

BILL ANALYSIS

C.S.S.B. 820
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Business & Industry
Committee Report (Substituted)

BACKGROUND AND PURPOSE

The Texas Workers' Compensation Commission (commission), in 2000, amended their rules by adopting a 90-day deadline to dispute maximum medical improvement (MMI) and the resulting impairment rating (IR). On April 12, 2001 the Third District Court of Appeals opined that the commission did not have statutory authority to adopt a rule to place a deadline on disputing MMI or IR. This decision repealed all deadlines to dispute these ratings. The commission and some insurance carriers have started having disputes of ratings that are several years old.

C.S.S.B. 820 would establish a 90-day deadline to dispute MMI or an IR unless there has been a substantial change of condition, mis-diagnosis or physician error.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the Texas Workers' Compensation Commission in SECTION 1(e)(2) (Section 408.123, Labor Code) of this bill.

ANALYSIS

C.S.S.B. 2198 would establish a 90-day deadline to dispute MMI or an IR unless there is compelling medical evidence showing a physician error in applying the American Medical Association Guidelines for MMI and/or in calculating the impairment rating; a mis-diagnosis or non-diagnosis; improper or inadequate treatment which would render the MMI or IR invalid; or other compelling circumstances determined by commission rule. The 90-day deadline also be applicable to statutory MMI and any resulting IR.

If an MMI or IR is disputed within the 90-day deadline and is modified or overturned any subsequent Mmi or IR would have to be disputed within 90-days as well or become final.

EFFECTIVE DATE

This bill would be effective immediately if it receives a two-thirds vote of the Legislature or on September 1, 2003 for all MMI and IR assigned on or after the effective date.

COMPARISON OF ORIGINAL TO SUBSTITUTE

C.S.S.B. 820 differs from the original in that C.S.S.B. 820 establishes the 90-day rule in statute and allows for the reconsideration of both an MMI or IR assignment after the 90-day rule for physician error, improper/inadequate treatment or other compelling circumstances determined by commission rule, whereas the original bill only allowed for IRs. C.S.S.B. 820 also clarifies that the 90-day rule also applies to statutory MMI (and any subsequent IR) and any new MMI and/or IR that results from a dispute.

