



WHAT TO DO WHEN YOU DISAGREE WITH A **MEDICAL NECESSITY** DECISION



DISCLAIMER

This list is not legal advice nor does it constitute an agreement by the Office of Injured Employee Counsel (OIEC) to represent or assist you in your lawsuit. For legal advice on pursuing your Workers' Compensation lawsuit in civil court, please contact an attorney. Under Texas Labor Code § 404.105, OIEC Ombudsmen cannot provide dispute assistance after an adverse decision has been issued by the Appeals Panel of the Texas Department of Insurance, Division of Workers' Compensation (DWC).

REMEMBER

If you do not agree with the **medical necessity decision** and want to have the dispute reviewed by a judge, then you **must file** suit in a district court in Travis County. Suit must be filed no later than the **45th day after the date on which DWC mailed you the decision of the administrative law judge.**



You are required to file a lawsuit, serve the opposing parties and provide DWC & your insurance carrier with a copy of the lawsuit at the same time, as provided in Texas Labor Code §410.253.



What Are My Next Steps

After I receive a decision I disagree with?

Decide how you will handle the claim



- I will handle the claim on my own or
- I will get legal assistance

If you wish...

To pursue the claim on your own.

- ◀ You are a **Self-Represented Plaintiff**. You will act on your own behalf.



To have legal assistance:

- ◀ You can **hire an attorney** or you could utilize non-profit services



Non-Profit Services

- ★ **Legal Aid of Northwest Texas (Dallas and Panhandle)**
1-888-529-5277 (Intake)
1-877-465-2698 (Information)
www.lanwt.org
- ★ **Lone Star Legal Aid (Houston and East Texas)**
1-800-733-8394
www.lonestarlegal.org
- ★ **Texas Rio Grande Legal Aid**
(Austin, San Antonio, The Valley, and El Paso)
1-888-988-9996
www.trla.org
- ★ **Telephone Access to Justice (TAJ)**
1-888-988-9996
- ★ **State Bar of Texas Lawyer Referral Information Service**
1-800-252-9690 or 1-877-9TEXBAR (toll-free)
- ★ **Volunteer Legal Services-Central TX**
512-476-5550

01 File in Travis County District Court



Your lawsuit **MUST** be filed in a district court in Travis County.

02 Begin the Process of Filing the Lawsuit



You are responsible for paying all fees related to the filing of a lawsuit. If you can't afford the filing fees, an **Indigency** or **Pauper's Affidavit** (affidavit by party unable to afford costs of an action) may be available to you. Ask the court clerk for more information on requirements and availability.

03 Become Familiar with all the Rules and Laws that Apply in Texas Cases



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You can find information about the Texas Rules of Civil Procedure, Texas Rules of Evidence, and the Texas Labor Code by going online to the Supreme Court of Texas website at <http://www.txcourts.gov/rules-forms/>.



Also, there are special rules for Workers' Compensation lawsuits. These rules are found in the Texas Labor Code and the Government Code. You can access this information online by visiting the Texas Legislature website at <http://www.statutes.legis.state.tx.us/> and the Texas Department of Insurance, Division of Workers' Compensation website at <http://www.tdi.texas.gov/wc/index.html>.

04 Become Familiar with Court Staff



Court staff may provide you with valuable information if you are confused by the process. Make sure you ask:

1. **Where** to file your lawsuit;
2. **How** to file a suit - **Original Petition**;
3. What is **citation** and **service process**; and
4. Ask for **local** volunteer attorney groups.

05 Keep Copies of Everything



It is very important that you keep a copy of your documents related to your lawsuit. It is just as important as keeping all of your documents in one place.

06 Keep a Calendar



Keep track of deadlines and court dates. If you forget to attend a court hearing when scheduled, your lawsuit may be dismissed.

07 Read Everything



Make sure that you read and understand everything you receive in the mail. If you have doubts, ask questions of the Court staff, attorneys, and staff from legal aid services.

If the process becomes overwhelming, go back to # 1, above and seek the assistance of an attorney.



Office of Injured Employee Counsel

Our mission is to assist, educate, and advocate on behalf of the injured employees of Texas.

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For more information visit www.oiec.texas.gov