

By: Solomons

H.B. No. 2198

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the certification of maximum medical improvement and  
3 the impairment rating assigned to an employee in a claim for  
4 workers' compensation benefits.

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

6 SECTION 1. Section 408.123, Labor Code, is amended by  
7 adding Subsections (d), (e), (f), and (g) to read as follows:

8 (d) Except as provided in Subsections (e), (f), and (g), the  
9 first valid certification of maximum medical improvement and the  
10 first valid assignment of impairment rating to an employee are  
11 final if the certification of maximum medical improvement and/or  
12 the assigned impairment rating is not disputed within 90 days after  
13 written notification of the maximum medical improvement and/or  
14 assignment of impairment rating is provided to the claimant and the  
15 carrier by verifiable means.

16 (e) The first certification of maximum medical improvement  
17 and/or impairment rating may be disputed after the 90-day period  
18 if:

19 (1) there is compelling medical evidence establishing  
20 the following:

21 (A) a significant error on the part of the  
22 certifying doctor in applying the appropriate American Medical  
23 Association Guides and/or calculating the impairment rating;

24 (B) a clear misdiagnosis or a previously

1 undiagnosed medical condition; or

2 (C) prior improper or inadequate treatment of the  
3 injury which would render the certification of maximum medical  
4 improvement or impairment rating invalid; or

5 (2) there are other compelling circumstances as  
6 established by commission rule.

7 (f) If an employee has not been certified as having reached  
8 maximum medical improvement before the expiration of 104 weeks from  
9 the date on which income benefits begin to accrue or the expiration  
10 of the date of any extension under Section 408.104, the impairment  
11 rating assigned after the end of the 104 weeks or after the end of  
12 the extended period under Section 408.104 is final if the  
13 impairment rating is not disputed within 90 days after written  
14 notification of the maximum medical improvement and/or assignment  
15 of impairment rating is provided to the claimant and the carrier by  
16 verifiable means.

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19 overturned, or withdrawn, the first subsequent certification and  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

24 SECTION 2. (a) This Act applies to certifications of  
25 maximum medical improvement and assignment of impairment ratings on  
26 or after the effective date of this statute.

27 (b) This Act takes effect immediately if it receives a vote

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1 of two-thirds of all the members elected to each house, as provided  
2 by Section 39, Article III, Texas Constitution. If this Act does  
3 not receive the vote necessary for immediate effect, this Act takes  
4 effect September 1, 2003.