

1-1 By: Hochberg, et al. (Senate Sponsor - Janek) H.B. No. 833
1-2 (In the Senate - Received from the House May 12, 2003;
1-3 May 13, 2003, read first time and referred to Committee on State
1-4 Affairs; May 23, 2003, reported favorably by the following vote:
1-5 Yeas 6, Nays 0; May 23, 2003, sent to printer.)

1-6 A BILL TO BE ENTITLED
1-7 AN ACT

1-8 relating to certain pharmaceutical services for an injured employee
1-9 receiving workers' compensation medical benefits.

1-10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-11 SECTION 1. Section 408.028, Labor Code, is amended by
1-12 adding Subsection (e) to read as follows:

1-13 (e) Notwithstanding Subsection (b), the commission by rule
1-14 shall allow an employee to purchase a brand name drug rather than a
1-15 generic pharmaceutical medication or over-the-counter alternative
1-16 to a prescription medication if a health care provider prescribes a
1-17 generic pharmaceutical medication or an over-the-counter
1-18 alternative to a prescription medication. The employee shall be
1-19 responsible for paying the difference between the cost of the brand
1-20 name drug and the cost of the generic pharmaceutical medication or
1-21 of an over-the-counter alternative to a prescription medication.
1-22 The employee may not seek reimbursement for the difference in cost
1-23 from an insurance carrier and is not entitled to use the medical
1-24 dispute resolution provisions of Chapter 413 with regard to the
1-25 prescription. A payment described by this subsection by an
1-26 employee to a health care provider does not violate Section
1-27 413.042. This subsection does not affect the duty of a health care
1-28 provider to comply with the requirements of Subsection (b) when
1-29 prescribing medications or ordering over-the-counter alternatives
1-30 to prescription medications.

1-31 SECTION 2. (a) This Act takes effect September 1, 2003.

1-32 (b) The Texas Workers' Compensation Commission shall adopt
1-33 rules under Section 408.028(e), Labor Code, as added by this Act,
1-34 not later than March 1, 2004.

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