

1-1 By: Giddings (Senate Sponsor - Carona) H.B. No. 3168
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 adversely, with favorable
1-5 Committee Substitute by the following vote: Yeas 6, Nays 0;
1-6 May 23, 2003, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR H.B. No. 3168 By: Armbrister

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to the determination of workers' compensation benefits and
1-11 the resolution of disputes regarding those benefits.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. Section 413.031, Labor Code, is amended by
1-14 amending Subsection (e) and adding Subsection (m) to read as
1-15 follows:

1-16 (e) Except as provided by Subsections [Subsection] (d),
1-17 (f), and (m), a review of the medical necessity of a health care
1-18 service provided under this chapter or Chapter 408 shall be
1-19 conducted by an independent review organization under Article
1-20 21.58C, Insurance Code, in the same manner as reviews of
1-21 utilization review decisions by health maintenance organizations.
1-22 It is a defense for the insurance carrier if the carrier timely
1-23 complies with the decision of the independent review organization.

1-24 (m) The commission by rule may prescribe an alternate
1-25 dispute resolution process to resolve disputes regarding medical
1-26 services costing less than the cost of a review of the medical
1-27 necessity of a health care service by an independent review
1-28 organization. The cost of a review under the alternate dispute
1-29 resolution process shall be paid by the nonprevailing party.

1-30 SECTION 2. Section 408.123, Labor Code, is amended by
1-31 adding Subsections (d)-(g) to read as follows:

1-32 (d) Except as otherwise provided by this section, an
1-33 employee's first valid certification of maximum medical
1-34 improvement and first valid assignment of an impairment rating is
1-35 final if the certification or assignment is not disputed before the
1-36 91st day after the date written notification of the certification
1-37 or assignment is provided to the employee and the carrier by
1-38 verifiable means.

1-39 (e) An employee's first certification of maximum medical
1-40 improvement or assignment of an impairment rating may be disputed
1-41 after the period described by Subsection (d) if:

1-42 (1) compelling medical evidence exists of:

1-43 (A) a significant error by the certifying doctor
1-44 in applying the appropriate American Medical Association
1-45 guidelines or in calculating the impairment rating;

1-46 (B) a clearly mistaken diagnosis or a previously
1-47 undiagnosed medical condition; or

1-48 (C) improper or inadequate treatment of the
1-49 injury before the date of the certification or assignment that
1-50 would render the certification or assignment invalid; or

1-51 (2) other compelling circumstances exist as
1-52 prescribed by commission rule.

1-53 (f) If an employee has not been certified as having reached
1-54 maximum medical improvement before the expiration of 104 weeks
1-55 after the date income benefits begin to accrue or the expiration
1-56 date of any extension of benefits under Section 408.104, the
1-57 impairment rating assigned after the expiration of either of those
1-58 periods is final if the impairment rating is not disputed before the
1-59 91st day after the date written notification of the certification
1-60 or assignment is provided to the employee and the carrier by
1-61 verifiable means. A certification or assignment may be disputed
1-62 after the 90th day only as provided by Subsection (e).

1-63 (g) If an employee's disputed certification of maximum

2-1 medical improvement or assignment of impairment rating is finally
2-2 modified, overturned, or withdrawn, the first certification or
2-3 assignment made after the date of the modification, overturning, or
2-4 withdrawal becomes final if the certification or assignment is not
2-5 disputed before the 91st day after the date notification of the
2-6 certification or assignment is provided to the employee and the
2-7 carrier by verifiable means. A certification or assignment may be
2-8 disputed after the 90th day only as provided by Subsection (e).

2-9 SECTION 3. The change in law made by this Act by the
2-10 amendment of Section 408.123, Labor Code, applies only to a
2-11 certification of maximum medical improvement and assignment of an
2-12 impairment rating that is made on or after the effective date of
2-13 this Act. A certification of maximum medical improvement or
2-14 assignment of an impairment rating that is made before the
2-15 effective date of this Act is governed by the law in effect on the
2-16 date the certification or assignment was made, and the former law
2-17 is continued in effect for that purpose.

2-18 SECTION 4. This Act takes effect immediately if it receives
2-19 a vote of two-thirds of all the members elected to each house, as
2-20 provided by Section 39, Article III, Texas Constitution. If this
2-21 Act does not receive the vote necessary for immediate effect, this
2-22 Act takes effect September 1, 2003.

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