

AN ACT

relating to the certification of maximum medical improvement and assignment of an impairment rating for an employee receiving workers' compensation benefits.

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

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

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

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

(1) compelling medical evidence exists of:

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

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

(C) improper or inadequate treatment of the

1 injury before the date of the certification or assignment that
2 would render the certification or assignment invalid; or

3 (2) other compelling circumstances exist as
4 prescribed by commission rule.

5 (f) If an employee has not been certified as having reached
6 maximum medical improvement before the expiration of 104 weeks
7 after the date income benefits begin to accrue or the expiration
8 date of any extension of benefits under Section 408.104, the
9 impairment rating assigned after the expiration of either of those
10 periods is final if the impairment rating is not disputed before the
11 91st day after the date written notification of the certification
12 or assignment is provided to the employee and the carrier by
13 verifiable means. A certification or assignment may be disputed
14 after the 90th day only as provided by Subsection (e).

15 (g) If an employee's disputed certification of maximum
16 medical improvement or assignment of impairment rating is finally
17 modified, overturned, or withdrawn, the first certification or
18 assignment made after the date of the modification, overturning, or
19 withdrawal becomes final if the certification or assignment is not
20 disputed before the 91st day after the date notification of the
21 certification or assignment is provided to the employee and the
22 carrier by verifiable means. A certification or assignment may be
23 disputed after the 90th day only as provided by Subsection (e).

24 SECTION 2. The change in law made by this Act by the
25 amendment of Section 408.123, Labor Code, applies only to a
26 certification of maximum medical improvement and assignment of an
27 impairment rating that is made on or after the effective date of

1 this Act. A certification of maximum medical improvement or
2 assignment of an impairment rating that is made before the
3 effective date of this Act is governed by the law in effect on the
4 date the certification or assignment was made, and the former law is
5 continued in effect for that purpose.

6 SECTION 3. This Act takes effect immediately if it receives
7 a vote of two-thirds of all the members elected to each house, as
8 provided by Section 39, Article III, Texas Constitution. If this
9 Act does not receive the vote necessary for immediate effect, this
10 Act takes effect September 1, 2003.

President of the Senate

Speaker of the House

I hereby certify that S.B. No. 820 passed the Senate on May 13, 2003, by a viva-voce vote; and that the Senate concurred in House amendments on May 31, 2003, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

I hereby certify that S.B. No. 820 passed the House, with amendments, on May 28, 2003, by the following vote: Yeas 138, Nays 0, two present not voting.

Chief Clerk of the House

Approved:

Date

Governor