



Wichita Falls

**Finding Your Way
to Prompt Pay**

Texas Department of Insurance

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Killeen

46

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35

San Antonio

Houston

Pasadena

km



TDI's Strategy

- Education
 - Helping you find the way
- Enforcement



Applicability

- Applicable to:
 - HMOs
 - Insured PPO Plans
- Not applicable to:
 - Self-funded ERISA plans
 - Indemnity plans
 - Medicaid, Medicare, Med Supp
 - Government and school plans – except HMO or fully insured PPO plans
 - Children’s Health Insurance Program (CHIP)



The Primary Laws

- HB 610
 - Rules

- SB 418
 - Emergency rules
 - Final rules



HB 610 – Key Provisions

- **Contracted providers only**
- **Carrier-required additional clean claim elements and attachments permitted with 60-day notice**
- **Clean claim paid in 45 days (electronically adjudicated pharmacy claims in 21 days)**
- **Pay 85% of contracted rate on audited claims**
- **Late payment penalty:**
 - Contract penalty
 - Billed charges as defined by rule



SB 418 - Key Dates

- August 16, 2003
 - Emergency rules

- October 5, 2003
 - Final rules



SB 418 – Physicians and Providers

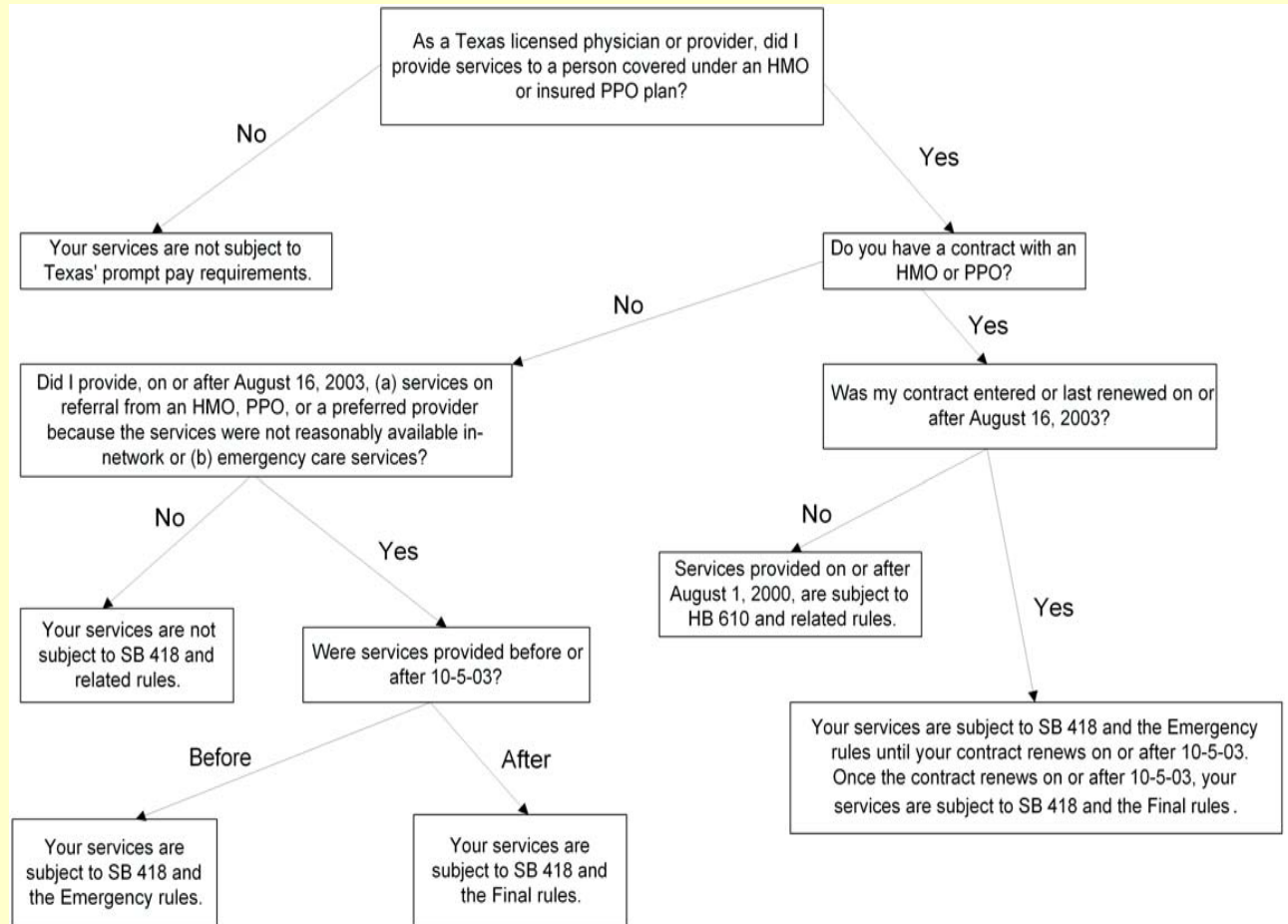
- Contracted providers under HMO plans, insured PPO plans
 - Contract issue/renewal dates
- Non-contracted providers who provided emergency and referral services
- Other non-contracted providers under certain circumstances



SB 418 – Delegated Entities

- HMOs and insured PPOs are responsible for SB 418 compliance, even when delegated entities and PPO networks are used
- Key contract date – carrier and delegated entity

SB 418/HB 610 Prompt Payment Deadlines and Penalties Decision Tree





SB 418 – Key Provisions

■ Final rules

- 95-day filing deadline
- Limit on clean claim elements
- Payment deadlines
 - Non-electronic – 45 days
 - Electronic – 30 days
 - Affirmatively adjudicated pharmacy – 21 days
- Requests for additional information deadlines
 - From treating provider
 - From third parties



SB 418 – Key Provisions

Catastrophic Event:

- Business interruption of claims filing or processing activities
 - More than 2 consecutive business days
- Notice TDI within 5 days of the catastrophe
- Sworn affidavit due within 10 days of return to normal business operations



SB 418 – Key Provisions

- Final rules
 - Duplicate claims
 - Audits
 - Coordination of benefits
 - Overpayments
 - Underpayments



Billed Charges

- HB 610
- SB 418 Emergency
- SB 418 Final



Billed Charges

- Definition: The charges for medical care or health care services included on a claim submitted by a physician or provider. Billed charges must comply with all other applicable requirements of law, including:
 - Texas Health and Safety Code §311.0025
 - Texas Occupations Code §105.002
 - Texas Insurance Code Art. 21.79F



Penalty Provisions

- Graduated penalty
 - Later claim paid, greater amount owed
 - 1 - 45 days late
(50% - \$100,000 maximum)
 - 46 - 90 days late
(100% - \$200,000 maximum)
 - 91 or more days late
(100% - \$200,000 maximum + 18% interest)
- No contracted penalty rates



Penalty Provisions

- Always recover full contracted rate in addition to any applicable penalty



Late Payment Penalty Calculation

Formula:

- Billed charges
- Minus the contracted rate
- Multiplied by the percentage for the applicable statutory claim payment period
- Equals the amount of the penalty payment



Late Payment Penalty Calculation Example

Paid on or before the 45th day after the end of the applicable statutory claim payment period:

- Billed charges = \$15,000
- Minus contracted rate of \$10,000
- Equals \$5,000
- Multiplied by 50%
- \$2,500 = penalty payment



Underpayment Penalty Calculation

Formula:

- Amount underpaid on the contracted rate
- Divided by the amount of the contract rate
- Multiplied by the billed charges
- Equals the “underpaid amount”
- Multiplied by the percentage for the applicable statutory claim payment period
- Equals the penalty payment



Underpayment Penalty Calculation Example

Paid on or before the 45th day after the end of the applicable statutory claim period:

- Billed charges = \$1,500
- Amount of contracted rate = \$1,000
- Amount paid timely = \$800
- Amount underpaid on contracted rate = \$200
- $\$200 / \$1,000 (= 20\%) \times \$1,500 = \300
- Multiply by 50%
- \$150 = penalty payment



Administrative Penalty

- TDI collects data to monitor compliance
- 98% compliance
 - Institutional claims
 - Non-institutional
 - Quarterly computation
- Less than 98% compliance may result in fines of \$1,000 per claim per day
- Individual violations – other remedies may apply



Reporting Requirements

- TDI will collect industry information via the Web
 - Claims payment activities
 - Verifications and declinations
 - Catastrophic events
 - Delegated entities information
 - HB 610 information
- First report due February 15, 2004 (September – December 2003 data)



Coordination of Benefits

- If enrollee has other coverage, these fields are required:
 - 11d (CMS 1500) – Disclosure of other coverage
 - 9a - d (CMS 1500) – Name and address of other coverage
 - 29 (CMS 1500) – Payments by other carrier
 - 54 (UB-92) – Payments by other carrier



Coordination of Benefits

- Physician or provider may submit a written statement that demonstrates a good-faith but unsuccessful effort to obtain information about other insurance
- Health plans may require by contract that physicians maintain information about other coverage in their office records



Coordination of Benefits

- 95-day filing deadline for claim to secondary payer begins when the physician or provider receives payment from the primary carrier
- If primary carrier's payment date is not available, proof of timely filing with the primary payer is adequate



Preauthorization

- May not be required by the carrier for certain procedures
- Once service is preauthorized, carrier may not deny nor reduce payment based on medical necessity or appropriateness of care
- Response deadlines
 - Life-threatening condition or post-stabilization - 1 hour
 - Concurrent hospitalization - 24 hours
 - All other requests - 3 calendar days
- Preauthorization/Verification combination



Eligibility Inquiries and Verification Requests

■ Eligibility

- Not a guarantee of payment

■ Verification

- Guarantee of payment: “cannot reduce or deny payment....”
- Exceptions: misrepresentation and failure to perform



SB 418 – Key Provisions

■ Final rules ...

- Verification response times, without delay, not to exceed:
 - Life-threatening condition or post-stabilization - 1 hour
 - Concurrent hospitalization - 24 hours
 - All other requests - 5 calendar days
- Required information for verification requests and responses
- Toll-free numbers



Verification Bulletin

- All carriers subject to SB 418 must make a good faith effort to entertain requests for verification rather than adopting a corporate policy of no verifications. If the carrier is unable to verify, it may decline so long as it states the specific reason for the declination. Such reason, according to the statute, must be specific to the request for the proposed service rather than a blanket refusal. Carriers should review their verification procedures to ensure that they are compliant with this requirement.



Fee Schedules

- Provide within 30 days of request
- Software identification
- 90 days notice for change
- No retroactive effect



Fraud

- Material misrepresentation
- Failure to perform services
- Unreasonable charges
- Report fraud
 - Call the TDI Fraud Hotline
888-327-8818
 - Use the form on TDI's Website
www.tdi.state.tx.us/fraud/onlinereport.html



TACCP

- Technical Advisory Committee on Claims Processing
- Successor to Clean Claims Working Group (meeting since 2001)
- Information on TDI Web site
 - Agendas
 - Meeting minutes
- Report to Legislature



Current Topics

- Additional rules
 - ID cards
 - Waiver
 - Dental clean claim elements
- 2004 TACCP meetings
 - Consideration of coding and bundling standards
 - Clearinghouses
- Electronic filing waiver procedures



Reference Materials

- TDI Web site
 - Physician/Provider Resource page
 - Rule comparison charts
 - Rules page
 - FAQs page
 - Physician/Provider Complaint form

TDI Web Site




Agent, Consumer, Industry News from the Texas Department of Insurance - Microsoft Internet Explorer provided by TDI

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WEBCAST!
[Archived Audio of Title Insurance Biennial Hearing](#)
Final Rules Adopted
[Final rules implement major portions of SB 418](#)
concerning prompt payment of physicians and providers.

Consumer Area
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*Tip

TDI Consumer Protection recovers \$48 million for Texans
AUSTIN - More than \$48 million was returned to Texas consumers during the past year as a result of actions by the Consumer Protection Division of the Texas Department of Insurance (TDI), the agency announced today. The money came from premium refunds and additional claim payments to consumers that were recovered through TDI investigations of claims disputes. (September 18, 2003) [More](#)

Rulings issued on rate reduction appeals
AUSTIN - Texas Insurance Commissioner Jose Montemayor today ruled on appeals filed by State Farm Lloyds Insurance and Farmers Insurance Companies regarding ordered homeowners rate reductions. The Commissioner issued rulings that uphold the rate reductions

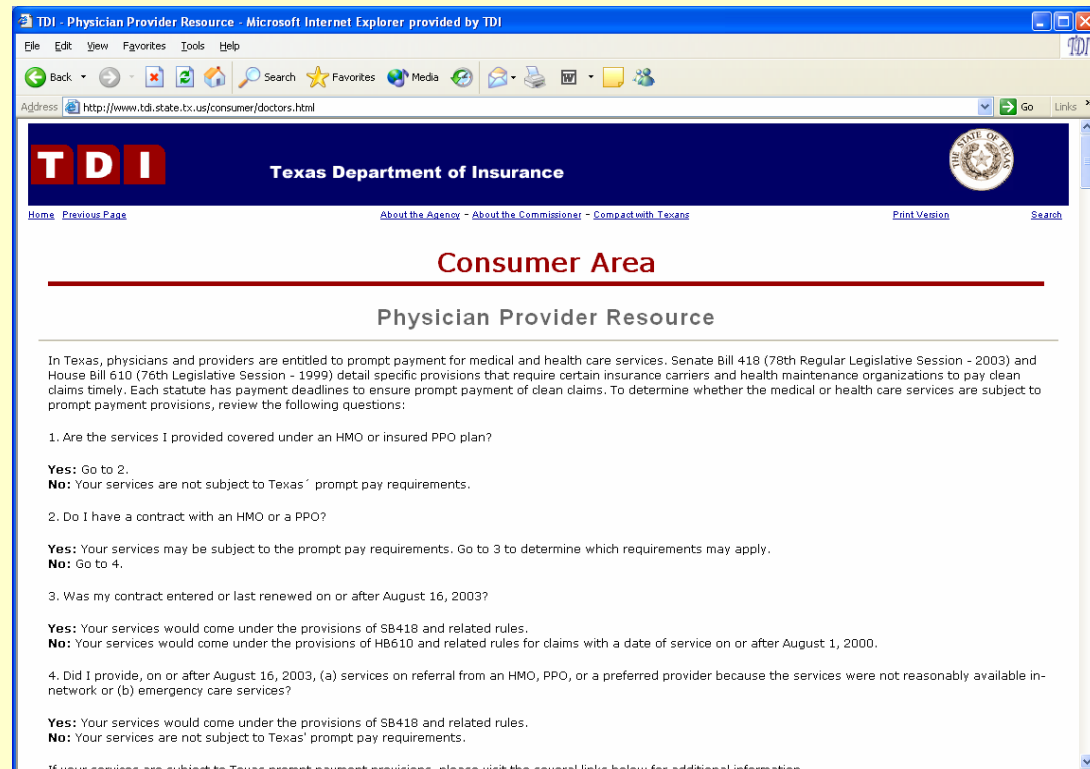
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Texas Department of Insurance

Reference Materials

■ Physician/Provider Resource page



The screenshot shows a Microsoft Internet Explorer browser window displaying the Texas Department of Insurance (TDI) website. The address bar shows the URL: <http://www.tdi.state.tx.us/consumer/doctors.html>. The page header includes the TDI logo and the text "Texas Department of Insurance". Below the header, there are navigation links: "Home", "Previous Page", "About the Agency", "About the Commissioner", "Compact with Texans", "Print Version", and "Search". The main content area is titled "Consumer Area" and "Physician Provider Resource". The text on the page reads: "In Texas, physicians and providers are entitled to prompt payment for medical and health care services. Senate Bill 418 (78th Regular Legislative Session - 2003) and House Bill 610 (76th Legislative Session - 1999) detail specific provisions that require certain insurance carriers and health maintenance organizations to pay clean claims timely. Each statute has payment deadlines to ensure prompt payment of clean claims. To determine whether the medical or health care services are subject to prompt payment provisions, review the following questions:"

1. Are the services I provided covered under an HMO or insured PPO plan?
Yes: Go to 2.
No: Your services are not subject to Texas' prompt pay requirements.
2. Do I have a contract with an HMO or a PPO?
Yes: Your services may be subject to the prompt pay requirements. Go to 3 to determine which requirements may apply.
No: Go to 4.
3. Was my contract entered or last renewed on or after August 16, 2003?
Yes: Your services would come under the provisions of SB418 and related rules.
No: Your services would come under the provisions of HB610 and related rules for claims with a date of service on or after August 1, 2000.
4. Did I provide, on or after August 16, 2003, (a) services on referral from an HMO, PPO, or a preferred provider because the services were not reasonably available in-network or (b) emergency care services?
Yes: Your services would come under the provisions of SB418 and related rules.
No: Your services are not subject to Texas' prompt pay requirements.

At the bottom of the page, there is a note: "If your services are subject to Texas prompt payment provisions, please visit the several links below for additional information."

Reference Materials

■ Rule Comparison Charts

http://www.tdi.state.tx.us/consumer/pp_verification_preauthorization.pdf - Microsoft Internet Explorer provided by TDI

File Edit View Favorites Tools Help

Address http://www.tdi.state.tx.us/consumer/pp_verification_preauthorization.pdf

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Verification and Preauthorization Procedures
For contracted providers SB418 is effective for new contracts issued or contracts renewed on or after 8/16/2003.

Emergency Room Physicians and Non-contracted providers that have received a referral may begin utilizing the verification procedures under SB 418 as of 8/16/2003.

For any conflicts between the following reference materials and the rules, the rules prevail.

Topic	URA prior to SB 418	SB 418 and Emergency Rules	SB 418 and Final Rules
Verification, defined 28 TAC §19.1703 (37)	NA	A guarantee by an HMO or preferred provider carrier that the HMO or preferred provider carrier will pay for proposed medical care or health care services if the services are rendered within the required timeframe to the patient for whom the services are proposed. The term includes pre-certification, certification, re-certification and any other term that would be a reliable representation by an HMO or preferred provider carrier to a physician or provider if the request for the pre-certification, certification, re-certification, or representation includes the requirements of §19.1724(d) of this title (relating to Verification). Article 3.70-3C Sec. 1 (15) and §843.347, TIC contain statutory definitions.	A guarantee by an HMO or preferred provider carrier that the HMO or preferred provider carrier will pay for proposed medical care or health care services if the services are rendered within the required timeframe to the patient for whom the services are proposed. The term includes pre-certification, certification, re-certification and any other term that would be a reliable representation by an HMO or preferred provider carrier to a physician or provider if the request for the pre-certification, certification, re-certification, or representation includes the requirements of §19.1724(d) of this title (relating to Verification). Article 3.70-3C Sec. 1 (15) and §843.347, TIC contain statutory definitions.



Reference Materials

Rules page

Texas Department of Insurance Proposed and Adopted Rules - Microsoft Internet Explorer provided by TDI

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Address http://www.tdi.state.tx.us/commish/parules.html

TDI Texas Department of Insurance

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Texas Department of Insurance Proposed and Adopted Rules

DISCLAIMER:

The following proposed and adopted rules are provided as a courtesy by the Texas Department of Insurance. While TDI makes every effort to ensure the accuracy and completeness of this information, the official version of proposed and adopted rules are those filed with the Secretary of State, which is the repository of official TDI rules. Those rules can be accessed directly from the [Texas Register, Office of Secretary of State](#).

With respect to the following documents, or other documents available from this site or others to which it links, TDI and the State of Texas make no warranty as to their accuracy, completeness, reliability, timeliness, or usefulness.

Submission of Comments: Written comments on proposed rules must be received no later than 5 p.m. on the date stated in the preamble of each proposed rule.

Proposed and Adopted Rules - 2003

Subject	Section Number	Proposal Filed	Proposal Published	Adoption Filed	Adoption Published	Effective Date
Use of Credit Information or Credit Scores	5.9940, 5.9941	09-08-03	9/19/03			
Territory Rating Requirements	5.9960	09-08-03	9/19/03			
EMERGENCY ADOPTION - Preferred Provider Plans	3.3703			WITHDRAWN	09-15-03	10-05-03
EMERGENCY ADOPTION - Physician & Provider Contracts & Arrangements	11.901			WITHDRAWN	09-15-03	10-05-03
EMERGENCY ADOPTION - Utilization Review Agents	19.1703, 19.1723, 19.1724			WITHDRAWN	09-15-03	10-05-03
EMERGENCY ADOPTION - Submission of Clean Claims	21.2801-21.2809, 21.2811-21.2826			WITHDRAWN WITH THE EXCEPTION OF 21.2820 & 21.2826	09-15-03	10-05-03
REPEAL EMERGENCY ADOPTION - Submission of Clean Claims	21.2804, 21.2806, 21.2818-21.2820			WITHDRAWN	09-15-03	10-05-03
Repeal - Variable Contract Agents	19.701-19.709	08-11-03	08-22-03			
Licensing of Insurance Adjusters, Public Insurance						



FAQs

■ SB 418 FAQs

A screenshot of a Microsoft Internet Explorer browser window displaying the Texas Department of Insurance website. The browser title is "TDI - SB 418 FAQs - Microsoft Internet Explorer provided by TDI". The address bar shows "http://www.tdi.state.tx.us/consumer/pp_sb418faq.html". The website header includes the TDI logo and the text "Texas Department of Insurance". Below the header, there are navigation links: "Home", "Previous Page", "About the Agency", "About the Commissioner", "Compact with Texans", "Print Version", and "Search". The main content area is titled "Consumer Area" and "SB 418 FAQs". The text on the page includes sections for "Effective Date and 'Evergreen' Contracts", "Mail Log", and "Proof of Receipt", each with a question and answer format. The Windows taskbar at the bottom shows the start button, several open applications, and the system clock displaying "11:26 AM".



Reference Materials

■ Physician/Provider Complaint form

A screenshot of a web browser displaying the Texas Department of Insurance Physician / Provider Complaint Form. The browser window title is "Texas Department of Insurance Physician / Provider Complaint Form - Microsoft Internet Explorer provided by TDI". The page content includes the Texas Department of Insurance logo, contact information, and a "Notice" section. The "Notice" section states: "TDI uses information disclosed in this form to help resolve your complaint. Resolution may require TDI to share this information with the person or company named in your complaint. Although by law much of the information you submit may be considered public record, portions may be confidential. For example, you may include private information protected by the doctrine of common law privacy, medical records protected by the Medical Practice Act, or an e-mail address provided for the purpose of communicating electronically with TDI which is protected by the Texas Public Information Act. Sharing this information for purposes of processing your complaint does not waive these confidentiality protections. However, you may affirmatively consent to release of your e-mail address in response to a public information request or inquiry." Below the notice, there is a section titled "Before Filing a Complaint" with two numbered items: "1. Mail, Fax or Online? - Print this on-line form (or the PDF version), fill in the information, and mail to the address or fax to the telephone number above or complete and submit this online form." and "2. Supporting Documents? - Complaints requiring supporting documents should be mailed or faxed. If you file on-line, print a copy of your completed complaint form before clicking the 'Submit' button at the bottom of the form. Then attach that copy to any supporting documents you mail or fax. Or, when you mail or fax supporting documentation, make a note on the top sheet that you have previously submitted an on-line form. This note will help us to identify your existing complaint file, reduce duplication, and assist you more quickly. You can expect an acknowledgement letter once your complaint form has been received."



Do You Know the Way to Prompt Pay?

■ www.tdi.state.tx.us

■ **800-252-3439**