

AN ACT

relating to the right of an insurance carrier to contest the compensability of an injury in a workers' compensation case; providing an administrative violation.

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

SECTION 1. Section 409.021, Labor Code, is amended by amending Subsections (a) and (e) and adding Subsections (a-1), (a-2), and (f) to read as follows:

(a) An insurance carrier shall initiate compensation under this subtitle promptly. Not later than the 15th ~~seventh~~ day after the date on which an insurance carrier receives written notice of an injury, the insurance carrier shall:

(1) begin the payment of benefits as required by this subtitle; or

(2) notify the commission and the employee in writing of its refusal to pay and advise the employee of:

(A) the right to request a benefit review conference; and

(B) the means to obtain additional information from the commission.

(a-1) An insurance carrier that fails to comply with Subsection (a) does not waive the carrier's right to contest the compensability of the injury as provided by Subsection (c) but commits an administrative violation subject to Subsection (e).

1       (a-2) An insurance carrier is not required to comply with  
2 Subsection (a) if the insurance carrier has accepted the claim as a  
3 compensable injury and income or death benefits have not yet  
4 accrued but will be paid by the insurance carrier when the benefits  
5 accrue and are due.

6       (e) An insurance carrier commits a violation if the  
7 insurance carrier does not initiate payments or file a notice of  
8 refusal as required by this section. A violation under this  
9 subsection shall be assessed at \$500 if the carrier initiates  
10 compensation or files a notice of refusal within five working days  
11 of the date required by Subsection (a), \$1,500 if the carrier  
12 initiates compensation or files a notice of refusal more than five  
13 and less than 16 working days of the date required by Subsection  
14 (a), \$2,500 if the carrier initiates compensation or files a notice  
15 of refusal more than 15 and less than 31 working days of the date  
16 required by Subsection (a), or \$5,000 if the carrier initiates  
17 compensation or files a notice of refusal more than 30 days after  
18 the date required by Subsection (a). The administrative penalties  
19 are not cumulative. ~~[is a Class B administrative violation. Each~~  
20 ~~day of noncompliance constitutes a separate violation.]~~

21       (f) For purposes of this section:

22               (1) a certified self-insurer receives notice on the  
23 date the qualified claims servicing contractor designated by the  
24 certified self-insurer under Section 407.061(c) receives notice;  
25 and

26               (2) a political subdivision that self-insures under  
27 Section 504.011, either individually or through an interlocal

1 agreement with other political subdivisions, receives notice on the  
2 date the intergovernmental risk pool or other entity responsible  
3 for administering the claim for the political subdivision receives  
4 notice.

5         SECTION 2. This Act takes effect September 1, 2003, and  
6 applies only to a claim for workers' compensation benefits based on  
7 a compensable injury that occurs on or after that date. A claim  
8 based on a compensable injury that occurs before the effective date  
9 of this Act is governed by the law in effect on the date the  
10 compensable injury occurred, and the former law is continued in  
11 effect for that purpose.

H.B. No. 2199

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President of the Senate

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Speaker of the House

I certify that H.B. No. 2199 was passed by the House on May 10, 2003, by a non-record vote.

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Chief Clerk of the House

I certify that H.B. No. 2199 was passed by the Senate on May 28, 2003, by the following vote: Yeas 31, Nays 0.

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Secretary of the Senate

APPROVED: \_\_\_\_\_

Date

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Governor