

By: Patterson, Longoria, Frazier, Thimesch,  
Isaac, et al.

H.B. No. 790

A BILL TO BE ENTITLED

AN ACT

relating to the processes for and the adjudication and payment of  
certain claims under the workers' compensation system.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 401.026, Labor Code, is amended to read  
as follows:

Sec. 401.026. APPLICABILITY TO CERTAIN EMERGENCY RESPONSE  
PERSONNEL. For purposes of this subtitle, the travel of a  
firefighter, peace officer, or emergency medical personnel en route  
to an emergency call is considered to be in the course and scope of  
the firefighter's, peace officer's, or emergency medical  
personnel's employment.

SECTION 2. Section 408.0042, Labor Code, is amended by  
amending Subsections (a), (c), (d), (e), and (f) and adding  
Subsection (a-1) to read as follows:

(a) Subject to Subsection (a-1), the ~~[The]~~ division shall  
require an injured employee to submit to a single medical  
examination to define the compensable injury on request by the  
insurance carrier.

(a-1) In this subsection, the terms "custodial officer,"  
"detention officer," "emergency medical technician,"  
"firefighter," and "peace officer" have the meanings assigned by  
Section 607.051, Government Code. On request by an injured  
employee who is a custodial officer, a detention officer, an

1 emergency medical technician, a firefighter, or a peace officer,  
2 the division shall authorize the performance of a medical  
3 examination to define the compensable injury, regardless of whether  
4 an examination under Subsection (a) was previously performed.

5 (c) After a [~~the~~] medical examination is performed under  
6 Subsection (a) or (a-1), the treating doctor shall submit to the  
7 insurance carrier and the division a report that details all  
8 injuries and diagnoses related to the compensable injury, on  
9 receipt of which the insurance carrier shall:

10 (1) accept all injuries and diagnoses as related to  
11 the compensable injury; or

12 (2) dispute the determination of specific injuries and  
13 diagnoses.

14 (d) Any treatment for an injury or diagnosis that is not  
15 accepted by the insurance carrier under Subsection (c) as  
16 compensable at the time of the medical examination under Subsection  
17 (a) or (a-1) must be preauthorized before treatment is rendered. If  
18 the insurance carrier denies preauthorization because the  
19 treatment is for an injury or diagnosis unrelated to the  
20 compensable injury, the injured employee or affected health care  
21 provider may file an extent of injury dispute.

22 (e) Any treatment for an injury or diagnosis that is  
23 accepted by the insurance carrier under Subsection (c) as  
24 compensable at the time of the medical examination under Subsection  
25 (a) or (a-1) may not be reviewed for compensability, but may be  
26 reviewed for medical necessity.

27 (f) The commissioner may adopt rules relating to

1 requirements for:

2 (1) a request for an examination under Subsection (a)  
3 or (a-1); or

4 (2) a report under this section, including  
5 requirements regarding the contents of a report.

6 SECTION 3. Section 409.021, Labor Code, is amended by  
7 adding Subsection (a-4) to read as follows:

8 (a-4) In this subsection, the terms "custodial officer,"  
9 "detention officer," "emergency medical technician,"  
10 "firefighter," and "peace officer" have the meanings assigned by  
11 Section 607.051, Government Code. Notwithstanding any other  
12 provision of this title, an insurance carrier who does not contest  
13 the extent of an injury on or before the 60th day after the date the  
14 carrier receives the report described by Section 408.0042(c) waives  
15 its right to contest the extent of injury specifically claimed by  
16 the employee or reasonably reflected in the employee's medical  
17 records available to the carrier for review during that time  
18 period, if the employee is a custodial officer, a detention  
19 officer, an emergency medical technician, a firefighter, or a peace  
20 officer.

21 SECTION 4. Section 409.022, Labor Code, is amended by  
22 adding Subsections (c-1) and (c-2) and amending Subsection (d) to  
23 read as follows:

24 (c-1) For purposes of [~~(d)~~—In] this section [~~subsection~~],  
25 the terms "custodial officer," "detention officer," "emergency  
26 medical technician," "firefighter," and "peace officer" have the  
27 meanings assigned by Section 607.051, Government Code.

1        (c-2) In addition to the other requirements of this section,  
2 an insurance carrier's notice of refusal to pay benefits under  
3 Section 409.021 sent in response to a claim for compensation by an  
4 injured employee who is a custodial officer, a detention officer,  
5 an emergency medical technician, a firefighter, or a peace officer  
6 must include a statement by the carrier that:

7            (1) for purposes of Subsection (a), includes the  
8 specific reasons why the carrier is disputing the compensability of  
9 the injury or the extent of injury; and

10           (2) describes the evidence that the carrier reviewed  
11 in making the determination to dispute the issue under Subdivision  
12 (1).

13        (d) In addition to the other requirements of this section,  
14 if an insurance carrier's notice of refusal to pay benefits under  
15 Section 409.021 is sent in response to a claim for compensation  
16 resulting from a custodial officer's, a detention officer's, an  
17 emergency medical technician's, a firefighter's, or a peace  
18 officer's disability or death for which a presumption is claimed to  
19 be applicable under Subchapter B, Chapter 607, Government Code, the  
20 notice must include a statement by the carrier that:

21           (1) explains why the carrier determined a presumption  
22 under that subchapter does not apply to the claim for compensation;  
23 and

24           (2) describes the evidence that the carrier reviewed  
25 in making the determination described by Subdivision (1).

26        SECTION 5. Section 410.005(a), Labor Code, is amended to  
27 read as follows:

1 (a) A [~~Unless the division determines that good cause exists~~  
2 ~~for the selection of a different location, a~~] contested case  
3 hearing may not be conducted at a site more than 75 miles from the  
4 claimant's residence at the time of the injury unless:

5 (1) the division determines that good cause exists for  
6 the selection of a different location; or

7 (2) the contested case hearing is conducted by  
8 videoconference as provided by Section 410.0055.

9 SECTION 6. Subchapter A, Chapter 410, Labor Code, is  
10 amended by adding Section 410.0055 to read as follows:

11 Sec. 410.0055. CONDUCTING CERTAIN CONTESTED CASE HEARINGS  
12 BY VIDEOCONFERENCE. (a) In this section, the terms "custodial  
13 officer," "detention officer," "emergency medical technician,"  
14 "firefighter," and "peace officer" have the meanings assigned by  
15 Section 607.051, Government Code.

16 (b) The division shall conduct a contested case hearing by  
17 videoconference on request of an injured employee who is a  
18 custodial officer, a detention officer, an emergency medical  
19 technician, a firefighter, or a peace officer.

20 SECTION 7. Subchapter D, Chapter 410, Labor Code, is  
21 amended by adding Section 410.170 to read as follows:

22 Sec. 410.170. EFFECT OF DECISION: REIMBURSEMENT OF CERTAIN  
23 MEDICAL EXPENSES. (a) In this section, the terms "custodial  
24 officer," "detention officer," "emergency medical technician,"  
25 "firefighter," and "peace officer" have the meanings assigned by  
26 Section 607.051, Government Code.

27 (b) Notwithstanding the amount of an award of benefits due

1 in a written decision by an administrative law judge under Section  
2 410.168, an insurance carrier shall reimburse an injured employee  
3 who is a custodial officer, a detention officer, an emergency  
4 medical technician, a firefighter, or a peace officer for all  
5 medical expenses incurred by the employee that are related to the  
6 specific injury claimed by the employee if:

7 (1) the carrier denied the employee's claim for  
8 medical benefits;

9 (2) the decision of the administrative law judge  
10 includes a determination that the injury is compensable; and

11 (3) the decision of the administrative law judge is  
12 not appealed to the appeals panel and becomes final.

13 SECTION 8. Subchapter E, Chapter 410, Labor Code, is  
14 amended by adding Section 410.2051 to read as follows:

15 Sec. 410.2051. EFFECT OF DECISION: REIMBURSEMENT OF CERTAIN  
16 MEDICAL EXPENSES. (a) In this section, the terms "custodial  
17 officer," "detention officer," "emergency medical technician,"  
18 "firefighter," and "peace officer" have the meanings assigned by  
19 Section 607.051, Government Code.

20 (b) An insurance carrier shall directly reimburse an  
21 injured employee who is a custodial officer, a detention officer,  
22 an emergency medical technician, a firefighter, or a peace officer  
23 for all medical expenses incurred by the employee that are related  
24 to the specific injury claimed by the employee if:

25 (1) the carrier denied the employee's claim for  
26 medical benefits; and

27 (2) either:

1           (A) the administrative law judge's determination  
2 that benefits are owed becomes final without an appeal; or

3           (B) the appeals panel:

4                 (i) affirms the administrative law judge's  
5 determination that the benefits are owed; or

6                 (ii) reverses the administrative law  
7 judge's determination that the benefits are not owed.

8           (c) If the appeals panel affirms the administrative law  
9 judge's determination that the benefits are owed, the insurance  
10 carrier shall directly reimburse the employee for all medical  
11 expenses incurred by the employee that are related to the specific  
12 injury claimed by the employee, regardless of the amount of an award  
13 of benefits due in the written decision by the administrative law  
14 judge under Section 410.168.

15           (d) The insurance carrier must reimburse the injured  
16 employee under Subsection (b), regardless of whether the appeals  
17 panel's decision is appealed for judicial review.

18           SECTION 9. (a) Except as provided by Subsection (b) of this  
19 section, the changes in law made by this Act apply only to a claim  
20 for workers' compensation benefits based on a compensable injury  
21 that occurs on or after the effective date of this Act. A claim  
22 based on a compensable injury that occurs before that date is  
23 governed by the law as it existed on the date the compensable injury  
24 occurred, and the former law is continued in effect for that  
25 purpose.

26           (b) Section 410.0055, Labor Code, as added by this Act,  
27 applies to a contested case hearing held on or after the effective

1 date of this Act.

2 SECTION 10. This Act takes effect September 1, 2023.