Doctor certification. If the Division chooses to continue to rely on an outside provider, Division staff should be involved in the development of course materials and tests, and all final products should be Commissioner approved. Training and any associated end-of-course tests developed to

serve as part of a certification renewal process should include topics that allow the Division to ensure a doctor's continued competency in providing assessments.

Finally, as part of this recommendation, the Division should formulate a process for maintaining and regularly updating course materials, regardless of whether training and testing materials are developed in-house or by an outside provider.

4.2 Direct the Commissioner to adopt rules requiring Designated Doctors remain with case assignments, unless otherwise authorized.

As part of this recommendation, the Commissioner of Workers' Compensation would develop, by rule, certain circumstances permissible for a Designated Doctor to discontinue service in a particular area of the state or with a particular case. Such circumstances could include the decision to stop practicing in the workers' compensation system, relocation, or other instances where the doctor is no longer available. Designated Doctors choosing to no longer practice in a county would be expected to remain available as a resource and to perform subsequent exams for the same injured employee throughout the life of the claim for any cases previously assigned, unless the Division authorizes otherwise.

4.3 Modify the Designated Doctor matrix selection process to be based on diagnosis and injury area, instead of a treatment-based selection process.

This recommendation would provide the Division with additional criteria to aid in the Designated Doctor assignment process, ensuring the Designated Doctor has the appropriate training and background needed to adequately assess an injured employee's specific injury.

4.4 Direct the Division to allow all Designated Doctors to participate in any county desired, rather than the current 20 county maximum service area.

This recommendation would remove restrictions on the number of counties in which a Designated Doctor may see injured employees. Under this change, Designated Doctors would remain with case assignments, unless otherwise authorized.

Issue 5

The Division's Responsibility for Making Some Individual Claims Decisions Conflicts with Its Oversight and Dispute Resolution Duties.

The overall structure of Texas' workers' compensation system contemplates insurance carriers paying for and managing individual claims, and DWC overseeing and resolving disputes in the system. As a limited exception to this general approach, statute charges DWC with making certain individual claims decisions. The Division's involvement in eight types of decisions is unnecessary and conflicts with the agency's regulatory role.

Recommendations

Change in Statute

5.1 Transfer the responsibility for certain claims decisions from DWC to insurance carriers.

This recommendation would remove the Division and the Commissioner from making decisions on individual claims, transferring responsibility for these decisions to insurance carriers. As a result, DWC would only be involved in an individual claim if a dispute arises or for system monitoring and oversight purposes. Any disputes arising from these claims decisions made by insurance carriers would be resolved through the Division's existing dispute resolution process. This recommendation would not impact the Commissioner's statutory requirements to prescribe criteria by which carriers make these claims decisions. Additionally, DWC should amend its current rules regarding these claims decisions to reflect carrier responsibility, consistent with statute, rule, and internal processes already established. This recommendation would affect the following claims decisions:

- Acceleration of Impairment Income Benefits;
- Advancement of Income Benefits;
- Initial Determination of Supplemental Income Benefits;
- Change of Treating Doctor; and
- Maximum Medical Improvement Extension After Spinal Surgery.

Management Action

5.2 Direct DWC to require insurance carriers to make decisions on certain individual claims.

Under this recommendation, the Division should adjust its practices to ensure carriers make individual claims decisions. Although statute does not specifically require DWC to be involved in these decisions, historically DWC has approved changing the way that employees and beneficiaries receive their benefits. As part of this recommendation, DWC should amend rules and internal processes to clarify insurance carriers' responsibility for making these decisions, as well as any necessary requirements the carrier should adhere to when making decisions. The Division should only be involved in an individual claim through its current dispute resolution processes if a dispute arises based on one of these decisions, or for system monitoring and oversight purposes. This recommendation affects the following decisions:

- Distribution of Death Benefits;
- Annuities for Lifetime Income Benefits; and
- Lump Sum Impairment Income Benefits.

Issue 6

Employers Outside the Workers' Compensation System Are Failing to Report Information the Legislature Needs to Evaluate the Health of the System.

While state law does not require private Texas employers to offer workers' compensation coverage to their employees, it does require all employers to report their decision to DWC, as well as information about any injuries, illnesses, or deaths at the workplace. This information gives the Legislature a better understanding of the system and all workplace safety in Texas. However, despite increased education and compliance efforts by DWC, only an estimated 10 percent of nonsubscribing employers report this information.

Recommendation

Management Action

6.1 The Division should closely coordinate with other state agencies to include nonsubscription reporting requirements in their print and electronic publications.

This recommendation directs DWC to coordinate with other state agencies about nonsubscription reporting, including the Comptroller of Public Accounts, the Secretary of State, the Governor's Office of Economic Development and Tourism, and the Department of Information Resources, as well as further coordination with the Texas Workforce Commission. Coordination should include efforts such as adding information about workers' compensation reporting requirements to the other agencies' websites, including links to DWC's online reporting form as it develops. Coordination could also include adding workers' compensation information to other relevant agency publications. If beneficial, DWC might also explore further data sharing of employer information with these agencies to identify nonreporting employers. Under this recommendation, DWC and these other agencies would have the flexibility to determine the most useful and cost effective ways to coordinate, as conditions change.

Issue 7

Texas Has a Continuing Need for the Division of Workers' Compensation.

The Sunset Commission evaluated DWC's functions and structure as a division within the Texas Department of Insurance, led by a separate Commissioner of Workers' Compensation, and concluded that the Division fulfills an important role in ensuring the fair treatment of all system participants. In addition, the Commission found that, while the merger with TDI generally works well, the magnitude of the reforms passed during the 79th Legislature warrant a short continuation date, allowing the Legislature the opportunity to continue to monitor the implementation of such reforms.

Recommendations

Change in Statute

7.1 Continue the Division of Workers' Compensation for six years.

This recommendation would continue DWC for six years as a division within TDI.

7.2 Require the Division to develop standard procedures for documenting complaints and for tracking and analyzing complaint data.

This recommendation would require DWC to develop standard procedures to formally document and analyze complaints. The recommendation would apply to all complaints made to the Division, including both formal and informal complaints. The Division would be required to clearly lay out policies for all phases of the complaint process, from receipt to disposition. The recommendation would also require DWC to compile statistics, including the number, source, type, length of resolution time, and disposition of complaints. The Division would analyze complaint information trends to get a clearer picture of system participants' concerns about the Division and allow DWC to make improvements. The Division should track this information by field office and by program, and report to the Commissioner of Workers' Compensation on a regular basis.

Fiscal Implication Summary

Overall, the recommendations regarding DWC would have a positive fiscal impact of approximately $1 million per year to the State's General Revenue Fund, as described below.

- ***Issue 1*** – Requiring the losing party appealing the Division's staff-level medical fee decision to pay all associated Contested Case Hearing costs would result in an annual savings, as the Division would no longer reimburse SOAH for costs associated with conducting hearings. However, since the Division of Workers' Compensation – Texas Department of Insurance is funded through taxes and assessments on workers' compensation insurers, this recommendation would affect the Department's operating account, and not the General Revenue Fund.

- ***Issue 3*** – Depositing all administrative penalties assessed and collected by the Division in the General Revenue Fund, instead of the Texas Department of Insurance operating account, would result in a gain to the Fund of approximately $1 million annually, based on fiscal year 2009 assessments.

Fiscal Year	Approximate Gain to the General Revenue Fund
2012	$1,000,000
2013	$1,000,000
2014	$1,000,000
2015	$1,000,000
2016	$1,000,000