

BILL ANALYSIS

Senate Research Center

H.B. 3168
By: Giddings (Carona)
State Affairs
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Engrossed

DIGEST AND PURPOSE

The 77th Legislature created a Medical Dispute Resolution (MDR) process. The Research and Oversight Council on Workers' Compensation (ROC), in its biennial report, recommended an alternative model for low-cost services in dispute. Some health care providers have contended that the cost of Independent Review Organization review process (either \$650 or \$460, depending on the speciality of the reviewer) makes it unfeasible to dispute health care services that cost less than the cost of the review. H.B. 3168 authorizes the Texas Workers' Compensation Commission by rule to specify an alternate dispute resolution process for medical services costing less than the cost of a review of medical necessity by an independent review organization. This bill requires the cost of a review under this process to be paid by the nonprevailing party.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Texas Workers' Compensation Commission in SECTION 1 (Section 413.031, Labor Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 413.031, Labor Code, by amending Subsections (e) and (g)-(l) and adding Subsection (m), as follows:

- (e) Includes a reference to provisions of Subsections (f) and (g), as well as Subsection (d), as exceptions.
- (g) Authorizes Texas Workers' Compensation Commission by rule to specify an alternate dispute resolution process for medical services costing less than the cost of a review of medical necessity by an independent review organization. Requires the cost of a review under this process to be paid by the nonprevailing party.
- (h) Creates this subsection from existing text.
- (i) Redesignates this subsection from Subsection (h).
- (j) Redesignates this subsection from Subsection (i). Provides that except as provided by Subsection (i), rather than (h), the cost of the review shall be paid by the nonprevailing party.
- (k) Redesignates this subsection from Subsection (j). Makes a conforming change.
- (l) Redesignates this subsection from Subsection (k). Makes a conforming change.
- (m) Redesignates this subsection from Subsection (l).

SECTION 2. Amends Section 408.123, Labor Code, by adding Subsections (d), (e), (f), and (g), as follows:

- (d) Provides that, except as provided in Subsections (e), (f), and (g), the first valid

certification of maximum medical improvement and the first valid assignment of impairment rating to an employee are final if the certification of maximum medical improvement and/or the assigned impairment rating is not disputed within 90 days after written notification of the maximum medical improvement and/or assignment of impairment rating is provided to the claimant and the carrier by verifiable means.

(e) Authorizes the first certification of maximum medical improvement and/or impairment rating to be disputed after the 90-day period under certain circumstances.

(f) Provides that if an employee has not been certified as having reached maximum medical improvement before the expiration of 104 weeks from the date on which income benefits begin to accrue or the expiration of the date of any extension under Section 408.104 (Maximum Medical Improvement After Spinal Surgery), the impairment rating assigned after the end of the 104 weeks or after the end of the extended period under Section 408.104 (Maximum Medical Improvement After Spinal Surgery) is final if the impairment rating is not disputed within 90 days after written notification of the maximum medical improvement and/or assignment of impairment rating is provided to the claimant and the carrier by verifiable means.

(g) Provides that if a disputed certification of maximum medical improvement or assignment of impairment rating is finally modified, overturned, or withdrawn, the first subsequent certification and assignment becomes final if it is not disputed within 90 days after written notification of maximum medical improvement and/or assignment of impairment rating is provided to the claimant and the carrier by verifiable means.

SECTION 3. Effective date: upon passage or September 1, 2003.

SECTION 4. Makes application of this Act prospective.