



Annual Report on Cost Containment

Fiscal Year 2022

October 17, 2022

TABLE OF CONTENTS

I. Introduction	3
A. Background	3
B. Workers' Compensation.....	3
C. Non-GR Funding	4
II. Cost Containment Strategies	4
A. Accident Prevention	5
B. Risk Management Services.....	5
C. Workers' Compensation Claims Handling Practices	5
D. COVID-19 Workers' Compensation Claims	6
E. Medical Cost Containment Services.....	6
F. Workers' Compensation Health Care Network.....	7
G. Medical Treatment Guidelines.....	8
H. Preauthorization of Medical Services	8
I. TDI-DWC Fee Schedules	9
J. Pharmacy Benefit Manager Services.....	9
K. Telemedicine and Telehealth Services	9
L. Peer Reviews and Required Medical Examinations	10
M. Subrogation and Subsequent Injury Fund Recoveries	10
N. Timely Payment of Medical and Indemnity Benefits	11
O. Recoupment of Indemnity Overpayments.....	11
P. Fraud Detection and Investigation.....	11
III. Proposed Additional Cost Containment Measures	11
A. Risk Management Information System.....	11
B. Risk Management Guidelines.....	11



I. Introduction

The General Appropriations Act, SB 1, 87th Legislature, Regular Session, 2021 (Article I, Rider 6, p. I-90) requires the State Office of Risk Management (Office) to submit an annual report detailing the effectiveness of cost containment measures undertaken during the fiscal year and proposing additional measures to reduce workers' compensation payments in future years. This is the Fiscal Year 2022 (FY22) Annual Cost Containment Report.

A. Background

The Office was created in 1997 to streamline the state's risk management and claims processing programs. The objective was to change the organization and management of the state risks and claims payments to reduce injuries, improve loss control and claims handling, and otherwise enhance the quality and effectiveness of the state's risk management and claims processing programs.

The Executive Director of the Office serves as the State Risk Manager and is responsible for supervising the development and administration of a system of risk management for the state. The Office is charged by law to administer the enterprise risk and insurance management programs, self-insured workers' compensation program, and continuity of government operations (COOP) program. Its mission is to enable State of Texas agencies to protect their employees, the general public, and the State's physical and financial assets by reducing and controlling risk in the most efficient and cost-effective manner.

The Office is governed by a five-member Board appointed by the Governor. Members of the board must have demonstrated experience in insurance and insurance regulation, workers' compensation, and risk management administration. Detailed information regarding the qualifications and experience of the Board of Directors is available at the Office's website at <https://www.sorm.state.tx.us/about-us/meet-the-board-of-directors>.

The Office is administratively attached to the Office of the Attorney General, which provides significant administrative support services and resources.

B. Workers' Compensation

The Texas Tort Claim Act creates a specific waiver of sovereign immunity for state employee workers' compensation claims. Pursuant to Texas Labor Code Section 412.011(b)(7), the Office administers the workers' compensation insurance program for government employees established under Texas Labor Code Chapter 501. There are also situations in which certain non-state employees are covered by workers' compensation through the Office.

The Executive Director of the Office serves as the administrator of the government employees workers' compensation insurance program pursuant to Texas Labor Code Section 412.041(e). In administering and enforcing Chapter 501, the Executive Director acts in the capacity of insurer. The Office also provides individual state entities with claims administration and comprehensive claims handling services.

Quick Facts

The state employee workers' compensation program covers:

- **146 state agencies and institutions of higher education**
- **122 Community Supervision and Correction Departments**
- **Windham School District within the Department of Criminal Justice**
- **Encompassing approximately 184,000 individual employees**

The Texas A&M University System, University of Texas System, and the Texas Department of Transportation are exempted from the Office's workers' compensation program and operate their own individual workers' compensation programs.

C. Non-GR Funding

The Office is administered with legislatively appropriated funding through the allocation program for the financing of state workers' compensation benefits and risk management costs, as well as authority for collected recoveries. In the allocation program, each state entity must enter into an interagency contract with the Office to pay an allocated share of the Office's administrative costs, workers' compensation claims expenditures, and funding for employee benefits.

Texas workers' compensation insurance companies typically set the workers' compensation premium rate per \$100 of payroll using industry classifications that are based on the type of business. Loss costs for each classification are intended to cover workers' compensation indemnity and medical benefits and associated expenses. In the private industry, high-risk businesses such as construction, will pay a higher premium per \$100 of payroll than low risk businesses with office workers.

The Office does not use classifications in its assessment allocation program. The workers' assessment allocations are based, in part, on the individual loss experience of the state entity. The fewer accidents a state entity has, the more it potentially saves on its assessment.

II. Cost Containment Strategies

One of the Office's core statutory missions is to provide covered injured state employees with access to prompt, high-quality medical care within the framework established by the Texas Workers' Compensation Act. The Office must also ensure it provides appropriate income benefits and medical benefits in a manner that is timely and cost-effective.

Despite actuarial projections that workers' compensation claims costs would continue to increase by several million each year after reaching \$70 million in FY03, by the end of FY04, claims costs had decreased to \$55.8 million. Claims costs have continued to steadily decline. Since FY12, workers' compensation claims costs have been below \$40 million each fiscal year.

A. Accident Prevention

The Enterprise Risk Management Program examines wide-ranging risks and exposures, performs frequency and severity analyses, and recommends mitigation strategies.

The *Incident Rate of Injuries and Illnesses per 100 Covered Full-Time State Employees* provides an objective measure of the results of implementation of covered state entities' risk management plans and the results of the Office's risk management program, related specifically to occupational injury. The injury frequency rate is important as it reflects not only the effectiveness of the Office's risk management program in identifying risks to covered state entities, but also reflects covered state entities actions regarding implementation of recommendations to control and correct the conditions that lead to injured state employees.

Injury Frequency

- **FY22 – 4.05%**
- **FY21 – 3.03%**
- **FY20 – 3.49%**
- **FY19 – 3.22%**
- **FY18 – 3.24%**

B. Risk Management Services

The Office employs risk management specialists who review, verify, monitor, and approve risk management programs developed by state entities. A Risk Management Program Review (RMPR) can help a state entity determine the best methods for avoiding/controlling the costs of on-the-job injuries and minimizing lost productivity. The Office also conducts on-site consultations to state entities' physical locations and facilities each fiscal year. If risk exposures are identified during a site visit, the Office provides written recommendations on risk prevention and control measures that state entities can implement to prevent or reduce claims and losses and tracks resolution efforts.

The Office's goal is to focus on hazards or risks that need to be addressed strategically and proactively to reduce the frequency and severity of workers' compensation claims. Risk factors will vary depending on the geographic location, types of and diversity in the work being performed, and overall risk profile. The effectiveness of the Office's risk management program can be seen in the low cost per \$100 of state payroll and the low cost per covered employee:

	Cost Per \$100 of State Payroll	Cost Per Covered Employee
FY22	\$0.48	\$233.58
FY21	\$0.48	\$230.90
FY20	\$0.45	\$211.12
FY19	\$0.50	\$225.11
FY18	\$0.57	\$252.42

C. Workers' Compensation Claims Handling Practices

The state employees' workers' compensation program provides individual state entities with claims administration and comprehensive claims handling services. The Office also ensures that an injured employee, who suffers a compensable injury in the course and scope of employment, has access to medical care and receives wage replacement (income) benefits.

The Office follows best practices for workers' compensation cost containment. Licensed adjusters manage all aspects of a workers' compensation claim. When an injury occurs, an adjuster promptly conducts a thorough investigation to determine whether the injured employee has a compensable work-related injury. The assigned adjuster maintains regular and continued communication with the injured employee, health care provider, and employer. An active call center provides additional access to a live person during the Office's business hours.

The Office works to reduce overall medical and indemnity costs through improved claim handling practices, education, and training. The Office continuously evaluates its policies and processes and implements change as needed to meet internal and external needs.

D. COVID-19 Workers' Compensation Claims

Prior to the enactment of Senate Bill 22 (SB22) in the 87th Legislature R.S., COVID-19 would not be defined as an occupational disease covered under workers' compensation unless there was causal connection to the work and workplace. SB22 removes the requirement for first responders, such as detention officers, custodial officers, firefighters, peace officers, and emergency medical technicians, to show a correlation between COVID-19 and the workplace. It provides a presumption that COVID-19 arose out of the employment due to exposures that may be inherent to these industries. To qualify for the presumption, a first responder must meet certain conditions.

According to the Office's records, from December 1, 2019, through October 5, 2022, the Office has:

Claims Related to COVID-19

- Received 8,699 claims
- Accepted 1,643 claims with a confirmed C-19 positive test or diagnosis
- Paid \$2,731,866.01 in medical benefits
- Paid \$1,570,038.78 in income benefits

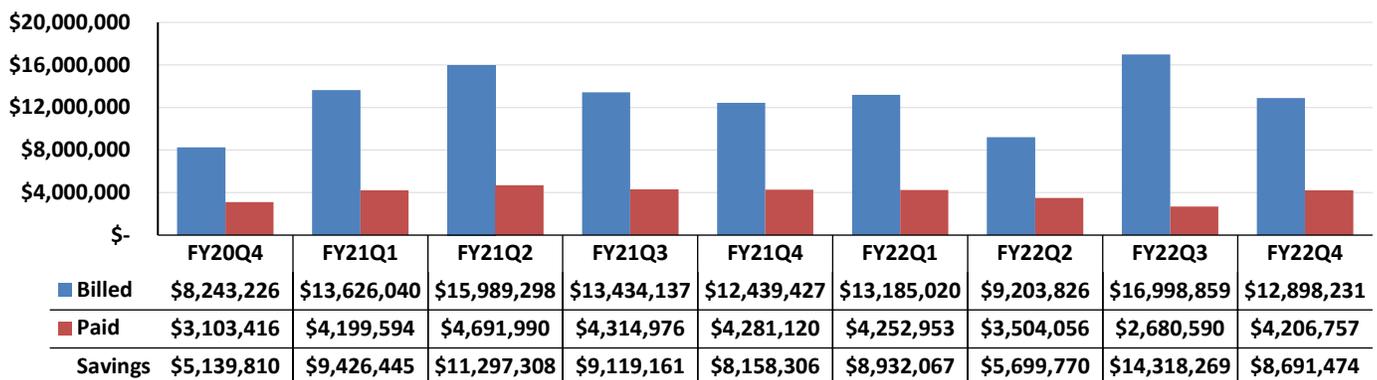
COVID-19 Death Claims

- Received 932 death claims
- Accepted 24 death claims
- Paid \$3,389,347.77 in death benefits
- Paid \$152,184.41 in burial benefits

E. Medical Cost Containment Services

Medical cost containment provides fiscal responsibility with state funds, minimizes costs to employer state entities and injured employees, and reduces costs associated with workers' compensation losses and claims administration. The Office is contracted for the following medical cost containment services: (1) medical bill review services, (2) certified workers' compensation health care network, and (3) utilization review services. Cost savings from medical bill review services are shown in the following chart:

Total Medical Cost Savings FY20Q4 - FY22Q4



F. Workers' Compensation Health Care Network

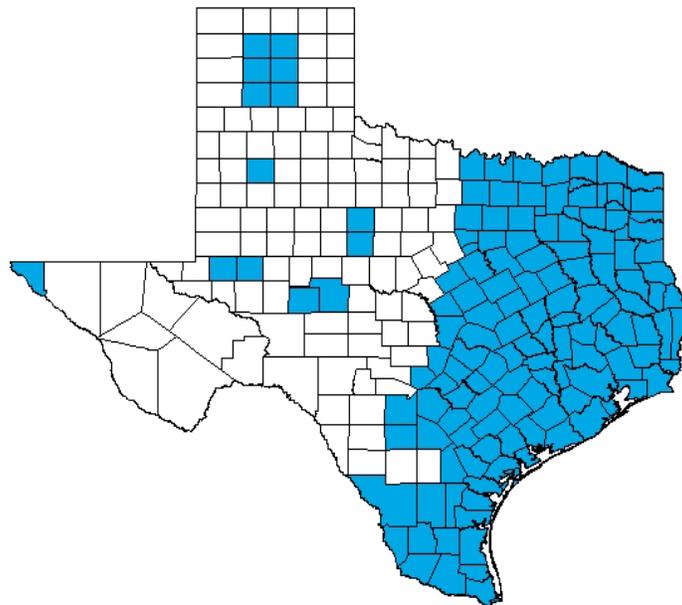
Texas Insurance Code Chapter 1305 requires a workers' compensation network to develop and maintain an ongoing Quality Improvement Program (QIP) designed to monitor and evaluate the quality and appropriateness of care and services and to pursue opportunities for improvement objectively and systematically. The annual QIP must address both the quality of clinical care and the quality of services using factors such as, type of services provided, populations served by the network in terms of age groups, disease or injury categories, special risk status, medical outcomes, and return-to-work outcomes.

The Centers for Medicare & Medicaid Services¹ and the Texas Department of Insurance, Division of Workers' Compensation (TDI-DWC) use value-based measures to evaluate provider and network performance. In its *Workers' Compensation Network Report Card Results*,² TDI-DWC concludes that networks tend to perform the same or better than non-network claims based on these factors:

- Medical costs
- Medical utilization
- Satisfaction with care
- Access to care
- Return-to-work
- Health outcomes

Certified workers' compensation network service area requirements are established by TDI.³ Injured employees in the CareWorks network service area have access to health care with facilities and primary and specialty medical providers who are familiar with workers' compensation injuries and TDI-DWC billing requirements and required forms. The network provides reasonably necessary medical treatment and services while also controlling medical costs and utilization.

CareWorks Service Map



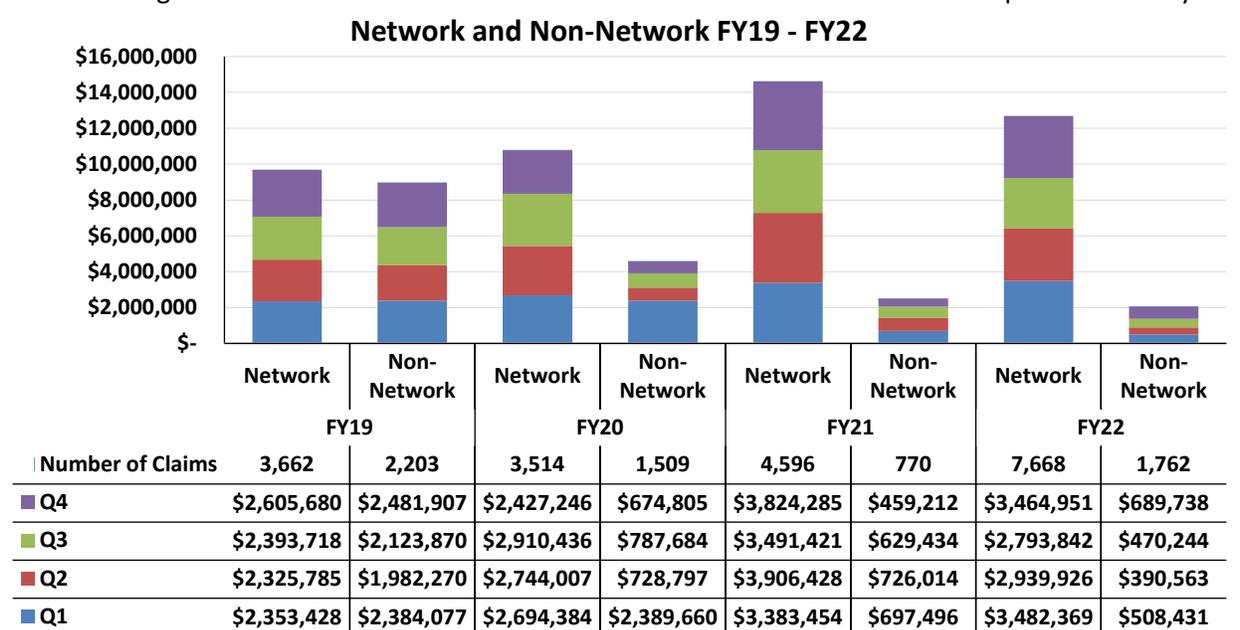
Pursuant to contract, CareWorks is required to utilize non-network claims data to identify counties where expansion of the network's service area is merited.

¹ <https://www.cms.gov/newsroom/fact-sheets/value-based-care-state-medicare-directors-letter>

² <https://www.tdi.texas.gov/reports/wcreg/documents/netrc2022.pdf>

³ <https://www.tdi.texas.gov/wc/wcnet/documents/accessplans.pdf>

The following chart demonstrates the network and non-network costs for FY22 and previous fiscal years:



G. Medical Treatment Guidelines

TDI-DWC has adopted treatment guidelines that should be used as a framework to develop treatment for injured employees. Health care providers must consider care above or below the guidelines with the unique factors associated with an injury. Health care that is provided in accordance with the treatment guidelines is presumed reasonable and reasonably required.

Similarly, a workers' compensation health care network can adopt treatment guidelines and individual treatment protocols. The treatment guidelines and individual treatment protocols must be evidence-based, scientifically valid, and outcome-focused and be designed to reduce inappropriate or unnecessary health care while safeguarding necessary care.

Treatments and services that exceed, or are not included, in the treatment guidelines may require preauthorization.

H. Preauthorization of Medical Services

The Texas Workers' Compensation Act and the rules adopted by the TDI-DWC require health care providers to obtain preauthorization of certain medical procedures prior to such services being provided. The health care services must be prospectively reviewed and preauthorized as medically necessary before the service is provided to an injured employee. The preauthorization guidelines can vary between non-network and network claims.

CareWorks performs utilization review services related to preauthorization requests. Preauthorization savings represent the avoidance of expenses related to unreasonable or unnecessary procedures or services prior to being provided and billed. It should be noted that health care that was not preauthorized may be approved later if there is a change in medical diagnoses or documentation is provided to support the request or alternative treatment may be approved. Under these circumstances "savings" attributable to preauthorization will not accurately reflect the true cost of treatment.

I. TDI-DWC Fee Schedules

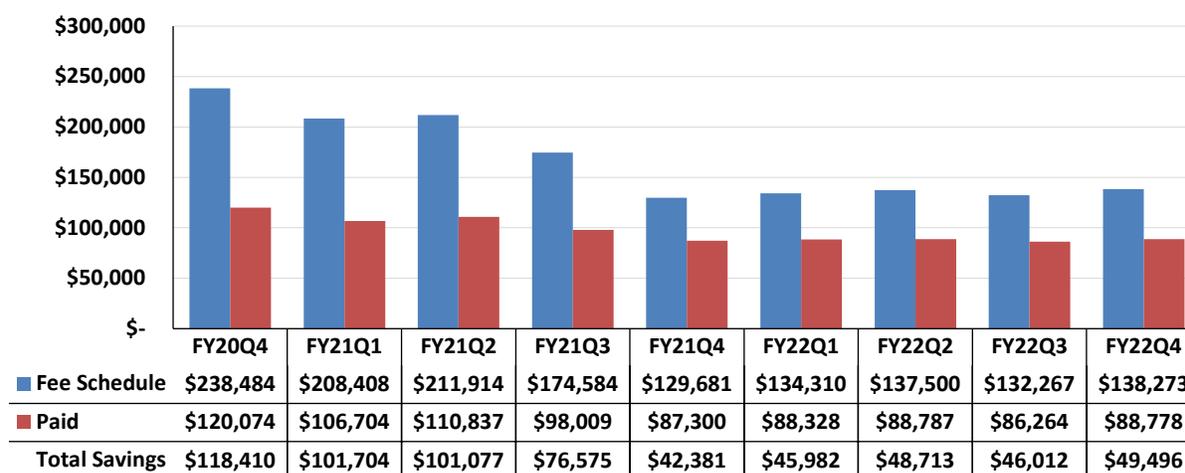
Workers' compensation benefits include medically necessary treatment, prescription drugs, and over-the-counter medication related to the compensable injury. TDI-DWC sets the amount of reimbursement for health care treatment and services and prescription drugs in non-network claims. The fee guidelines must be fair and reasonable and designed to ensure the quality of medical care and to achieve effective medical cost control. The amount of reimbursement for health care treatment and services provided by a network provider is determined by the contract between the network and the provider.

J. Pharmacy Benefit Manager Services

Workers' compensation benefits include medically necessary prescription drugs and over-the-counter medication. The Office has a medical cost containment contract with a pharmacy benefit manager (PBM), to ensure cost-savings and prompt service for medically necessary medications. Participation in this program is entirely voluntary for injured workers. The reimbursement fees for prescription drugs are set by TDI-DWC. The Office receives a discount below the pharmaceutical fee guideline on the medication obtained through the PBM.

The following chart shows savings from the voluntary PBM program:

PBM Cost Savings FY20Q4 - FY22Q4

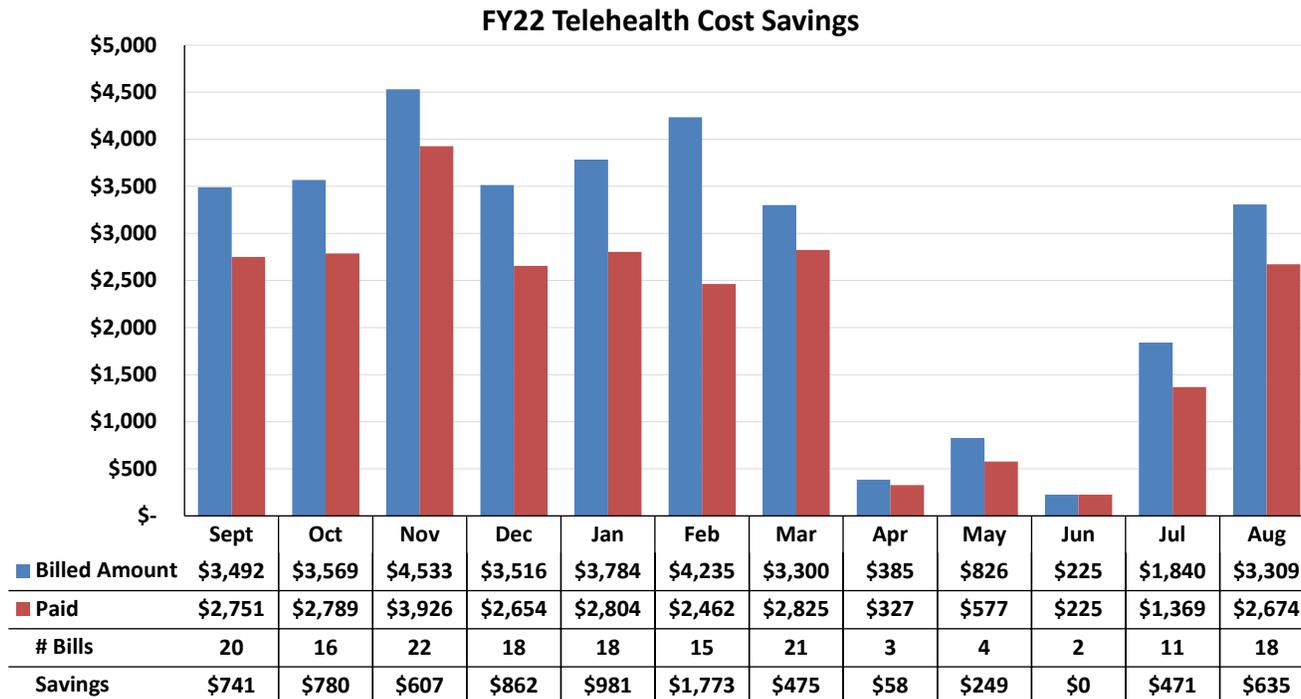


K. Telemedicine and Telehealth Services

The Texas Labor Code and TDI-DWC's rules allow for billing and reimbursement of certain telemedicine and telehealth services in workers' compensation claims. Injured employees may receive these services regardless of their geographic location. Telemedicine services are those provided by a physician licensed in Texas. Telehealth services are those provided by health care professionals other than physicians.

Telemedicine and telehealth services must be on the list of covered services and providers must include specific information on the CMS-1500. The reimbursement rates follow TDI-DWC's fee schedules and network reimbursement schedules, which result in savings.

The following chart indicates there is limited utilization of telemedicine and telehealth services in the workers' compensation program administered by the Office.



L. Peer Reviews and Required Medical Examinations

The Office utilizes peer reviews of medical services and pharmaceuticals and required medical examinations of injured workers to verify the medical necessity and reasonableness of medical care and pharmaceuticals utilization; to determine whether such treatments and prescriptions are related to compensable injuries; and to ensure that the injured employee receives quality medical care.

These services can be utilized when a determination requires medical expertise beyond what may be expected of a licensed adjuster. The opinions obtained form the basis of actions taken by the Office and establish the factual and medical evidence necessary to defend the Office's determinations through the dispute resolution process. As a result of these opinions more appropriate care is provided to injured workers while delivering savings through the elimination of unnecessary care.

M. Subrogation and Subsequent Injury Fund Recoveries

Subrogation reduces costs in two distinct ways. First, if a workers' compensation claim is based on an injury where a third party's negligence was the primary cause of the injury, the Office can assert a subrogation lien against the third-party's liability carrier or payer for the amount that has been paid in workers' compensation benefits on the claim. Any monies recovered through subrogation are used for the payment of workers' compensation benefits to state employees.

Second, an additional feature of a subrogation lien is the avoidance of future expenses in an amount equal to the injured worker's direct recovery from the third-party settlement that exceeds the workers' compensation lien. Workers' compensation insurance carriers have a statutory right to treat the additional settlement amount as an offset against potential future benefits that may be sought by the injured worker. Consequently, until the injured worker exhausts the third-party settlement, the Office does not have to pay future benefits.

The General Appropriations Act sets the annual target for the Office’s subrogation recoveries. The chart below shows the combined total of recoveries from subrogation, criminal restitution, and the TDI-DWC Subsequent Injury Fund:

	Target	Third-Party Recoveries
FY22	\$567,750	\$432,643
FY21	\$567,750	\$682,644
FY20	\$567,750	\$813,850
FY19	\$567,750	\$523,058
FY18	\$567,750	\$695,339

N. Timely Payment of Medical and Indemnity Benefits

The Workers’ Compensation Act requires the Office to provide appropriate income benefits and medical benefits in a manner that is timely and cost-effective. Income benefits must be initiated within certain time frames and notice requirements apply when benefit changes occur. The timeframes for payment or denial of payments for health care services are also set by TDI-DWC. Compliance with these deadlines is important to avoid unnecessary delay in providing benefits to a claimant. The Office must also pay interest if an income benefit or medical bill payment is late. Failure to comply with payment deadlines also subjects the Office to administrative fines.

O. Recoupment of Indemnity Overpayments

The Office can recoup an overpayment of indemnity from future indemnity benefits. Indemnity recoupment must comply with the TDI-DWC’s statutes and rules.

P. Fraud Detection and Investigation

The Office’s Special Investigations Unit investigates potential fraud and abuse as a part of the Office’s workers’ compensation fraud detection program. The Office investigates both individual and medical provider fraud. The Office actively pursues administrative and criminal prosecution against those who attempt to receive monies and benefits to which they are not entitled.

III. Proposed Additional Cost Containment Measures

A. Risk Management Information System

On Monday, May 2, 2022, the Office launched the industry-leading software service Origami Risk to replace internal legacy systems. This new service will provide the Office and its customers a more efficient and secure system to process and adjust claims information.

Origami Risk’s workers' compensation functionality can integrate with multiple third-party systems such as medical cost containment providers, human resource systems, and accounting and payroll applications. Integration allows adjusters to easily utilize the Official Disability Guidelines (ODG) on medical treatment and return-to-work to benchmark outcomes in workers' compensation claims. ODG’s Reserve Calculator is a statistical modeling program that incorporates unique factors that may increase claims costs. Adjusters can use risk levels provided by the ODG Reserve Calculator to specifically address high risk claims as well as claims that fall outside the ODG’s treatment guidelines, costs, and return-to-work standards.

B. Risk Management Guidelines

State entities have increased their enterprise risk management awareness. This is partly due to participation in the update of the enterprise risk management guidelines.⁴ This project, which took almost two years, started with the assignment of an Advisory Council that consisted of several members from several state agencies and universities. The teams shared their expertise and collaborated to develop a

⁴ Texas Labor Code Section 412.013 and <https://www.sorm.state.tx.us/texas-enterprise-risk-management-guidelines/>

new guidebook that follows a simplified framework to address context, approach, application (CAAR).

This framework adheres to the global risk management standards adopted by the International Organization for Standardization ([ISO 31000](#)), and distills each chapter into the following four major sections:

- **Context** – Risk Factors. Describe the scope, nature, impact of the risk, from inventory identification. (ISO 31000 nomenclature is “scope, context, criteria”)
- **Approach** – Summarize the best practices and how they address the risk; may include +/- (ISO 31000 nomenclature is “risk assessment”)
- **Application** – Show how it’s done; what to look out for; conditions precedent/exigent; exemplars; steps. (ISO 31000 nomenclature is “risk treatment”)
- **Resources** – Include links to resources and tools; internal reference/external links

With the framework established, the remaining challenge was for the diverse teams to write their chapters without defaulting to the technical language they had acquired through years working in their fields of expertise. The ultimate goal of this project was to create plain language guidelines that anyone could use to develop more detailed and individualized risk management programs. The new enterprise risk management guidelines are meant to be dynamic, updated as needed, and reviewed continually.