

Disputes are an unfortunate part of workers' compensation claims, because sometimes the parties cannot agree on a particular issue.

Issues concerning compensability, extent of injury, ability to work, or the amount of income benefits due are examples of indemnity disputes.

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Local field offices exist throughout the State of Texas and are staffed to assist you.



The statutory authority for the Office of Injured Employee Counsel is found in the Texas Labor Code, Chapter 404.

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Indemnity Dispute Resolution Process



Office of Injured Employee Counsel:
We're Here to Help



Many times the Office of Injured Employee Counsel (OIEC) is able to help you resolve an indemnity dispute that has come up in your workers' compensation claim without the need for formal dispute resolution. If your dispute cannot be resolved informally, the Texas Department of Insurance, Division of Workers' Compensation (TDI-DWC) has a formal dispute resolution process. An OIEC Ombudsman can assist you free of charge through each step of the dispute resolution process at TDI-DWC, or you may hire an attorney to represent you in your claim. (Any attorney's fees will be deducted from your income benefit payments as ordered by TDI-DWC.)

During the dispute resolution process, you may be required to attend one or more proceedings at the local TDI-DWC office. If you are required to attend a proceeding you should:

- Be prepared to answer questions about the issues in dispute. Write down important dates, times, names, or any other information that helps you explain your position;
- Bring any relevant paperwork such as letters, medical records, reports, or statements;
- Take care with your appearance and dress professionally;
- Arrive on time; and
- Have submitted a signed Form OMB-02, *Office of Injured Employee Counsel Assistance Request*, if you are being assisted by an Ombudsman.

It is also important that you meet all required deadlines. If the disputed issues are not resolved at one level then the dispute may progress to the next level, as described below.

Benefit Review Conference (BRC): This initial meeting of the parties allows them to discuss the disputed issues in an informal setting. A BRC is requested by filing a form DWC045, *Request to Schedule, Reschedule, or Cancel a Benefit Review Conference*, with TDI-DWC. Generally, a BRC is set within 40 days of the date that TDI-DWC grants the request. A TDI-DWC Benefit Review Officer presides over the BRC, which lasts about one hour. There can only be two BRCs held on each disputed issue. If the issues are not resolved, the issues may be elevated to either 1) arbitration, or 2) a contested case hearing.

Arbitration: This option is rarely ever chosen; however, the parties may agree to resolve the dispute through arbitration instead of a contested case hearing. An independent arbitrator chosen by TDI-DWC hears both sides of a dispute and makes a decision. The arbitrator's decision is final and cannot be appealed.

Contested Case Hearing (CCH): The more common step of dispute resolution following a BRC is a CCH. If the parties elect to go to a CCH, it is generally scheduled within 60 days after the BRC. The CCH is more formal than a BRC and is presided over by a TDI-DWC Hearing Officer. Evidence is exchanged and presented to the Hearing Officer. Witnesses testify under oath and a record of the hearing is created for future reference. It lasts about two hours and sometimes more depending on the complexity of the issue. The Hearing Officer will issue a written decision. A party that disagrees with the decision must file an appeal with the TDI-DWC Appeals Panel within 15 days (excluding Saturdays, Sundays, and holidays listed in Section 662.003 of the Texas Government Code) of receipt of the decision. (The receipt date is considered to be the 5th day after the date the Hearing Officer's decision was mailed by TDI-DWC.) If the Hearing Officer's decision is not timely appealed, it becomes the final decision of TDI-DWC.



Appeals Panel Review: The Appeals Panel reviews the Hearing Officer's decision and the record of the hearing based on the appeal and response filed by the parties. No proceeding is held before the Appeals Panel. Instead, the Appeals Panel conducts a paper review of the case. The Appeals Panel will make its decision in the case not later than the 45th day after the date of receipt of the response to the appeal. The Appeals Panel decision is the final TDI-DWC decision on the dispute.

Judicial Review: If you are not satisfied with the final decision of TDI-DWC, you may request judicial review. The petition must be filed with the appropriate District Court or County Court at Law not later than the 45th day after the date on which TDI-DWC mailed the parties the decision of the Appeals Panel. (The mailing date is considered to be the 5th day after the date the Appeals Panel decision was filed with TDI-DWC.)

OIEC is unable to help you at this level because it is outside the TDI-DWC administrative process. You will likely need to hire an attorney or choose to represent yourself at this stage. A decision of the Appeals Panel is binding on the parties unless and until it is overturned by a court.

CONTACT US

OIEC can help you pursue your dispute free of charge. Please call 1-866-EZE-OIEC (1-866-393-6432) for assistance.