By: Carona S.B. No. 1134

A BILL TO BE ENTITLED

AN ACT

relating to the delivery and payment of health care in the workers' compensation system.

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

SECTION 1. Section 408.022, Labor Code, is amended by adding Subsection (f):

(f) Notwithstanding any other provisions of this chapter, if an insurance carrier has in place an insurance carrier network as provided in Section 408.0223, and certified by the network and the employer or carrier pursuant to Section 408.0225, an employee must receive treatment from a provider participating in the insurance carrier network. If the medical treatment or service being sought by an employee is not available from a network provider within 30 miles of the employee's normal place of residence, then the employee may select a provider who is not participating in the insurance carrier network. A carrier may grant authorization to obtain services from a provider who is not part of the insurance carrier network if the provider agrees to accept the same reimbursement as would be provided to network providers and to abide by the same terms and conditions as apply to other providers participating in the network.

SECTION 2. Section 408.0223, Labor Code, is amended to read as follows:

(a) In this section, "insurance carrier network" means a

voluntary workers' compensation health care delivery network established by or contracting with an insurance carrier. [~~The term does not include a regional network established under Section 408.0221.~~]

(b) This subtitle does not prohibit an insurance carrier, whether doing business as an individual carrier or as a group, from participating in, [~~or~~] maintaining, or contracting with voluntary insurance carrier networks. [~~if those voluntary insurance carrier networks. allow selection of doctors as provided by Section 408.022.~~

[~~(d) The standards adopted for preferred provider networks under Article 3.70-3C, Insurance Code, as added by Chapter 1024, Acts of the 75th Legislature, Regular Session, 1997, and as subsequently amended, apply as minimum standards for insurance carrier networks and are adopted by reference in this section except to the extent those standards are inconsistent with this subtitle. The advisory committee, defined in Section 408.0221, may recommend additional standards for insurance carrier networks that are no more stringent than the additional standards that the advisory committee recommends for regional health care delivery networks pursuant to Section 408.0221(g).~~

[~~(e) The Texas Workers' Compensation Commission shall adopt rules, as necessary, to implement additional standards for insurance carrier networks.~~]

(c) No insurance carrier shall utilize or contract with an insurance carrier network unless the network and the insurance carrier shall have jointly certified to the Commission that the

network complies with the standards contained in Section 408.0225.

SECTION 3. Section 408, Labor Code, is amended by inserting a new section, 408.0225:

Sec. 408.0225. Insurance Carrier Network Standards.

(a) An insurance carrier network must include or provide for each of the following:

(1) a clearly defined geographical service area;

(2) within its geographical service area, a sufficient number of participating providers necessary to provide all medical services, including emergency medical services, as can be reasonably be expected to be required to treat injured employees, and to provide such services in a timely, effective, and convenient manner;

(3) a list of all participating providers organized by location and medical specialty;

(4) provision for obtaining medical services required by an injured worker that are not available from a participating provider;

(5) procedures by which an injured worker may request a change of provider within the network;

(6) methods, resources, and procedures for monitoring the quality of care provided to injured workers and for identifying and eliminating inappropriate utilization of medical services;

(7) methods and procedures for resolving disputes involving reimbursement and the appropriateness and utilization of medical services;

(8) methods and procedures, including an appeals

process within the network, for selecting and deselecting providers participating in the network;

(9) methods for certifying the training, experience, and other credentials of participating network providers;

(10) methods and procedures for executing and managing contractual agreements between individual providers and the network

(11) methods by which an injured worker may appeal to the commission for the review of a network decision regarding the utilization of medical services, if the issue involved has not been resolved to the worker's satisfaction 60 days after first notifying the network that a dispute exists or after the exhaustion of the network's internal dispute resolution procedures, whichever comes first; and

(12) methods and procedures for maintaining accurate and complete information regarding the utilization and cost of medical services, and for ensuring the privacy and confidentiality of a worker's personal information.

(b) An insurance carrier network shall not discriminate against or exclude from participation any category of provider whose individual members may be authorized to treat injured workers.

(c) Whenever the participation of a network provider is being terminated by the network, the provider shall be informed no later than 30 days prior to the effective date of the termination and shall be provided, at the time notice is given, a written explanation for the decision. The affected provider may request a

reconsideration of the network's decision, although such a request shall not delay the effective date of the decision. If reconsideration does not result in a reversal of the decision. the provider may appeal directly to the Commission, which may order that the provider be reinstated in the network if it determines that the network's decision was arbitrary or capricious.

(d) Insurance carrier networks and individual providers may negotiate and agree to alternative prospective or retrospective reimbursement arrangements in place of medical reimbursement policies adopted by the commission, and may negotiate and agree that providers would not be required and may negotiate and agree that providers would not be required to apply for and be accepted to the approved doctor list. Such providers shall be recognized by the commission as eligible to assign impairment ratings and certify maximum medical improvement and have all other rights and responsibilities of those providers on the approved doctor list and would be deemed included on the approved doctor list.

(e) The commission may, at any time, examine the records and documents of a certified network and carrier in order to verify compliance with the requirements of this section. If the commission determines, after an examination, that an insurance carrier network fails to meet the standards contained in this section, it may require the network to take immediate steps to meet the requirements of this section. If, after a period of time established by the commission, the insurance carrier network has failed to correct the deficiencies identified in the examination, then the commission shall decertify the network. Upon

decertification, injured workers who would have been covered by the network may select the provider who will treat them.

SECTION 5. Section 413.011, Labor Code, is amended by adding Subsection (h):

(h) Nothing in this section shall prohibit insurance carrier networks authorized under Section 408.0225 and individual providers participating in such networks from agreeing to alternative prospective or retrospective reimbursement arrangements. Prospective or retrospective reimbursement for medical services shall be governed by the contractual agreement between the network and the participating providers.

SECTION 6. This Act takes effect September 1, 2003.