

Amend CSHB 7 as follows:

(1) On page 3, line 17, strike "an insurance carrier" and insert "the department".

(2) On page 3, line 18, strike "the" and insert "an insurance".

(3) On page 4, strike lines 5 through 16 and replace with the following:

"(11-b) "Complaint" means any dissatisfaction expressed orally or in writing by a complainant regarding an entity's operation or the manner in which a service is provided. The term does not include:

(A) a misunderstanding or a problem of misinformation that is resolved promptly by clearing up the misunderstanding or supplying the appropriate information to the satisfaction of the complainant;

(B) a medical dispute except for a fee dispute;  
or

(C) a dispute under Chapter 410." .

(4) On page 5, strike lines 6 through 17 and substitute the following:

"(16-a) "Dispute" means a disagreement relating to issues that are subject to Chapter 410, or a disagreement that is subject to the medical dispute resolution requirements of Subchapter C, Chapter 413.".

(5) On page 5, strike lines 18-27 and on page 6, strike lines 1-4, and insert:

"(17-a) "Emergency care" means either a medical or mental health emergency as described below:

(A) a medical emergency consists of the sudden onset of a medical condition manifesting itself by acute symptoms of sufficient severity including severe pain that the absence of immediate medical attention could reasonably be expected to result in placing the patient's health and/or bodily functions in serious jeopardy and/or serious dysfunction of any body organ or part.

(B) a mental health emergency is a condition that could reasonably be expected to present danger to self or others.".

(6) On page 6, line 14, after "nursing," and before "and"

insert "occupational therapy".

(7) On page 8, strike lines 7-14 and lines 19-21 and renumber accordingly.

(8) On page 9, line 1, strike "participants" and substitute "injured employees".

(9) On page 10, line 3, add a new (35-a) to read as follows and renumber accordingly:

"(35-a) "Person" means any natural or artificial person, including an individual, partnership, association, corporation, organization, trust, hospital district, community mental health center, mental retardation center, mental health and mental retardation center, limited liability company or limited liability partnership."

(10) On page 10, line 4, between "approval" and "to" strike "from a provider network".

(11) On page 10, strike lines 6 through 10 and insert new (35-b) to read:

"(35-b) "Certified Provider Network" or "Provider Network" means a network of participating health care providers using case management procedures that is certified by the department in accordance with Chapter 408B, and is used by a carrier to provide health care services to injured employees. A certified provider network may be a preferred provider organization, a health maintenance organization, a nonprofit health corporation certified under Section 162.001 Occupations Code, or a network of providers established by an insurance carrier that has been certified by the department."

(12) On page 11, line 13, strike "or work".

(13) On page 20, line 17, before ";and" insert new subsections as follows and renumber accordingly:

"(4) identification of whether the claimant is receiving medical care through a workers' compensation health care network certified under Chapter 408B;".

(14) On page 29, line 23, before "practices" insert "and complaint resolution".

(15) On page 32, line 6, after "(b)" insert "In a case in which a hearing is conducted by the State Office of Administrative

Hearings under Section 411.049, 413.055 or 415.034, the administrative law judge who conducts the hearing for the State Office of Administrative Hearings shall enter the final decision in the case after completion of the hearing." and on line 11 before "In a" insert "(c)".

(16) On page 54, line 8, strike "regulated by or".

(17) On page 54, line 11, strike ",services,".

(18) On page 54, line 15, strike "five" and substitute "two".

(19) On page 57, lines 5 and 10, after "representation" add "and assistance".

(20) On page 57, line 7, strike "the public" and substitute "injured employees as a class".

(21) On page 57, strike lines 15 through 20 and renumber accordingly.

(22) On page 58, line 25, between "involving" and "rules", strike "rates," and strike the comma after "rules".

(23) On page 58, line 27, between "commissioner" and "adopts", strike "promulgates rates or".

(24) On page 59, line 2, after the word "intervene" insert "on behalf of injured employees as a class".

(25) On page 59, line 15, between "involving" and "rules", strike "rates," and strike the comma after "rules".

(26) On page 59, line 25, strike "representation" and substitute "assistance".

(27) On page 59, strike lines 26 and 27, on page 60, strike lines 1 through 10, and substitute the following:

"(c) The public counsel shall adopt rules and policies for representation and assistance of individual injured employees before the department. The rules must include a process for determining which cases need direct attorney involvement, taking into consideration the complexity of the case and the issue or issues in dispute."

(28) On page 63, line 21, before "shall", strike "Texas Health Care Information Council" and insert "Department of Assistive and Rehabilitative Services, Texas Workforce Commission, Texas Health and Human Services Commission, and any other state

agency with relevant information,".

(29) On page 64, line 11, after "doctor" insert ", a health care provider" and on lines 24 and 26 after "doctors" insert ", health care providers".

(30) On page 64, lines 12 and 13, strike "an injured employee's primary residence" and substitute "the address at which an injured employee lives".

(31) On page 70, line 13, strike "and" and on line 14, insert a new subsection (6) to read as follows and renumber accordingly:

"the frequency, duration and outcome of complaints; and".

(32) On page 78, strike SECTION 1.089 in its entirety.

(33) On page 106, strike lines 13-18 and substitute with the following: "temporary income benefits. The carrier shall evaluate a compensable injury in which the injured employee sustains an injury that could potentially result in lost time from employment as early as practicable to determine if skilled case management is necessary for the injured employee's case. Where necessary, case managers who are appropriately licensed to practice in the state of Texas shall be used. Claims adjusters shall not be used as case managers.".

(34) On page 110, lines 2 and 11, strike "130 [~~100~~]" and substitute "100".

(35) On page 111, line 7, between "WAGE." and "state" strike "The" and insert "(a) On or after October 1, 2005, the [~~The~~]", on line 8 strike "for a state [~~the~~]fiscal year", and on line 14 insert a new subsection(b)to read as follows:

"(b) The state average weekly wage for the period beginning September 1, 2005, and ending September 30, 2005, is \$539. This subsection expires October 1, 2005."

(36) On page 112, line 6, strike "September" and insert "October [~~September~~]" and on line 11 strike "September" and insert "October [~~September~~]".

(37) On page 113, on line 9, insert "(c) An insurance carrier that seeks judicial review under Subchapter G, Chapter 410, of a final decision of a commission appeals panel regarding compensability or eligibility for, or the amount of, income or death benefits is liable for reasonable and necessary attorney's

fees as provided by Subsection (d) incurred by the claimant as a result of the insurance carrier's appeal if the claimant prevails on an issue on which judicial review is sought by the insurance carrier in accordance with the limitation of issues contained in Section 410.302. If the carrier appeals multiple issues and the claimant prevails on some, but not all, of the issues appealed, the court shall apportion and award fees to the claimant's attorney only for the issues on which the claimant prevails. In making that apportionment, the court shall consider the factors prescribed by Subsection (d). This subsection does not apply to attorney's fees for which an insurance carrier may be liable under Section 408.147. An award of attorney's fees under this subsection is not subject to commission rules adopted under Subsection (f)."

(38) On page 121, line 11, after "doctor" insert "or health care provider".

(39) On page 122, line 24, after "immediately" and before "." insert "upon written notice to the employee. The written notice shall include a clear statement of the employee's right to appeal the determination of the designated doctor".

(40) On page 126, line 10, after "regarding" strike ":", and on line 11, before "the electronic" strike "(1)", and on line 12, after "carriers" strike ";and" and insert ".", and strike lines 13-14, and on line 21, add a new subsection (d) to read as follows:

"(d) The commissioner may adopt rules, but not before January 1, 2008, regarding the electronic payment of medical bills by insurance carriers to health care providers upon sufficient evidence that such payments can be made without undue burden to carriers."

(41) On page 126, line 19, after the word "carriers" and before the word "who" insert "and health care providers".

(42) On page 127, line 10 between "doctor" and "of" insert ",and all other known healthcare providers providing direct services to the employee,".

(43) On page 127, line 16, after "for" and before "a" insert "healthcare provided before the notice in subsection (a) up to".

(44) On page 127, line 20, after "any" insert ",to the extent covered under the employee's health benefit plan".

(45) On page 128, strike lines 14 through 17.

(46) On page 130, line 21, between "408B" and "to read" insert "and Chapter 408C".

(47) On page 130, line 26, between "CARRIER." and "An", insert "(a)", and on page 131, line 8, insert a new Subsection (b) and Subsection (c) to read as follows:

"(b) A person may not operate a provider network in this state unless the person holds a certificate issued under this chapter and under rules adopted by the commissioner.

(c) A person may not perform any act of a provider network except in accordance with the specific authorization of this chapter or rules adopted by the commissioner."

(48) On page 131, line 8, after "(a)" strike "If" and substitute "Except for emergency care, or network approved referrals, if".

(49) On page 131, line 12, strike "or works".

(50) On page 131, line 18, insert a new subsection (c) to read as follows and renumber accordingly:

"(c) Notwithstanding subsections (a) and (b), a carrier shall provide and shall reimburse under department rule, healthcare related to the compensable injury for an injured employee who is covered by a network but lives outside the service area in accordance with all provisions of the Labor Code, except Chapter 408B."

(51) On page 131, line 22, insert a new subsection (d) to read as follows:

"(d) Notwithstanding any other provision of this chapter, prescription medication or services, as defined by Section 401.011(19)(E), Labor Code, may not be delivered through a workers' compensation health care network. Prescription medication and services shall be reimbursed as provided by the Texas Workers' Compensation Act and applicable rules of the department."

(52) On page 132, line 2, strike "Except as provided by Subsection (d), a" and insert "A" and strike lines 11-13.

(53) On page 132, line 15, after "CARE." insert "(a)" and on line 17, between "service" and "," insert "related to the compensable injury" and on line 24 insert a new subsection (b) to

read:

"(b) An insurance carrier that establishes or contracts with a provider network is liable for health care services related to a compensable injury provided by non-network providers to an injured employee who does not live within the geographical service area. Health care provided by a non-network provider is not subject to the provisions of Chapter 408B other than this section, and is subject to all other provisions of the Labor Code."

(54) On page 132, line 18, between "employee" and "obtains", insert "lives within a service area of any network established by the insurance carrier or with which the insurance carrier has a contract and".

(55) On page 134, line 18, between "establishes" and "a", insert "or contracts with".

(56) On page 135, line 11, strike ":", and substitute "the service area".

(57) On page 135, strike lines 12 through 15.

(58) On page 135, line 22, strike ",except as provided by Section 408B.304".

(59) On page 135, strike lines 23-27 and substitute the following:

"(6) a statement that, if an employee lives within a service area of any network established by the insurance carrier or with which the insurance carrier has a contract, the employee may be liable for health care related to the compensable injury obtained from a non-participating provider, except for emergency care, health care obtained pursuant to a referral from the employee's treating doctor and prior to network approval, or health care provided pursuant to Section 408B.054;".

(60) On page 137, line 1, insert a new subsection (13) to read as follows:

"(13) Nothing in this Title shall prohibit an insurance carrier that uses a certified provider network to provide to each covered employee a Workers' Compensation Coverage Identification Card."

(61) On page 137, line 24, between "the" and "day", strike "14th" and insert "30th".

(62) On page 139, line 12, strike "injured employee's residence" and substitute "address at which the employee lives".

(63) On page 142, line 11, after "area." insert "The Commissioner shall establish by rule what constitutes a higher level of skill necessary for a carrier to use providers outside the geographic service area. The rules shall include a required adequacy review by the commissioner.".

(64) On page 142, line 14, strike "and work".

(65) On page 149, line 26, insert a new section (2) and renumber the following sections accordingly:

"(2) a provision that the insurance carrier shall provide to participating providers the source of the treatment guidelines and standards utilized to perform a pattern of practice review;".

(66) On page 153, line 23, after "service" insert "or if care was provided as a result of an emergency,".

(67) On page 153, strike lines 26 and 27 and substitute the following:

"(c) A carrier shall reimburse out-of-network providers who provide health care related to a compensable injury to an injured employee who does not live within a service area of any network established by the insurance carrier or with which the insurance carrier has a contract, who provide emergency care, or whose referral by a".

(68) On page 155, lines 4 and 5, strike "preferred provider organization that has a network of preferred providers and" and substitute "provider network".

(69) On page 155, lines 15 and 16, strike "preferred provider contract, including a contract with a preferred provider organization," and substitute "carrier-network contract".

(70) On page 157, line 25, strike "and" and on line 26, insert a new subsection (E) to read as follows and renumber accordingly:

"(E) the frequency, duration and outcome of complaints; and".

(71) On page 164, strike lines 10 through 12 and substitute "30 miles of where the employee lives if the employee lives in an".



urban area or within 60 miles of where the employee lives if the employee lives in a rural area. The provider".

(72) On page 165, line 6, strike "complaint" and substitute "dispute".

(73) On page 165, line 24, strike "residence" and substitute "address".

(74) On page 166, strike lines 1-5 and insert "DOCTOR. (a) A provider network shall ensure that an injured employee with a chronic life-threatening condition or chronic pain related to a compensable injury, may apply to the network's medical director to use a non-primary care specialist who is a participating health care provider, as the injured employee's treating doctor.".

(75) On page 172, line 12, after "licensed" and before ".", insert "in the state of Texas".

(76) On page 173, strike lines 6 through 9, and substitute the following:

"(c) Notwithstanding Section 4(h), Article 21.58A, Insurance Code, a utilization review agent that uses doctors to perform reviews of health care services provided under this subtitle shall use doctors appropriately licensed in this state to perform those reviews. The physician may be employed by or under contract to the carrier or provider network."

(77) On page 178, line 14, between "the" and "day", strike "seventh calendar" and insert "fifth business".

(78) On page 180, line 17, between "carrier," and "or", insert "health care provider, employee,".

(79) On page 181, strike lines 24 and 25, and substitute "CHAPTER 408C. REQUIREMENTS FOR NON-NETWORK HEALTH CARE AND OUT-OF-NETWORK HEALTH CARE".

(80) On page 183, line 22, strike "residence" and substitute "address [~~residence~~]".

(81) On page 183, line 23, strike subsection 408C.003(a) and renumber accordingly.

(82) On page 184, line 17, Before "MEDICAL" strike "408C.004" and insert "408A.056" and renumber accordingly.

(83) On pages 186 and 187, strike section 408C.006 in its entirety and renumber accordingly.

(84) On page 188, line 7, after "Commission" and before "before" insert "by order or agreement".

(85) On page 196, line 13, between "a" and "provider", insert "certified" and strike "must" and substitute "shall not", and on line 14, between "the" and "provider", insert "certified".

(86) On page 205, lines 5, 10 and 13, strike "supplemental".

(87) On page 206, lines 3 and 8, strike "supplemental".

(88) On page 210, line 5, strike "entitled to supplemental income benefits" and substitute "[~~entitled to supplemental income benefits~~]".

(89) On page 211, line 13, strike "408.004" and substitute "408A.002 [~~408.004~~]".

(90) On page 212, strike line 2 and substitute "resulting in an incurable insanity or imbecility; or".

(91) On page 224, line 11, strike "results" and substitute "could possibly result". On line 13, between "case" and "." insert "and, if so, to provide skilled case management, in accordance with commissioner rules".

(92) On page 232, line 17, strike "regarding income benefits" and substitute "under this chapter".

(93) On page 233, line 5, strike "income benefit".

(94) On page 234, lines 8 and 14, strike "regarding income benefits".

(95) On page 234, line 17, strike "the benefits" and substitute "medical benefits or income benefits".

(96) On page 236, line 8, strike "complaint" and substitute "dispute".

(97) On page 236, lines 13 through 14, strike "regarding income benefits under this subtitle" and substitute "under this chapter".

(98) On page 236, line 18, strike "income".

(99) On page 241, line 3, strike "complaint" and substitute "dispute".

(100) On page 245, lines 3-4, strike "unless a party seeks judicial review as provided by this chapter" and insert "during the pendency of a judicial review as provided by this chapter".

(101) On page 245, lines 22-25, strike everything after

"final" and insert "in the absence of a timely appeal by a party and is binding during the pendency of a judicial review as provided by this chapter".

(102) On page 248, lines 3 and 6, strike "resided" and substitute "lived [~~resided~~]".

(103) On page 252, line 11, between "subchapter" and "." insert: "in accordance with the Texas Rules of Evidence".

(104) On page 263, line 23, strike "408.0041" and substitute "408A.003".

(105) On page 266, lines 2 through 4, strike "REIMBURSEMENT POLICIES FOR NON-NETWORK HEALTH CARE; FEE [~~AND~~] GUIDELINES; MEDICAL POLICIES; TREATMENT GUIDELINES AND PROTOCOLS." and substitute the following: "REIMBURSEMENT POLICIES FOR NON-NETWORK AND OUT-OF-NETWORK HEALTH CARE; FEE [~~AND~~] GUIDELINES; MEDICAL POLICIES; TREATMENT GUIDELINES AND PROTOCOLS.".

(106) On page 266, line 4, insert a new subsection (a) to read as follows and renumber accordingly:

"(a) This section applies to non-network health care and out-of-network health care which the insurance carrier is obligated to provide."

(107) On page 266, line 6, strike "not" and on line 7 strike "Chapter 408B" and substitute "Section 408B.004(b)".

(108) On page 266, line 10, between "requirements." and "To achieve", insert "(b)" and renumber subsections accordingly.

(109) On page 266, line 11, strike the word "may" and substitute "shall".

(110) On page 267, line 14, after "control." insert "The guidelines may not provide for payment of a fee in excess of the fee charged for similar treatment of an injured individual of an equivalent standard of living and paid by that individual or by someone acting on that individual's behalf. The commissioner shall consider the increased security of payment afforded by this subtitle in establishing the fee guidelines. Agreements between a provider and the insurance carrier or provider network that are above the guidelines are permitted.".

(111) On page 267, line 21, insert the following new subsection (e) and renumber accordingly:

"(e) The rules adopted by the department for the reimbursement of prescription medications and services shall authorize pharmacies to utilize agents or assignees to process claims and act on their behalf pursuant to terms and conditions as agreed upon by pharmacies."

(112) On page 275, line 14, insert "(c) A claimant is entitled to a review of a request for a change of treating doctor under Chapter 408B.303.".

(113) On page 275, lines 19, 22 and 27, strike the word "claimant" and substitute the word "party".

(114) On page 275, lines 19 and 20, strike "a complaint" and substitute "an issue".

(115) On page 275, lines 23, strike "complaint" and substitute "notice", on line 25, strike "a complaint" and substitute "an issue", and on line 27, strike "statement of the complaint" and substitute "notice of the issue".

(116) On page 310, line 22, strike "Each state agency" and insert "The office" and on line 23 strike "the agency's" and replace with "covered".

(117) On page 331, line 26, strike "408.004" and substitute "408A.002 [~~408.004~~"]".

(118) On page 343, line 24, before "provider" insert "certified".

(119) On page 348, line 17, strike "80th" and insert "81st".

(120) On page 360, line 26, between "personnel" and ",computer", insert "services".

(121) On page 365, line 12, after "unresolved" strike "after a review by an independent review organization".

(122) On page 365, line 15, after "unresolved" strike "after a review by an independent" and on line 16, before ".A medical" strike "review organization", and on line 18, between "Section" and "413.035", insert "413.033 and Section".