Senate Research Center

H.B. 251
By: Eissler (Williams)
State Affairs
5/16/2005
Engrossed

AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

Current law entitles a person who pays for medical care or services related to a workers= compensation claim to subclaimant status under the Texas Workers= Compensation Act, and may seek reimbursement for those payments from the workers= compensation carrier and file a subclaim with the Texas Workers= Compensation Commission (TWCC) if the carrier refuses payment.

The 77th Texas Legislature, Regular Session, 2001, passed H.B. 1562 which enabled insurance carriers that have anti-fraud plans to request information from TWCC in electronic form to identify subclaims that may exist. The legislation required TWCC to adopt rules to implement the Act, but TWCC has yet to adopt these rules.

H.B. 251 amends the Labor Code to require TWCC to release to an insurance carrier certain data that will allow the carrier to identify potential subclaims and pursue recovery that is already allowed under Section 409.009, Labor Code.

RULEMAKING AUTHORITY

Rulemaking authority previously granted to the Texas Worker's Compensation Commission is modified in SECTION 1 (Section 402.084, Labor Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 402.084, Labor Code, by amending Subsections (b) and (d) and adding Subsections (c-1)-(c-7) and (e), as follows:

(b) Authorizes information on a claim to be released as provided by Subsection (a), to certain individuals and entities or under certain circumstances, including with regard to information described by Subsection (c-3), an insurance carrier that has adopted an antifraud plan under Subchapter B (Antifraud Plans), Chapter 704, Insurance Code, or the authorized representative of such an insurance carrier. Deletes existing text relating to the applicability of certain statutes.

(c-1) Defines "insurance carrier" for the purposes of this section only.

(c-2) Provides that an insurance carrier is not required to demonstrate that a subclaim exists in order to obtain information under Subsection (b)(8).

(c-3) Authorizes an insurance carrier described by Subsection (b)(8) or an authorized representative of the insurance carrier to submit to the Texas Worker's Compensation Commission (TWCC) on a monthly basis a written request for claims information. Requires the request to contain a list of the names of persons about whom claims information is requested. Requires the insurance carrier to certify in the carrier's request that each person listed is, or has been, an insured under the carrier's insurance program. Requires TWCC to examine its records to identify all claims related to the listed persons. Requires TWCC, if a claims record exists for a listed person, to promptly provide information on each workers' compensation claim filed by that person to the carrier or the carrier's representative in an electronic format. Requires the information provided under this subsection to include certain information, if available.

(c-4) Authorizes a potential subclaim identified by an insurance carrier described by Subsection (b)(8) or an authorized representative of the insurance carrier to form the basis for the identification and filing of a subclaim against an insurance carrier under this subtitle.

(c-5) Provides that information received under this section by an insurance carrier described by Subsection (b)(8) or an authorized representative of the insurance carrier remains subject to confidentiality requirements of this subtitle while in the possession of the insurance carrier or representative. Sets forth certain laws that do not prohibit TWCC from disclosing full information regarding a claim as necessary to determine if a valid subclaim exists.

(c-6) Prohibits TWCC from redacting claims records produced in an electronic data format under a request made under this section.

(c-7) Authorizes an insurance carrier and its authorized representative to request full claims data under Subsection (b)(8), and requires the records to be produced once each month. Defines "full claims data."

(d) Authorizes TWCC, by rule, to establish a reasonable fee, not to exceed five cents for each claimant listed in an information request, for all information requested by an insurance carrier described by Subsection (b)(8) or an authorized representative of the insurance carrier in an electronic data format. Requires TWCC to adopt rules under Section 401.024(d) to establish certain modified requirements. Deletes existing text relating to the confidentiality of information on a claim of a subclaimant under Subsection (b)(8).

(e) Requires the insurance carrier or the carrier's authorized representative to execute a written agreement with the commission before submitting the carrier's first request under Subsection (c-3). Requires the agreement to contain a provision by which the carrier and the representative agree to comply with the commission's rules governing security parameters applicable to the transfer of information under Subsection (d)(1) and the maintenance of electronic data under Subsection (d)(2).

SECTION 2. Amends Section 671.013, Health and Safety Code, by adding Subsections (d) and (e), as follows:

(d) Requires an autopsy report released in connection with the determination of the cause of death in relation to a workers' compensation claim under Subsection (a), except as provided by Subsection (e), to be released not later than the 15th business day after the date the request is received from the authorized person.

(e) Requires a representative of the office designated by the autopsy order, if the report has not been filed as provided by Section 671.012 (Filing Autopsy Report), not later than the 10th business day after the date of the request, to notify the requesting person that the report has not been filed and of the date, to the best of the knowledge of the representative, that the requesting person may anticipate receiving the report.

SECTION 3. Makes application of this Act retroactive to September 1, 2002.

SECTION 4. Effective date: September 1, 2005.