

AN ACT

relating to the determination of workers' compensation benefits and the resolution of disputes regarding those benefits.

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

SECTION 1. Section 413.031, Labor Code, is amended by amending Subsection (e) and adding Subsection (m) to read as follows:

(e) Except as provided by Subsections [~~Subsection~~] (d), (f), and (m), a review of the medical necessity of a health care service provided under this chapter or Chapter 408 shall be conducted by an independent review organization under Article 21.58C, Insurance Code, in the same manner as reviews of utilization review decisions by health maintenance organizations. It is a defense for the insurance carrier if the carrier timely complies with the decision of the independent review organization.

(m) The commission by rule may prescribe an alternate dispute resolution process to resolve disputes regarding medical services costing less than the cost of a review of the medical necessity of a health care service by an independent review organization. The cost of a review under the alternate dispute resolution process shall be paid by the nonprevailing party.

SECTION 2. Section 408.123, Labor Code, is amended by adding Subsections (d)-(g) to read as follows:

(d) Except as otherwise provided by this section, an

1 employee's first valid certification of maximum medical
2 improvement and first valid assignment of an impairment rating is
3 final if the certification or assignment is not disputed before the
4 91st day after the date written notification of the certification
5 or assignment is provided to the employee and the carrier by
6 verifiable means.

7 (e) An employee's first certification of maximum medical
8 improvement or assignment of an impairment rating may be disputed
9 after the period described by Subsection (d) if:

10 (1) compelling medical evidence exists of:

11 (A) a significant error by the certifying doctor
12 in applying the appropriate American Medical Association
13 guidelines or in calculating the impairment rating;

14 (B) a clearly mistaken diagnosis or a previously
15 undiagnosed medical condition; or

16 (C) improper or inadequate treatment of the
17 injury before the date of the certification or assignment that
18 would render the certification or assignment invalid; or

19 (2) other compelling circumstances exist as
20 prescribed by commission rule.

21 (f) If an employee has not been certified as having reached
22 maximum medical improvement before the expiration of 104 weeks
23 after the date income benefits begin to accrue or the expiration
24 date of any extension of benefits under Section 408.104, the
25 impairment rating assigned after the expiration of either of those
26 periods is final if the impairment rating is not disputed before the
27 91st day after the date written notification of the certification

1 or assignment is provided to the employee and the carrier by
2 verifiable means. A certification or assignment may be disputed
3 after the 90th day only as provided by Subsection (e).

4 (g) If an employee's disputed certification of maximum
5 medical improvement or assignment of impairment rating is finally
6 modified, overturned, or withdrawn, the first certification or
7 assignment made after the date of the modification, overturning, or
8 withdrawal becomes final if the certification or assignment is not
9 disputed before the 91st day after the date notification of the
10 certification or assignment is provided to the employee and the
11 carrier by verifiable means. A certification or assignment may be
12 disputed after the 90th day only as provided by Subsection (e).

13 SECTION 3. The change in law made by this Act by the
14 amendment of Section 408.123, Labor Code, applies only to a
15 certification of maximum medical improvement and assignment of an
16 impairment rating that is made on or after the effective date of
17 this Act. A certification of maximum medical improvement or
18 assignment of an impairment rating that is made before the
19 effective date of this Act is governed by the law in effect on the
20 date the certification or assignment was made, and the former law
21 is continued in effect for that purpose.

22 SECTION 4. This Act takes effect immediately if it receives
23 a vote of two-thirds of all the members elected to each house, as
24 provided by Section 39, Article III, Texas Constitution. If this
25 Act does not receive the vote necessary for immediate effect, this
26 Act takes effect September 1, 2003.

President of the Senate

Speaker of the House

I certify that H.B. No. 3168 was passed by the House on May 9, 2003, by the following vote: Yeas 137, Nays 0, 2 present, not voting; and that the House concurred in Senate amendments to H.B. No. 3168 on May 30, 2003, by the following vote: Yeas 141, Nays 0, 3 present, not voting.

Chief Clerk of the House

I certify that H.B. No. 3168 was passed by the Senate, with amendments, on May 28, 2003, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

APPROVED: _____

Date

Governor