

By: Martinez Fischer

H.B. No. 3285

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to the regulation of Reimbursement Policies and Guidelines  
3 and Treatment Guidelines for medical care in the provision of  
4 workers' compensation benefits by the Texas Workers' Compensation  
5 Commission.

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

7 SECTION 1. Subchapter B, Chapter 413, Section 413.011 is  
8 amended to read as follows:

9 Sec. 413.011. REIMBURSEMENT POLICIES AND GUIDELINES;  
10 TREATMENT GUIDELINES. (a) The commission shall use health care  
11 reimbursement policies and guidelines that reflect the  
12 standardized reimbursement structures found in other health care  
13 delivery systems with minimal modifications to those reimbursement  
14 methodologies as necessary to meet occupational injury  
15 requirements. To achieve standardization, the commission shall  
16 adopt the most current medical and payment policies used by the  
17 federal Centers for Medicare and Medicaid Services as they relate  
18 to coding, billing, and reporting, and may modify those policies  
19 ~~[reimbursement methodologies, models, and values or weights used by~~  
20 ~~the federal Health Care Financing Administration, including~~  
21 ~~applicable payment policies relating to coding, billing, and~~  
22 ~~reporting, and may modify documentation requirements]~~ as necessary  
23 to meet the requirements of Section 413.053.

24 (b) Guidelines for medical services fees must be fair and

1 reasonable and designed to ensure prompt access to quality medical  
2 care.

3 (c) (1) To establish a baseline medical fee guideline, the  
4 commission shall determine and adopt separate conversion factors  
5 for Surgery; Radiology; Pathology; Anesthesia; General Medicine;  
6 Physical Medicine; and Evaluation and Management by calculating the  
7 average commercial reimbursement rate for providers using the  
8 actual claims data study from the 2001 "Medicare Physician Fees  
9 Compared to Average Private Rates" as commissioned by the Medicare  
10 Payment Advisory Commission. To the commercial reimbursement rate,  
11 the commission shall apply successively the Medicare Economic Index  
12 updates for each year between the 2001 Medicare Payment Advisory  
13 Commission study and September 1, 2003. The commission shall then  
14 add no less than 20 percent to compensate for the difference in the  
15 administrative burden to treat patients in commercial plans versus  
16 those in the workers' compensation system.

17 (2) After the baseline medical fee guideline in this  
18 subsection is established, starting on September 1, 2004, and each  
19 September 1st thereafter, the commission shall adopt and apply by  
20 rule the Medicare Economic Index updates to the providers' medical  
21 fee guideline.

22 ~~(d) [(b) In determining the appropriate fees, the~~  
23 ~~commission shall also develop conversion factors or other payment~~  
24 ~~adjustment factors taking into account economic indicators in~~  
25 ~~health care and the requirements of Subsection (d). The commission~~  
26 ~~shall also provide for reasonable fees for the evaluation and~~  
27 ~~management of care as required by Section 408.025(c) and commission~~

1 ~~rules.]~~ This section does not adopt the Medicare fee schedule, and  
2 the commission shall not adopt conversion factors or other payment  
3 adjustment factors based [~~solely~~] on those factors as developed by  
4 the federal Centers for Medicare and Medicaid Services [~~Health Care~~  
5 ~~Financing Administration~~].

6 (e) [~~(c)~~] This section may not be interpreted in a manner  
7 that would discriminate in the amount or method of payment or  
8 reimbursement for services in a manner prohibited by Section 3(d),  
9 Article 21.52, Insurance Code, or as restricting the ability of  
10 chiropractors to serve as treating doctors as authorized by this  
11 subtitle. The commission shall also develop guidelines relating to  
12 fees charged or paid for providing expert testimony relating to an  
13 issue arising under this subtitle.

14 [~~(d) Guidelines for medical services fees must be fair and~~  
15 ~~reasonable and designed to ensure the quality of medical care and to~~  
16 ~~achieve effective medical cost control. The guidelines may not~~  
17 ~~provide for payment of a fee in excess of the fee charged for~~  
18 ~~similar treatment of an injured individual of an equivalent~~  
19 ~~standard of living and paid by that individual or by someone acting~~  
20 ~~on that individual's behalf. The commission shall consider the~~  
21 ~~increased security of payment afforded by this subtitle in~~  
22 ~~establishing the fee guidelines.]~~

23 (e) The commission by rule may adopt treatment guidelines,  
24 including return-to-work guidelines. If adopted, treatment  
25 guidelines adopted must be nationally recognized, scientifically  
26 valid, and outcome-based and designed to reduce excessive or  
27 inappropriate medical care while safeguarding necessary medical

1 care.

2 (f) The commission by rule may establish medical policies or  
3 treatment guidelines relating to necessary treatments for  
4 injuries.

5 (g) Any medical policies or guidelines adopted by the  
6 commission must be:

7 (1) designed to ensure the quality of medical care and  
8 to achieve effective medical cost control;

9 (2) designed to enhance a timely and appropriate  
10 return to work; and

11 (3) consistent with Sections 413.013, 413.020,  
12 413.052, and 413.053.

13 SECTION 2. No later than September 1, 2004, the Research and  
14 Oversight Council shall present to its board of directors  
15 recommendations regarding how it, or an outside consultant, can  
16 most efficiently and economically measure the administrative  
17 burdens under Subsection (c) of Section 413.011. These  
18 recommendations will not be binding and the methodology they  
19 contain must be free of bias or input by any group that participates  
20 in workers' compensation system and that of the Texas Workers'  
21 Compensation Commission.

22 SECTION 3. EFFECTIVE DATE. This Act takes effect  
23 immediately if it receives a vote of two-thirds of all the members  
24 elected to each house, as provided by Section 39, Article III, Texas  
25 Constitution. If this Act does not receive the vote necessary for  
26 immediate effect, this Act takes effect September 1, 2003.