



John Keel, CPA
State Auditor

An Audit Report on

**The Division of Workers'
Compensation at the
Department of Insurance**

July 2010

Report No. 10-035



An Audit Report on

The Division of Workers' Compensation at the Department of Insurance

SAO Report No. 10-035
July 2010

Overall Conclusion

The Division of Workers' Compensation (Division) within the Department of Insurance issues disciplinary orders when providers and carriers have not complied with laws regarding workers' compensation; however, the Division should correct weaknesses in its enforcement process. Specifically:

- As of April 2010, 661 pending workers' compensation enforcement cases had been open for an average of 467 calendar days. One case had been open since fiscal year 2006 and 58 cases had been open since fiscal year 2007.
- The case log that Division management used to monitor workers' compensation enforcement cases was not complete. Auditors identified 81 workers' compensation enforcement cases that were not on the Division's case log and 61 pending workers' compensation enforcement cases that the Division had assigned to individuals whose employment had been terminated the prior calendar year.
- The Division did not consistently conduct supervisory reviews of staff's work related to workers' compensation enforcement cases. According to the Division, from March 2009 to March 2010, the Division conducted only two supervisory reviews of cases that were progressing to disposition.

Background Information

The 79th Legislature abolished the Texas Workers' Compensation Commission effective September 1, 2005, and transferred its functions to the Department of Insurance.

The Division of Workers' Compensation (Division) at the Department of Insurance regulates and administers the business of workers' compensation in Texas and ensures that the Texas Workers' Compensation Act, the Texas Labor Code, and other laws regarding workers' compensation are implemented and enforced.

Source: Department of Insurance.

The Division and the Department of Insurance have successfully merged their management of information technology projects; however, another area of coordination between the Division and the Department of Insurance requires improvement. Specifically, the Division's workers' compensation enforcement team operates under the direction of the Commissioner of the Division through (1) the Associate Commissioner for Enforcement at the Department of Insurance and (2) an attorney team leader. The Associate Commissioner for Enforcement reports to the Commissioner of Insurance. While the Commissioner of the Division and the attorney team leader are both physically located at the Division's offices, the Associate Commissioner for Enforcement is primarily located at the main office of the Department of Insurance. This reporting structure makes it difficult for the

This audit was conducted in accordance with Texas Government Code, Section 321.0132.

For more information regarding this report, please contact Ralph McClendon, Audit Manager, or John Keel, State Auditor, at (512) 936-9500.

Associate Commissioner for Enforcement at the Department of Insurance to monitor workers' compensation enforcement cases.

In addition, for two cases with the largest penalties assessed, the team leader of the workers' compensation enforcement team approved settlement amounts significantly less than the amount recommended by the staff attorneys assigned to the cases. However, there was no documentation justifying the reduced penalty amounts. According to Division procedures, settlement amounts and their correspondence should be documented.

The State Auditor's Office continues to conduct audit work regarding the Division's enforcement efforts and disciplinary orders and will present the results of that work in a future report. Auditors communicated other, less significant issues to the Department's management separately in writing.

Summary of Information Technology Review

The Division has implemented various processes to help ensure the reliability of the data that workers' compensation carriers, providers, and third parties submit. The Division collects data from insurance carriers, providers, and third parties about employees who are injured on the job.

However, issues related to this data exist, including the use of multiple information systems to report workers' compensation information, programming issues, and the suspension of data edits. The Division also should strengthen its processes regarding security and access rights to its multiple workers' compensation information systems.

The Department of Insurance monitors and manages development of new automated systems related to workers' compensation. To do this, it uses internal policies and procedures, the Department of Information Resources' Texas Project Delivery Framework, and a project management application. However, the Department of Insurance does not accurately project the cost of information technology projects. It uses an average resource cost rate of \$28 per hour, but that rate does not include the costs of state employee benefits.

Summary of Management's Response

The Department of Insurance agreed with the recommendations in this report.

Summary of Objectives, Scope, and Methodology

The objectives of this audit were to:

- Determine whether the Division monitors and manages development of new information technology systems to provide assurance that budgets are met and goals are achieved.
- Determine whether selected information technology systems at the Division provide and maintain reliable, secure, and accurate data.
- Determine whether the Division issues appropriate and consistent disciplinary orders for workers' compensation providers and carriers that have committed violations or are identified as noncompliant.

The scope of the audit included the Division's automated systems and workers' compensation enforcement cases. Auditors reviewed new automated systems under development; current workers' compensation automated systems; the workers' compensation enforcement process; and workers' compensation enforcement case files closed between July 1, 2009, and February 10, 2010.

The audit methodology included reviewing and collecting documentation, conducting interviews with Department of Insurance and Division staff, reviewing and assessing policies and procedures, and analyzing and evaluating the results of testing. Auditors evaluated controls and data related to managing automated systems in development, existing automated systems, and the workers' compensation enforcement process to assess compliance with statutes and policies and procedures.

Contents

Detailed Results

Chapter 1	
The Division Issues Workers' Compensation Disciplinary Orders, But It Should Correct Weaknesses in Its Enforcement Process.....	1
Chapter 2	
The Division Has Implemented Processes to Maintain Reliable Workers' Compensation Data, But It Should Strengthen Certain Controls Over That Data.....	11
Chapter 3	
The Department of Insurance Monitors and Manages the Development of New Automated Systems for Workers' Compensation, But It Should Improve Its Projection of Costs.....	15

Appendices

Appendix 1	
Objectives, Scope, and Methodology.....	17
Appendix 2	
Related State Auditor's Office Work	20

Detailed Results

Chapter 1

The Division Issues Workers' Compensation Disciplinary Orders, But It Should Correct Weaknesses in Its Enforcement Process

The Division of Workers' Compensation (Division) within the Department of Insurance issues disciplinary orders when providers and carriers have not

Enforcement Program

The Department of Insurance's Enforcement Program investigates allegations and takes civil disciplinary actions, which include cease and desist orders, license denials, revocations and suspensions, administrative (monetary) penalties, and/or restitution.

The Division of Workers' Compensation's (Division) enforcement team focuses on areas of non-compliance that have the greatest adverse impact on the workers' compensation system and pursues administrative action as appropriate. Cases are referred from other program areas within the Division using a referral memo. These memos document the staff attorney's and program area's agreement on a recommended disciplinary action. The memos also provide evidence of consultation between the staff attorneys and the program clients.

From July 1, 2009, to February 10, 2010, the Division's workers' compensation enforcement team closed 300 cases with disciplinary action.

Source: Department of Insurance.

complied with laws regarding workers' compensation (see text box for additional information on the Division's workers' compensation enforcement team). However, the Division should correct weaknesses in its enforcement process. Specifically, the Division should:

Work to reduce processing time for workers' compensation enforcement cases and improve its tracking and supervisory review of those cases. As of April 2010, the 661 workers' compensation enforcement cases that were pending enforcement action had been open for an average of 467 calendar days. In addition, auditors identified 81 workers' compensation enforcement cases that were not on the Division's case log and 61 pending workers' compensation enforcement cases that the Division had assigned to individuals whose employment had been terminated during the prior calendar year. From March 2009 to March 2010, the Division asserted that it conducted only two supervisory reviews of workers' compensation enforcement cases that were progressing to disposition.

Improve the efficiency of the workers' compensation enforcement team's reporting structure. The Division's workers' compensation enforcement team operates under the direction of the Commissioner of the Division through (1) the Associate

Commissioner for Enforcement at the Department of Insurance and (2) an attorney team leader. The Associate Commissioner for Enforcement reports to the Commissioner of Insurance. While the Commissioner of the Division and the attorney team leader are both physically located at the Division's offices, the Associate Commissioner for Enforcement is primarily located at the main office of the Department of Insurance. This reporting structure makes it difficult for the Associate Commissioner for Enforcement at the Department of Insurance to monitor workers' compensation enforcement cases. Thirty-three percent of case files that auditors tested did not contain evidence of the Associate Commissioner of Enforcement's approval of the disposition of the case. In addition, between July 1, 2009, and February 10, 2010, 82 percent of the workers' compensation enforcement cases the Division closed were closed with a warning letter and no monetary penalties;

in contrast, the other enforcement teams at the Department of Insurance closed 45 percent of their cases with warning letters and no monetary penalties.

Improve its documentation of workers' compensation enforcement cases. All 45 cases auditors tested either lacked documentation or lacked evidence of supervisory review. The Division also does not have a documented methodology for assessing monetary penalties; as a result, auditors were unable to determine whether the Division assessed monetary penalties consistently. The Division assessed monetary penalties in only 20 workers' compensation enforcement cases closed between July 1, 2009, and February 10, 2010.

Chapter 1-A

The Division Should Work to Reduce Processing Time for Workers' Compensation Enforcement Cases and Improve Its Tracking and Supervisory Reviews of Those Cases

Processing Time for Workers' Compensation Enforcement Case Processing

As of April 2010, 661 workers' compensation enforcement cases were pending enforcement action. These cases had been open for an average of 467 days. One case has been open since fiscal year 2006. According to the Division's procedures, the average length of time that a pending case should be open is 125 days or less. Table 1 shows the number of workers' compensation enforcement cases from fiscal years 2006 through 2010 that were pending as of April 2010.

Table 1

Pending Workers' Compensation Enforcement Cases As of April 2010	
Fiscal Year in Which Cases Began	Number of Pending Cases
2006	1
2007	58
2008	167
2009	191
2010	244
Total	661

Source: Department of Insurance.

During this audit, the Division was using a workers' compensation enforcement case log that contained incomplete information. Auditors identified 81 cases that were not on the case log but were in the Division's case tracking system (the Division later discontinued the use of the case log). In addition, as of February 2010, 61 pending cases were assigned to individuals whose employment had been terminated in calendar year 2009. Without a complete list of workers' compensation enforcement cases,

Division management is not able to effectively manage and monitor pending cases.

In addition, monitoring reports that the workers' compensation enforcement team used to track workers' compensation enforcement cases contained inaccurate or duplicate case information. For 4 (80 percent) of 5 workers' compensation enforcement cases that auditors tested, multiple monitoring reports contained the same status information, even though the cases were progressing to different stages. For 2 (40 percent) of 5 workers' compensation enforcement cases tested, the monitoring reports contained incorrect case closure dates.

Supervisory Reviews of Workers' Compensation Enforcement Cases

According to Division procedures, workers' compensation enforcement cases assigned to staff attorneys should be reviewed on a monthly basis to ensure that they are progressing and performance measures are being met. However, according to the Division, from March 2009 to March 2010, the Division conducted only two supervisory reviews that were progressing to disposition.

The Division's procedures state that a Division "team lead" should use supervisory reviews as a tool to manage and monitor a staff attorney's work product. However, the team lead's intentions were to conduct these reviews for the purposes of evaluating the performance of staff attorneys. Supervisory reviews are an important control to help ensure that disciplinary orders are consistent, workers' compensation enforcement cases are progressing appropriately, and the Division is monitoring workers' compensation enforcement cases effectively.

State Position Classification Plan Law Clerk Job Description

Performs complex (journey-level) legal research and analysis work. Work involves examining and preparing legal documents, conducting research, providing assistance to attorneys, and evaluating documents for making recommendations to justices or attorneys. Works under general supervision with moderate latitude for the use of initiative and independent judgment.

Source: State Position Classification Plan on the State Classification Team's Web site, April 2010.

According to Division staff, work conducted by an unlicensed attorney that results in disciplinary actions must be reviewed by a licensed attorney. However, the Division has not always documented its supervisory reviews of an unlicensed attorney's work. Specifically, a law clerk had issued warning letters and consent orders for workers' compensation enforcement cases, and the Division had no documentation of the supervisory review of this individual's work. Issuing warning letters and consent orders is not within the job description of a law clerk in the State's Position Classification Plan (see text box for additional details).

Recommendations

The Division should:

- Periodically review workers' compensation enforcement cases to ensure that they are progressing efficiently and are prioritized correctly.

- Use a complete list of pending cases to manage and monitor workers' compensation enforcement cases.
- Develop a methodology for assigning workers' compensation enforcement cases to staff to ensure that it (1) assigns cases to appropriate staff and (2) does not assign cases to individuals whose employment has been terminated.
- Assign pending workers' compensation enforcement cases to a licensed attorney.
- Document the supervisory review of unlicensed attorneys' work.
- Ensure that licensed attorneys review all disciplinary actions and consent orders.

Management's Response

Management agrees and has already initiated corrective action.

An accurate inventory of cases is a critical element to ensuring that cases are appropriately accounted for and monitored. The system of record in Enforcement is the Case Tracking System ("CTS"). Since DWC adopted CTS as its database in 2006, entries in the system have been inconsistent. As a result, several cases have remained open in the CTS database, even though a determination was made to "close" the physical file. Management has taken steps to assemble a complete and accurate inventory of all CTS files, including:

- *Create report of all pending cases in CTS.*
- *Determine physical location of all pending files.*
- *Review current status of each file to determine whether the file should remain open.*
- *Close all inactive files in the CTS database and prepare the physical file for archive.*

An essential duty of team leaders in Enforcement is to conduct monthly or bimonthly case reviews with each team member. These reviews verify that cases are progressing expeditiously and ensure that staff resources are appropriately allocated to agency priorities. Case reviews should also include a review of case actions entered in CTS. In addition, the audit, the Senior Associate Commissioner has introduced a procedure to verify that team leaders are timely conducting case reviews.

Another essential duty of Enforcement team leaders is to assign cases to staff based on area and depth of expertise; existing caseloads; and needs of the referring program area. Although the team leaders in Enforcement have made these assignments using these factors, the Department agrees that incorporating this into its procedures manual would be useful and will do so.

Regarding the assignment of cases to non-attorneys, the Department believes there is value and efficiency in doing so, but agrees that monitoring of non-attorneys by management is even more critical. The team leader is required to review all consent orders, warning letters, Requests for Commissioner's Action ("RCA") and Requests for Disposition ("RFD") before submission. Although this procedure is usually followed, it will be formalized through incorporation in the procedures manual. In addition, the Enforcement Action form, the RCA and RFD forms will be reviewed by the team leader and such review will be indicated in the file. The Senior Associate Commissioner will also review the RCA, RFD, and Enforcement Action form to verify the team leader's review.

Person Responsible for Implementation: Senior Associate Commissioner, Enforcement Division.

Target Date for Implementation: Immediately; finalize procedures manual by August 2010.

Chapter 1-B

The Division Should Improve the Enforcement Team's Reporting Structure and Review the Number of Cases Closed with Warning Letters

The Division and the Department of Insurance have successfully merged their management of information technology projects; however, the Division's workers' compensation enforcement team operates under the direction of two positions: (1) the Commissioner of the Division, who is physically located where the Division's workers' compensation enforcement team is located and (2) the Associate Commissioner for Enforcement at the Department of Insurance, who is not physically located where the Division's workers' compensation enforcement team is located.

The reporting structure and the fact that the workers' compensation enforcement team is not physically located with the rest of the Enforcement Division makes it difficult for the Associate Commissioner for Enforcement at the Department of Insurance to monitor workers' compensation enforcement cases. For example:

- The Associate Commissioner for Enforcement was unaware of the log that the workers' compensation enforcement team used to monitor cases.
- As discussed in Chapter 1-C, 33 percent of case files that auditors tested did not contain evidence of the Associate Commissioner of Enforcement's approval of the disposition of the case.
- The Associate Commissioner of Enforcement was unaware that a team leader had negotiated settlement amounts that were significantly less than the amounts proposed by the attorneys that were assigned to the cases. This is discussed in further detail in Chapter 1-C.

When compared with the other enforcement teams at the Department of Insurance¹, the workers' compensation enforcement team closes a higher percentage of cases with a warning letter and no monetary penalty. The Division closed 247 (82 percent) of the 300 workers' compensation enforcement cases it closed between July 1, 2009, and February 10, 2010, with a warning letter and no monetary penalty. In contrast, according to the Department of Insurance, the other enforcement teams at the Department of Insurance closed 45 percent of their cases with warning letters and no monetary penalties during that same time period.

In addition, as discussed in Chapter 1-C, the Division closed 11 (73 percent) of 15 workers' compensation enforcement cases tested with warning letters when it did not have documentation of the violator's history. Therefore, auditors could not determine whether closing these workers' compensation enforcement cases with warning letters was the appropriate disciplinary action.

Recommendations

The Division should:

- Review the physical location, controls, and monitoring procedures of the workers' compensation enforcement team and determine the most effective reporting and monitoring structure for workers' compensation enforcement cases.
- Consider reviewing all of the workers' compensation cases that it closed with a warning letter to determine whether it took the appropriate disciplinary action.

¹ The other enforcement teams at the Department of Insurance work on cases that do not involve workers' compensation. For example, these teams could work on enforcement cases involving property and casualty insurance.

Management's Response

Management agrees and has already initiated corrective action. Since this audit report was issued, a new team leader for the workers' compensation enforcement team has been named.

As noted above, controls and monitoring procedures over cases handled by the workers' compensation team have begun to be revised and strengthened, and will continue to do so. While the difference in physical location between the workers' compensation team and the rest of the Enforcement Division is a challenge to ensure that procedures are consistent, management believes that the tighter controls should resolve this issue.

As the other recommendations are implemented, the Senior Associate Commissioner and the new team leader will make a determination that will provide for the best use of agency resources. In addition, the Senior Associate Commissioner and the team leader will carefully consider the use of warning letters as an appropriate resolution to enforcement cases.

Person Responsible for Implementation: Senior Associate Commissioner, Enforcement Division.

Target Date for Implementation: As noted above, the Department will immediately implement procedures to strengthen monitoring and control by management over appropriate case disposition. The new team leader will take office in August 2010. The Department will complete its assessment of cases previously closed with warning letters by December 2010.

Chapter 1-C

The Division Should Improve Its Documentation of Workers' Compensation Enforcement Cases

The Division did not consistently document workers' compensation enforcement cases in accordance with its policies and procedures. All 45 cases auditors tested either lacked documentation or lacked evidence of supervisory review. Specifically:

- 10 (22 percent) of 45 case files tested did not contain documentation to support the disposition of the case. A request for disposition would have included the reason for a particular recommendation for disposition.
- None of the 23 case files tested that required a referral memo from the other program areas within the Division contained that memo. The referral memo documents staff attorney and program area agreement on a recommended disciplinary action.

- 23 (51 percent) of 45 case files tested did not contain documentation of an initial supervisory review.
- 15 (33 percent) of 45 case files tested did not contain evidence of approval from the Department of Insurance's Associate Commissioner of Enforcement for the disposition of a case.
- 25 (55 percent) of 45 case files tested did not contain the workers' compensation program area's approval for case disposition. An approval from the program area indicates that the program area is in agreement with the recommendation made by the workers' compensation enforcement team.
- 43 of the 45 case files tested should have contained the violator's case history, but 14 (33 percent) of them did not contain that information. The case history indicates whether other violations should be considered in the case. Furthermore, 11 of the 15 (73 percent) cases closed with a warning letter did not contain documentation of a violator's case history.
- 16 (43 percent) of 37 case files tested did not include documentation to enable auditors to determine whether the disciplinary action issued had received supervisory review before it was sent to the violator, when required. The approval of the disciplinary action was not documented in the supervisory review.

Auditors tested three additional cases that assessed larger fines (in excess of \$50,000) that were forwarded to the Commissioner of the Division in the form of a major case memo. None of the three case files tested that required a major case memo contained that memo. As a result, it is uncertain if the Commissioner received the memo and approved the penalties assessed in the recommendation.

In addition, for two "omnibus" cases on which the Division assessed \$299,800 and \$200,000, respectively, in final penalties, the workers' compensation enforcement case files did not include any negotiation documentation. The Division's enforcement team leader had negotiated settlement amounts that were 44 percent and 50 percent, respectively, less than what was originally proposed by the assigned staff attorney. However, there was no documentation justifying the reduced penalty amounts. According to Division procedures, settlement amounts and their correspondence should be documented.

Consistency of Monetary Penalties

Auditors were unable to determine whether the Division consistently assessed monetary penalties. The Division assessed monetary penalties in only 20 workers' compensation enforcement cases closed between July 1, 2009, and February 10, 2010. The Division does not have a documented methodology

for assessing monetary penalties. Therefore, auditors were unable to determine whether the Division assessed monetary penalties consistently and appropriately. Table 2 summarizes monetary penalties the Division assessed in fiscal years 2008, 2009, and 2010.

Table 2

Monetary Penalties the Division's Workers' Compensation Enforcement Team Assessed As of March 2010 (For cases closed from July 1, 2007, through March 31, 2010)			
Quarter	Fiscal Year 2008	Fiscal Year 2009	Fiscal Year 2010
1	\$ 57,500	\$ 120,700	\$ 16,500
2	112,000	226,300	60,000
3	98,968	55,350	0
4	118,625	514,500	0
Totals	\$387,093	\$916,850	\$76,500

Source: Department of Insurance.

Recommendations

The Division should:

- Maintain all workers' compensation enforcement case file documentation to adequately document decisions as required by its policies and procedures.
- Document all negotiations between parties in the workers' compensation enforcement case files and include written justification for the final disposition.
- Develop and implement criteria and a methodology for consistently assessing monetary penalties.

Management's Response

Management agrees and has already initiated corrective action.

As noted above, the team leader is required to review several key documents in enforcement files before they are issued outside of Enforcement, and the Senior Associate Commissioner provides an additional layer of review and oversight. The procedures manual will be updated to remind all staff of these requirements.

Since this audit report was issued, the Senior Associate Commissioner has implemented an organizational change within Enforcement so that workers' compensation enforcement team members who are responsible for opening

and closing both physical and CTS files now report to the head of Enforcement's Compliance Intake Unit rather than the team leader. This change will ensure that procedures for reviewing case file documentation are consistent across the Enforcement Division.

The determination of appropriate monetary penalties and other sanctions in TDI enforcement cases is complex and generally does not lend itself to the use of specific formulas for violations. The 2005 legislative reform that merged the former TWCC into TDI also abolished the previous "penalty matrix" that included such formulas. In its place, the Labor Code was amended to include certain factors that must be considered in assessment of administrative penalties:

- *The seriousness of the violation, including the nature, circumstances; consequences, extent and gravity of the prohibited act;*
- *The history and extent of previous administrative violations;*
- *The demonstrated good faith of the violator, including actions taken to rectify the consequences of the prohibited act; and*
- *The penalty necessary to deter future violations.*

Documentation of consideration of these factors should be included in every case file. The team leader and the Senior Associate Commissioner will ensure that files include this documentation during key points of control such as case reviews and review of RCAs.

Person Responsible for Implementation: Senior Associate Commissioner, Enforcement Division.

Targeted Date for Completion: The structural reporting changes of case management staff has already occurred. The Enforcement procedures manual should be updated by August 2010. Increased controls oversight of appropriate case documentation has already begun, and will continue when the new team leader begins in August 2010.

The Division Has Implemented Processes to Maintain Reliable Workers' Compensation Data, But It Should Strengthen Certain Controls Over That Data

The Division has implemented various processes to help ensure the reliability of the data that workers' compensation carriers, providers, and third parties submit. However, issues related to this data continue to exist. These issues include the use of multiple information systems to report workers' compensation information, programming issues, and the suspension of data edits. The Division also should strengthen controls over access rights to its multiple systems, and it should improve documentation related to system changes.

Use of Multiple Information Systems to Report Workers' Compensation Information

Workers' Compensation Data Collection

The Division collects data from insurance carriers, providers, and third parties about employees who are injured on the job.

This data includes information about the initial injury, updates about the injury, and any medical-related bills that are incurred in treating the employee.

The Division continues to use three information systems for carriers, providers, and third parties to report injury data: (1) a legacy information system called COMPASS, (2) a replacement to the legacy system called the Texas Workers' Compensation System (TxCOMP), and (3) an alternative storage solution for medical billing data. The Division also uses a reporting database to analyze the data collected through these systems. The use of multiple systems creates specific challenges for the Division related to the reliability and security of data. Those issues are discussed in more detail below.

Programming Logic Issues

The Division has implemented various processes to help ensure the reliability of the data that carriers, providers, and third parties submit. However, programming logic issues have resulted in a need to use manual processes to help ensure data reliability. Analyses conducted by the Department of Insurance and its internal auditors have concluded that these programming logic issues produce duplicate claims and "tangled" claims (claims for which information from two different claimants has been combined into a single claim). Until its systems can be reprogrammed to prevent these errors, the Division has dedicated staff to resolving these errors.

Suspension of Data Edits

The Division's use of three systems to capture data on injured workers has led to the suspension of certain system data edits, which reduces data integrity. The suspended data edits include sequencing rules that help organize claimant data in the proper chronological order. For example, if an injured worker qualifies for supplemental income benefits payment, the sequencing rules would help to ensure that the Division receives a notification that the benefits are starting before receiving a notification that the benefits are stopping.

Access Rights

While the Division is able to determine who can access COMPASS, it is unable to determine what functions an individual user can use and what specific data elements the user can modify. This prevented auditors from conducting an in-depth review of user access. In addition, the Department of Insurance had difficulties in providing detailed user access capabilities for each user of TxCOMP. The access information provided to auditors lacked certain information, such as whether a user was able to modify key claimant information.

In addition, the Division should ensure that user authentication and user access to its systems complies with state security standards in Title 1, Texas Administrative Code, Chapter 202. Weaknesses identified included the following:

- The Division did not use proper password and account lockout parameters.
- The Division did not act in a timely manner to remove access to systems for individuals whose employment had been terminated.
- The Division did not properly segregate duties across the system components.
- The Division did not implement sufficient tools to monitor system access.

Documentation Related to System Changes

For 3 (50 percent) of 6 data integrity changes made to systems, there was no documentation that fully addressed how the problems that prompted those changes had occurred. While all issues were addressed, identification of the root cause of the problem was not present in the documentation. This could lead to focusing attention to the symptoms instead of the cause of the data integrity problem.

Recommendations

The Division should:

- Continue to improve workers' compensation systems and controls surrounding those systems to help ensure that the data in those systems is reliable.
- Implement processes to allow staff to determine exactly what access each user has within each workers' compensation system.

- Implement authentication and access controls in its workers' compensation systems that comply with Title 1, Texas Administrative Code, Chapter 202.
- Implement processes to ensure that it properly identifies and researches the causes of problems before placing workers' compensation system changes into the production environment.

Management's Response

The Division will continue to work with Information Technology Services (ITS) to enhance matching logic. Due to the complexity and number of entities providing data, the matching logic will always require some manual processing to ensure data reliability. There will be several opportunities to improve data integrity as the Division progresses on the DWC Legacy (COMPASS) rewrite project. Several interfaces will be eliminated and matching logic will be reviewed and simplified during appropriate phases of this project.

Person Responsible for Implementation: Business Process Improvement (DWC) and Director, Information Technology Services.

Target Date for Implementation: Ongoing

ITS is developing an Excel spreadsheet that documents the access available for each role in the TXCOMP system. This information will be provided to DWC to be used to validate existing and establish new access to TXCOMP.

Person Responsible for Implementation: Business Process Improvement (DWC) and Director, Information Technology Services.

Target Date for Implementation: September 2010

A COMPASS Security project has been defined. The project will include developing a report and/or query tool to report non-administrators and what COMPASS commands are accessible to them.

Person Responsible for Implementation: Business Process Improvement (DWC) and Director, information Technology Services.

Target Date for Implementation: November 2010

Information Technology Services (ITS) and the Division will work together to ensure that user authentication and user access to its systems complies with state security standards in Title 1, Texas Administrative Code (TAC), Chapter 202.

ITS and the Division will perform quarterly review of their employee's access to agency systems to validate unnecessary access has been revoked. As the Division and ITS work on the DWC Legacy (COMPASS) project, password and account lockout parameters will be reviewed to determine where enhancements can be made. The ITS Project Management team will add a step to all automation projects to review compliance with TAC 202 and ensure that the design team includes TAC 202 compliance as part of the design document.

Person Responsible for Implementation: Business Process Improvement (DWC) and Director, Information Technology Services.

Target Date for Implementation: Ongoing

COMPASS Access was revoked for ten (10) ITS staff member in May 2010.

Person Responsible for Implementation: Director, Information Technology Services.

Target Date for Implementation: Complete

Information Technology Services (ITS) has implemented a change to the development checklist to properly identify and research the cause of problems before modifying data in the production environment. The new task in the checklist will require all development staff research and determine the root cause of problems/issues or data corrections. The root cause will be documented in the notes of the work order. If the cause of the problem can be corrected by a code enhancement, the development team member will coordinate the changes with ITS and DWC leadership.

Person Responsible for Implementation: Business Process Improvement (DWC).

Target Date for Implementation: Complete

The Department of Insurance Monitors and Manages the Development of New Automated Systems for Workers' Compensation, But It Should Improve Its Projection of Costs

Oversight for the Development of New Automated Systems for Workers' Compensation

After the Division of Workers' Compensation became part of the Department of Insurance, the Department of Insurance consolidated several administrative support functions, including information technology. As a result, the Department of Insurance's Information Technology Services unit is responsible for monitoring and managing the development of new automated systems related to workers' compensation.

The Department of Insurance monitors and manages the development of new automated systems related to workers' compensation (see text box for additional details) To do that, it uses internal policies and procedures, the Department of Information Resources' Texas Project Delivery Framework, and a project management application. However, the Department of Insurance does not include the cost of state employee benefits when projecting the cost of information technology projects.

Monitoring and Management of New Automated Systems

The Department of Insurance has documented processes and procedures to monitor and manage the development of new automated systems to help ensure project budgets are met and goals are achieved. Auditors assessed the extent to which the Department of Insurance monitors and manages the development of new automated systems for 8 (33 percent) of 24 projects that were active from September 2008 to January 2010. For all projects tested, the Department of Insurance followed internal policies and procedures. Although the 24 projects did not include projects for which costs exceeded \$1 million (which are considered "large" projects), the Department of Insurance asserted that it follows the Department of Information Resources' Texas Project Delivery Framework for those types of projects.

The Department of Insurance also uses a project management application to assist with managing and monitoring the development of new automated systems. The Department of Insurance has adequate controls over access to that application and project management documentation. Those controls help to ensure that access is limited to users who perform specific duties related to the management of the automated systems.

Cost Projection for New Automated Systems

Although the Department of Insurance has implemented processes to monitor and manage the development of new automated systems, it does not accurately project the associated costs. To project costs, the Department of Insurance uses an average resource cost rate of \$28 per hour. That cost rate is based on the salaries of all staff in its Information Technology Services unit; however, it does not include the cost of employee benefits. In *A Report on State Employee Benefits as a Percentage of Total Compensation* (State Auditor's Office Report Number 10-704, February 2010), the State Auditor's Office determined that benefits comprise an average of 32.4 percent of a state employee's compensation package. Without including benefit costs, the

Department of Insurance is underestimating the cost of information technology projects.

Recommendation

The Department of Insurance should account for the full cost of state employee staff assigned to the development of new automated systems and include the cost of employee benefits when projecting costs.

Management's Response

Person Responsible for Implementation: Director, Information Technology Services.

Target Date for Implementation: September 1, 2010

To account for the full cost of state employee staff assigned to the development of automated systems, Information Technology Services (ITS) will increase the value used to calculate project costs from \$28.00 per hour to \$42 per hour. This recalculated cost is based on an average of application development-related salaries and includes employee benefits, at an average rate of 32.4% of a state employee's compensation package. ITS will modify its project planning and project management processes.

Appendices

Appendix 1

Objectives, Scope, and Methodology

Objectives

The objectives of this audit were to:

- Determine whether the Department of Insurance's Division of Workers' Compensation (Division) monitors and manages development of new information technology systems to provide assurance that budgets are met and goals are achieved.
- Determine whether selected information technology systems at the Division provide and maintain reliable, secure, and accurate data.
- Determine whether the Division issues appropriate and consistent disciplinary orders for workers' compensation providers and carriers that have committed violations or are identified as noncompliant.

Scope

The scope of the audit included the Division's automated systems and workers' compensation enforcement cases. Auditors reviewed new automated systems under development, existing workers' compensation automated systems, the workers' compensation enforcement process, and workers' compensation enforcement case files closed between July 1, 2009, and February 10, 2010.

Methodology

The audit methodology included reviewing and collecting documentation, conducting interviews with Department of Insurance and Division staff, reviewing and assessing policies and procedures, and analyzing and evaluating the results of testing. Auditors evaluated controls and data related to managing new automated systems in development, existing automated systems, and the workers' compensation enforcement process to assess compliance with statutes and policies and procedures.

Information collected and reviewed included the following:

Department of Insurance policies and procedures for automated system project management, access and security of automated systems, and enforcement of workers' compensation cases.

- Access and security information from workers' compensation systems COMPASS and the Texas Workers' Compensation System (TxCOMP).
- Information technology project timelines, budgets, and documentation.
- Data on closed and pending workers' compensation enforcement cases.
- Case log and other monitoring tools to track the progress of workers' compensation enforcement cases.
- Case files for workers' compensation enforcement cases.
- Department of Insurance internal audit reports.

Procedures and tests conducted included the following:

- Interviewed key personnel.
- Analyzed workers' compensation enforcement case data.
- Tested workers' compensation enforcement case files to determine whether the Division issued appropriate and consistent disciplinary orders.
- Tested workers' compensation automated systems in development to determine whether the Department of Insurance monitors and manages system development.
- Tested access and security rights to COMPASS and TxCOMP.
- Tested access and security rights to project management systems.

Criteria used included the following:

- Texas Government Code.
- Title 1, Texas Administrative Code.
- Title 28, Texas Administrative Code.
- State of Texas Bar Association, Texas Disciplinary Rules of Professional Conduct.
- Texas Insurance Code.
- Texas Labor Code.
- Department of Information Resources' Project Delivery Framework.
- Department of Insurance policies and procedures.

Project Information

Audit fieldwork was conducted from March 2010 through May 2010. We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

The following members of the State Auditor's staff performed the audit:

- Michael Simon, MBA, CGAP (Project Manager)
- Brendi Tubbs (Assistant Project Manager)
- Melissa Dozier
- Justin Griffin, MS, CISA
- Gary Leach, MBA, CISA, CQA
- Michael Yokie, CISA
- Dana Musgrave, MBA (Quality Control Reviewer)
- Ralph McClendon, CISSP, CCP, CISA (Audit Manager)

Related State Auditor's Office Work

Related SAO Work		
Number	Product Name	Release Date
10-016	An Audit Report on the Financial Responsibility Verification Program (TexasSure)	November 2009
10-009	An Audit Report on the Department of Insurance's Enforcement of Solvency Standards for Insurance Companies	October 2009
09-052	An Audit Report on the Texas Department of Insurance's Annuities Regulation	August 2009
07-033	An Audit Report on Performance Measures at the Department of Insurance	May 2007
06-045	An Audit Report on Contracts Related to the Texas Workers' Compensation System	June 2006

Copies of this report have been distributed to the following:

Legislative Audit Committee

The Honorable David Dewhurst, Lieutenant Governor, Joint Chair
The Honorable Joe Straus III, Speaker of the House, Joint Chair
The Honorable Steve Ogden, Senate Finance Committee
The Honorable Thomas “Tommy” Williams, Member, Texas Senate
The Honorable Jim Pitts, House Appropriations Committee
The Honorable Rene Oliveira, House Ways and Means Committee

Office of the Governor

The Honorable Rick Perry, Governor

Department of Insurance

Mr. Mike Geeslin, Commissioner of Insurance
Mr. Rod Bordelon, Commissioner of Workers’ Compensation



This document is not copyrighted. Readers may make additional copies of this report as needed. In addition, most State Auditor's Office reports may be downloaded from our Web site: www.sao.state.tx.us.

In compliance with the Americans with Disabilities Act, this document may also be requested in alternative formats. To do so, contact our report request line at (512) 936-9880 (Voice), (512) 936-9400 (FAX), 1-800-RELAY-TX (TDD), or visit the Robert E. Johnson Building, 1501 North Congress Avenue, Suite 4.224, Austin, Texas 78701.

The State Auditor's Office is an equal opportunity employer and does not discriminate on the basis of race, color, religion, sex, national origin, age, or disability in employment or in the provision of services, programs, or activities.

To report waste, fraud, or abuse in state government call the SAO Hotline: 1-800-TX-AUDIT.