



OIEC Quarterly Review

Issue No: 1

Information Period: *January-March 2006*

The Office of Injured Employee Counsel (OIEC) is Born

On December 8, 2005, Governor Rick Perry appointed Norman Darwin as Public Counsel for the Office of Injured Employee Counsel (OIEC). OIEC is a state agency established to protect the rights of the injured employees in the Texas workers' compensation system. Mr. Darwin is an attorney from Fort Worth, Texas, whose private practice was devoted exclusively to representing injured employees.

Since his appointment, Norman Darwin has established the new agency, developed programs, and hired staff necessary to carry out the mission of the agency as set forth by the 79th Texas Legislature.



Letter From the Public Counsel

It is with a great deal of pride that we are publishing our first OIEC Quarterly Review. At the time of my arrival on January 4, 2006, I had no staff and no experience managing a state agency. As of this time we have our core management staff in place, we have hired a senior staff attorney with outstanding credentials, and a highly qualified counsel for policy development. It is our intention to hire three new regional staff attorneys in April and three more in May. We are staggering the hiring in order to evaluate our training protocols and make improvements where



The Office of Injured Employee Counsel is established by the 79th Texas Legislature (HB7)

necessary. We will also be able to determine where the greatest need for regional attorneys is and how many will be required to accomplish the mission. Every effort will be made to meet the needs of the staff in our regional offices consistent with getting the job done in a cost effective manner.

Each new member of the staff that came aboard brought with them fresh insights to the team. I would like to recognize and acknowledge the contributions that they have made collectively and individually for the progress that we have achieved.

I must also give special thanks to my friends of many years, John Cain and Barton Levy, Senior Ombudsmen. They were the first ones that I contacted after my appointment to seek their special counsel. Since I had very little knowledge about the administrative workings of a state agency I had to turn to those whom I respected and trusted. I knew that I could rely on John and Barton for an honest response to any inquiry.

My first priority, other than hiring staff, was to

reach out to the insurance and business communities. I understood clearly that my background as a claimant's attorney could create some concern. I felt that it was of the utmost importance that I reassure them that I understood their issues and that having a meaningful dialogue would ensure a fair process. I have tried to convey to each group to whom I have spoken that all parties to the workers' compensation process have legitimate interests that must be respected. Foremost of those is that injured workers must be provided the benefits that the legislature has mandated. However, carriers have a right to a fair profit and health care providers must be paid reasonable fees for their services. Last but not least, it must be recognized that employers are paying the bill for everyone and their costs cannot be prohibitively expensive. Although, accomplishing most of these goals does not fall within the authority of OIEC, it is important to acknowledge that I can best fulfill my statutory mandate of representing the interests of injured workers as a class by cooperating with the efforts of the Department of Insurance and the Division of Workers' Compensation to achieve a fair system for all of the interested parties.

I am proud of the first quarter accomplishments you will read about in this Quarterly Review and am looking forward to reporting regularly on our progress in fulfilling our statutory mandate.

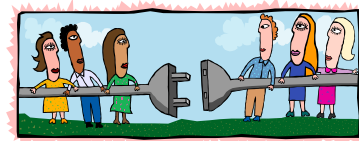
1st Quarter Accomplishments

The 79th Texas Legislature decreed that the Office of Injured Employee Counsel had to be established no later than March 1, 2006. Staff within the Texas Department of Insurance worked hard to ensure all paperwork and administrative tasks were completed as required to transfer identified positions from the Texas Department of Insurance, Division of Workers' Compensation to OIEC.

In addition to establishing the agency and transferring staff, these additional

accomplishments occurred during the first calendar quarter of 2006:

- The OIEC toll free number for injured employees was established 1-866-393-6432 (EZE-OIEC)
- An interim customer service plan was established between OIEC and the Texas Department of Insurance, Division of Workers' Compensation to ensure OIEC customers can be serviced until OIEC can develop its own customer service and staffing plan
- The OIEC website was launched: www.oiec.state.tx.us
- The new Benefit Review Conference (BRC) Video was distributed to OIEC staff to better prepare injured employees for upcoming BRCs
- Several critical staff positions were filled, including two staff attorney positions
- Staff began work on the agency's first Strategic Plan



OIEC Website Launches

On March 1, 2006, OIEC launched its website (www.oiec.state.tx.us) in order to provide basic information to the public about the agency. This launch included OIEC's Home Page as well as providing basic information about the agency, such as its mission and how to contact OIEC.

Before the end of March 2006, several other features were added to the new website:

- Links to proposed rules for comment
- Newsletters & Publications page
- Jobs available at OIEC
- Overview of Ombudsman Services
- Overview of Dispute Resolution
- Overviews regarding Benefit Review Conferences (BRC), Contested Case Hearings (CCH), and Appeals
- Links to view the BRC video online from the OIEC website in English or Spanish
- Spanish versions of the Homepage, Contact Us, and About OIEC pages

- Helpful links to other agencies and entities websites that may be of service to injured employees regarding return to work, workplace safety, and healthcare
- Several links to relevant pages for injured employees available from the TDI website, including the statute and rules

During the next calendar quarter of 2006, the website will be used to provide:

- forms for injured employees regarding Ombudsman assistance
- Employee's Rights & Responsibilities
- Bulletins for Employers regarding OIEC
- Additional resources in Spanish

[Injured Employee Services & the Ombudsman Program](#)

The Office of Injured Employee Counsel consists of sixty Ombudsmen located in twenty-four field offices across the state of Texas who prepare unrepresented injured employees for Benefit Review Conferences (BRC), Contested Case Hearings (CCH), and Appeals and attend proceedings with the injured employees. Five additional Ombudsmen are located in OIEC's central office, and they provide senior leadership, travel statewide to assist injured employees, and train and certify newly hired Ombudsmen. Located throughout the state to administratively support the Ombudsmen are 30 Injured Employee Service Representatives who provide general customer assistance to injured employees. OIEC is also hiring two additional Injured Employee Service Representatives for its central location to assist customers who request assistance through the OIEC toll free number. Additionally, the new Legal Services team within OIEC will consist of one senior staff attorney and seven additional attorneys, with some positions residing in field offices, to assist OIEC in its advocacy role of protecting the rights of injured employees as a class as well as assisting the Ombudsman in case preparation and legal research. It is expected that as the demand for OIEC assistance and services grows, the staffing model for OIEC will also need to be adjusted.

From February 1, 2005 through January 31, 2006, approximately 48% of all Benefit Review Conferences were conducted with an Ombudsman assisting the injured employee. Approximately 39% of all Contested Case Hearings were conducted with an Ombudsman assisting the injured employee.

Ombudsmen attended 11,985 Benefit Review Conferences and attended 2,888 Contested Case Hearings with injured employees during the above referenced time period. 4,280 disputed issues were addressed in those Contested Case Hearings. Ombudsmen-assisted injured employees prevailed in 44.6% of the disputed issues addressed at these proceedings.

[Rule Comments & Rule Development Updates](#)

In accordance with the authority granted to OIEC in Labor Code §404.104, OIEC has been active in the rule development process at the Division of Workers' Compensation this quarter and in transferring rules to OIEC as mandated by House Bill 7. OIEC has attended all stakeholder meetings concerning the rules and will continue to do so. In addition, OIEC has commented on both pre-proposal drafts and proposed rules in order to ensure that the best interests of injured employees are served. Specifically, OIEC has commented on the Designated Doctor/ Required Medical Examination rules, the Peer Review rules, the Treating Doctor Examination to Define Compensable Injury rule, Preauthorization rules, Medical Billing and Medical Dispute Resolution rules, and the Interlocutory Order rule. The OIEC role in providing comments to proposed rules is critical to ensuring that the interests of injured workers are protected in the workers' compensation system. As a result, OIEC's efforts in this regard will be ongoing.

[Contact OIEC](#)

We encourage you to provide feedback, ask questions, or send a request to be added to our Quarterly Review distribution list using this address:

OIECinbox@oiec.state.tx.us.