

SUBJECT: Timely submission of a claim for payment related to workers' comp injury

COMMITTEE: Business and Industry — committee substitute recommended

VOTE: 7 ayes — Giddings, Elkins, Darby, Bohac, Castro, Solomons, Zedler

0 nays

2 absent — Bailey, Martinez

WITNESSES: *(On original version:)*

For — Stephen Norwood, Texas Medical Association; *(Registered, but did not testify: Mary Hennigan, Texas Occupational Therapy Association; Charlotte H. Smith, Texas Medical Association)*

Against — *(Registered, but did not testify: Shannon Meroney, Aetna)*

On — Jonathan Sibley, Association of Fire and Casualty Companies of Texas; *(Registered, but did not testify: Margaret Lazaretti, Texas Department of Insurance; Stan Strickland, Texas Department of Insurance)*

BACKGROUND: In 2005, the 79th Legislature enacted HB 7 by Solomons, the Texas Workers' Compensation Act. Among its provisions, HB 7 amended Labor Code, sec. 408.027 regarding the payment of a health care provider on a worker's compensation claim. Under the provision, a health care provider must submit a claim for payment to the insurance carrier within 95 days of providing health care services to the injured employee. Failure by a health care provider to submit a timely claim for payment constitutes a forfeiture of the provider's right to reimbursement for that claim. The insurance carrier must pay, reduce, deny, or determine to audit the health care provider's claim within 45 days after receiving the provider's claim.

DIGEST: CSHB 1005 would add Labor Code, sec. 408.0272 to create certain exceptions for the untimely submission of a claim. A health care provider who failed to timely submit to an insurance carrier a claim for payment would not forfeit the right to reimbursement if the provider submitted proof satisfactory to the commissioner of the division of worker's compensation that the provider, within the 95-day period, erroneously filed for reimbursement with:

- an insurer that issued a group accident and health insurance policy under which the injured employee was covered;
- a health maintenance organization (HMO) under which the injured employee was an enrollee; or
- a workers' compensation insurance carrier other than the insurance carrier liable for the payment of benefits.

In addition, the provider would not forfeit the right to reimbursement if the commissioner determined that the failure resulted from a catastrophic event that substantially interfered with the provider's normal business operations.

A health care provider who erroneously submitted a claim for payment would forfeit the right to reimbursement for that claim if the provider failed to submit the claim to the correct workers' compensation insurance carrier within 95 days after the date the provider was notified of the erroneous submission of the claim. The bill would allow the parties to agree to extend the period for submitting a claim.

The bill would adopt definitions in the Insurance Code for "group accident and health insurance" and "health maintenance organization."

The bill would take effect September 1, 2007, and would apply to a claim for payment relating to health care services rendered on or after that date.

**SUPPORTERS
SAY:**

HB 1005 would give flexibility to health care providers if there were evidence that a doctor or other provider inadvertently billed the wrong carrier within the statutory period for submission of claims. Workers' compensation billing can be complicated. Often, an injured employee does not know who the responsible carrier is, and the doctor may bill the wrong carrier. Also, an employee initially may seek treatment through group health insurance or an HMO, only for a provider to determine subsequently that the injury or ailment was work-related.

HB 1005 would ensure that health care providers had a fair opportunity to receive reimbursement while protecting the interests of workers' compensation carriers. The bill would follow a recommendation contained in the Biennial Report of the Texas Department of Insurance to the 80th Legislature by requiring providers to resubmit claims to the correct carrier within 95 days of being notified of the error. By including this deadline,

the committee substitute would address concerns raised about the original version of the bill.

OPPONENTS
SAY:

No apparent opposition.

NOTES:

Unlike the bill as introduced, a provider who erroneously submitted a claim would forfeit the right to reimbursement under the committee substitute if the provider failed to submit the claim to the correct workers' compensation insurance carrier within 95 days after the date the provider was notified of the incorrect submission. The committee substitute also specified that a health care provider would not forfeit the right to payment by erroneously submitting a claim to an HMO. It would allow the workers' compensation commissioner to authorize payment of a claim that was late due to a catastrophic event that substantially interfered with normal business operations of the provider and would authorize the parties to extend the payment period by agreement. Finally, the committee substitute added definitions from the Insurance Code and would apply to payment for "health care services rendered," rather than "a claim based on a compensable injury," on or after the effective date.

A related bill, HB 2579 by Coleman, which would extend the time for a health care provider to submit a claim to the insurance carrier to not later than 180 days after an injured employee received services, has been referred to the House Business and Industry Committee. Another related bill, SB 929 by Jackson, which concerns reimbursement procedures and the resolution of certain medical disputes on workers' compensation claims, passed the Senate on March 28, and is scheduled for hearing by the Business and Industry Committee on April 24.