

## **BILL ANALYSIS**

C.S.H.B. 2199  
By: Solomons  
Business & Industry  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

The Texas Labor Code, 409.021 has conflicting requirements for insurance carriers relating to the initiation of benefits. It requires a carrier to either initiate benefits or notify a claimant that they are going to contest benefits within 7 days after receiving notice of injury, but the statute also gives the carrier sixty days to contest compensability of the same injury.

In 2002, the Texas Supreme Court held in the case of *Continental Casualty v. Downs* (No. 00-1309) that a carrier must either initiate benefits or give notice to the claimant of a dispute by the seventh day or lose the right to contest compensability. This was not the intent of the Legislature that created this provisions in the 1990 reforms.

In complicated cases, the insurance carrier does not know by the seventh day whether an injury is related to work or is non-work-related.

HB 2199 would still require carriers to give notice to the claimant, but the failure to notify the claimant would be an administrative penalty and not a loss of the right to contest compensability.

HB 2199 further clarifies the date that a certified self-insurer or a political subdivision receives written notice of an injury. Political subdivisions may be involved in a risk pool which administer claims, or like a certified self-insurer, may have a third party administering claims. Currently, when an injured worker notifies their superior of an injury, if they work for a certified self-insurer or a political subdivision the injured worker is in fact notifying the employer and the carrier at the same time and thus the time to deny, initiate benefits or contest compensability would begin. Whereas, a private insured employer's time would not begin until they notified in writing their carrier. HB 2199 clarifies that the beginning of the time to contest begins for a certified self-insurer and a political subdivision when their third-party administrator or risk pool, if any, is notified in writing.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

SECTION 1. HB 2199 extends the time by which a carrier must notify the claimant of a denial of benefits to 15 days after the date on which a carrier receives written notice of an injury. The bill provides that failure to notify a claimant within fifteen days does not waive the carrier's right to contest compensability up to sixty days, but is an administrative penalty. The bill further provides that a notice is not required if the insurance carrier intends to pay benefits, but none have accrued by the 15th day. While there is a current Class B administrative penalty for each day the carrier fails to notify a claimant, HB 2199 sets the penalty at the maximum of a Class B violation and adds a one-time, \$500 penalty payable to the injured worker.

HB 2199 clarifies that the beginning of the time to contest begins for a certified self-insurer and a political subdivision when their third-party administrator or risk pool, if any, is notified in writing.

SECTION 2. Effective date.

#### **EFFECTIVE DATE**

This Act is effective September 1, 2003 for injuries that occur on or after the effective date. For injuries that occur before the effective date, current law applies and is continued for that purpose.

#### **COMPARISON OF ORIGINAL TO SUBSTITUTE**

The committee substitute differs from the original in that the bill provides that a notice is not required if the insurance carrier intends to pay benefits, but none have accrued by the 15th day after the date on which a carrier receives written notice of an injury. Additionally, it adds a one-time \$500 penalty payable to the injured worker.