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January 17, 2014

Mr. Ron Bordelon  
Commissioner of Workers' Compensation

*Via email*

**RE: 28 TAC Chapter 124, Regarding Mode of Payment by Insurance Carriers and Payments Made Through an Access Card**

Commissioner Bordelon:

NAMIC appreciates the opportunity to provide feedback during the informal comment period on proposed rules pertaining to payments made through access cards.

We are the largest property/casualty insurance trade association in the country, serving regional and local mutual insurance companies on main streets across America as well as many of the country's largest national insurers. The 1,400 NAMIC member companies serve more than 135 million auto, home and business policyholders and write more than \$196 billion in annual premiums, accounting for 50 percent of the automobile/homeowners market and 31 percent of the business insurance market.

Through our advocacy programs we promote public policy solutions that benefit NAMIC companies and the consumers we serve. Our educational programs enable us to become better leaders in our companies and the insurance industry for the benefit of our policyholders.

Some of our members have registered concerns with the proposed rule. Note that we are not aware of any insurer that is opposed to these ideas, **provided they remain voluntary for the carrier.**

Our members have raised a number of questions we think the Division of Workers' Compensation ("the Division") should address before taking any further action on these rules. These include:

1. *The proposed rule does not clarify the types of funds that can be deposited in to the separate account. Would these funds be just for wages?*
2. *While there is a restriction on prepaid cards, is there any restriction intended by this rule that would prohibit a card from being advance loaded but with ability to limit the withdrawal of funds equal to entitled and accrued benefit periods? NAMIC is a strong advocate of innovation for insurers. We believe allowing insurers to advance load cards provides needed flexibility for insurers to run efficiently.*
3. *The proposed separate account requirement to be established by the carrier does not provide any clarity as to where and how the account is to be set up and how it is to be maintained. Given the restriction on fees charged, there would need to be some kind of agreement with a financial institution before any account could be set up. If the rule suggests insurers maintain the account in-house, it would open a whole new set of concerns and regulatory oversight from the banking industry that would inhibit any appetite to enter into such agreements from a carrier's perspective.*
4. *The rule does not give any direction as to administrative rules surrounding reporting requirements by a carrier on such an account. A carrier has multiple reporting requirements per Texas regulations as to when funds are paid, for what purpose, etc, The rule does not have any clarification if and how this account would change such obligations. Given TDI's latest initiative to reduce unnecessary regulatory burdens on insurers, we would want to see further clarification on that issue.*

As always, we appreciate the Division's willingness to seek out industry feedback prior to formal rule posting. We're happy to further discuss any of these issues with you.

Please let us know how we can be of assistance.

Sincerely,

A handwritten signature in black ink, consisting of the first name "Paul" and the last name "Martin" joined together.

Paul Martin  
State Affairs Manager