



HB 2064 Premium Discount Program

Answers to Frequently Asked Questions

- 1. Will TDI adopt new rules on the payment of prompt pay penalties to the Pool?** It is our understanding that TDI does not intend to revise its prompt pay rules to address payments to the Pool, except possibly in a very high level fashion. The Pool has published instructions, a monthly reporting form and Q&A's on its web site for the HMOs and for insurers issuing preferred provider plans.
- 2. What address and Tax ID number should be used for payments to the Pool?** The Pool isn't subject to state or federal taxes, but our tax id number is provided on the reporting form in case you need to issue a 1099. The address for paper checks is also provided on the form. The Pool will also accept payments by wire or other electronic transfer. Payment must be made monthly. The Pool's preference for payment is by wire or other electronic transfer.
- 3. If we determine we have underpaid the portion of the penalty due to the provider and overpaid the amount to the Pool (meaning we paid in total the right amount, but the splits between the provider and Pool were wrong), are we required to take the hit and issue the underpaid amount to the provider but have no recourse to get the overpaid money back from the Pool?** No. Upon receipt of proper documentation of the Pool overpayment, we will either refund or allow a credit toward the next payment due from the HMO or insurer. The Pool already does this on assessments, provided the request for an adjustment is done timely (in the case of an assessment, it has to be done before the "regular" (final true up) assessment). The Pool is reviewing the timeframe allowed under the prompt pay statutes and regulations for the period allowed for provider appeals of underpayments, which will likely be the period the Pool will adopt for adjustments by the Pool. Of course, if you underpaid the Pool, we will expect you to pay the additional amount to the Pool as soon as you discover the underpayment. Input on this issue, including an appropriate timeframe, would be helpful.
- 4. If we overpaid the Pool for a month, are we allowed to offset the overpayment amount on the next payment to the Pool?** Yes. With proper documentation to the Pool of the overpayment, you can offset the overpayment amount against the amount due for the next reported month. If no amount is due for the next month, the Pool will refund the overpayment, upon receipt of the documentation of overpayment.
- 5. If we did not owe any prompt pay penalties to providers for a month, do we still need to file a "zero" report with the Pool?** No, if all clean claims were paid timely and no penalties were paid to providers for a month, no report for that month should be filed with the Pool.

5. **What types of insurance coverages are subject to the penalty split between the providers and the Pool?** Any penalty assessed under Section 843.342 or 1301.137 of the Insurance Code is subject to the penalty split, regardless of the type of underlying insurance coverage. In other words, if an insurer or HMO must pay a prompt pay penalty under either of these sections, half of the penalty on a facility claim must be paid to the Pool; if the penalty is paid on a non-facility claim, paid more than 90 days late, the 18% interest portion of the penalty must be paid to the Pool.

6. **Certain coverages, such as accident-only policies and small employer health plans, are exempt from assessment by the Pool. Are penalties on those coverages, exempt from assessment, subject to the prompt pay penalty split under HB 2064?** Yes. The assessment exemptions do not apply to the HB 2064 requirements for payment of a portion of prompt pay penalties to the Pool. If the coverage is subject to Section 843.342 or 1301.137 of the Insurance Code, a penalty payment for that coverage is subject to HB 2064, requiring payment of penalties to the Pool, whether the coverage for which a claim was paid late is subject to Pool assessment or not. In other words, if the coverage is included in your prompt pay penalty reporting to the Insurance Department, it is subject to the HB 2064 payment requirements.

7. **What is the start date for reporting and payment to the Pool? Do the new requirements apply to claims processed, received, or date of service on or after 1/1/2010 or to penalties paid after that date? If we have a claim that was processed on 12/1/2009 that was late, but we didn't pay the penalty until on or after 1/1/2010 (we are paying ONLY the penalty on that claim processed on 12/1/2009), will a portion of that penalty be payable to the Pool?** We interpret HB 2064 to apply to claims paid late or underpayments paid late on or after Jan. 1, 2010. The date of payment of the claim, not the date of payment of the penalty, determines whether a portion of the penalty is payable to the Pool. For example, if the claim itself is paid late in December 2009, but the carrier makes the penalty payment the next January, the full penalty would be paid to the provider. On the other hand, if the claim is paid in December on time, but is underpaid and then the carrier pays the balance of the claim late in January, with penalty attaching, the Pool would get a portion of that penalty (assuming it's a hospital claim—penalties on underpayments to physicians are not split with the Pool; for physician claims, the Pool only gets the 18% interest when the whole claim is paid more than 90 days late).

8. **Has there been any discussion of possible notification to the providers that a portion of their penalty payment was issued to the Pool? Our company is working on getting a remark code to use, but we wanted to know if there were specific requirements for this.** No, this hasn't been discussed but if the carriers would like the Pool to propose a disclosure statement, we can. At an earlier meeting with some of the carrier representatives, we discussed the requirement to show the contract amount and penalty amounts separately on EOBs and possibly showing the split and portion of the penalty paid to the Pool so that the provider knows. Input on this issue would be very helpful.

9. **Please provide examples for late paid claims and underpaid claims.** The penalty payment to the Pool is different for penalties paid on facility claims and those paid on non-facility claims. The calculation of the penalty amount for a late paid claim or an underpaid claim is set out in Sections 843.342 and 1301.137, Texas Insurance Code. The Pool will receive 50% of the penalty amount on any late paid or underpaid facility claim, whatever the penalty amount may be. For example, if a facility claim is paid on or after the 46th day but before the 91st day after the date the carrier was required to make a determination on the claim, the penalty amount

equals the lesser of \$200,000 or the difference between the provider's billed charges and the contracted rate. This penalty amount must be paid in addition to the contract amount. In this example, the Pool will receive 50% of the penalty amount; the facility will receive its contract rate plus 50% of the penalty amount.

For non-facility claims, the Pool will receive part of the penalty paid **ONLY** on a claim paid more than 90 days late. The Pool does not receive any portion of the penalties paid on claims paid late, but before the 90th day late, nor does the Pool receive any portion of penalties on an underpaid, non-facility claim. If a non-facility claim is paid more than 90 days after the statutory payment date, the Pool receives the 18% interest portion of the penalty; the non-facility provider receives the rest of the penalty amount. The calculation of the penalty amount for a claim paid more than 90 days late is set out in Sections 843.342(c) and 1301.137 (c), Texas Insurance Code. For example, if a non-facility claim is paid on or after 91 days after the date the carrier was required to make a determination on the claim, the penalty equals the lesser of \$200,000 or the difference between the provider's billed charges and the contract rate, plus 18% annual interest on that amount. The interest begins to accrue on the date the claim was required to be paid timely and ends on the date the claim and the penalty are paid in full. In this example, the non-facility provider receives the contract amount and the penalty amount equal to the lesser of \$200,000 or the difference between billed charges and the contract rate. The Pool receives all of the 18% interest on the penalty amount.

10. What is the purpose of the worksheet, which is the second page of the reporting form? The worksheet is for company use only. The Pool does not require this amount of detail on the actual calculation of penalties. The worksheet should not be submitted to the Pool.