

BILL ANALYSIS

C.S.H.B. 724
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Business & Industry
Committee Report (Substituted)

BACKGROUND AND PURPOSE

In 2005 the Legislature passed HB 7, an omnibus reform of the workers' compensation system based on the previous year's Sunset Advisory Commission's (Sunset) review of the Texas Workers' Compensation Commission (TWCC). In addition to eliminating the TWCC and transferring the responsibility of regulating the system to the Texas Department of Insurance, Division of Workers' Compensation (Division), the bill addressed the workers' compensation system's dispute resolution system by eliminating one of those steps across the board - an appeal to the State Office of Administrative Hearings (SOAH) - in an attempt to shorten the dispute resolution process. In 2006, HCA Healthcare Corporation sued, and argued successfully, over the lack of due process this left in a fee dispute and a medical necessity dispute.

C.S.H.B. 724 adds a contested case hearing at the Division for hearings on fee disputes under \$2,000 and medical necessity disputes under \$3,000; for disputes over those amounts, C.S.H.B. 724 provides for a hearing before SOAH.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 724 amends Section 413.031(k) of the Labor Code to entitle a party to a medical dispute, except for spinal surgeries subject to Section 413.031(l) and a dispute subject to Section 413.0311, that remains unresolved after a review of the medical service under Section 413.031, Labor Code, to a hearing at the State Office of Administrative Hearings (SOAH), under Chapter 2001, Government Code. The bill requires the SOAH hearing to take place not later than the 60th day after the date on which the party notifies the division of workers' compensation (division) of a request for a hearing. The bill authorizes a party who has exhausted all administrative remedies at this level and who is aggrieved by a final decision of SOAH to appeal to district court as provided under Subchapter G, Chapter 2001, Government Code. Neither the Texas Department of Insurance (TDI) nor the division are considered parties to the suit.

C.S.H.B. 724 amends Chapter 413 of the Labor Code by adding Section 413.0311 which allows for a contested case hearing, governed by Chapter 410 of the Labor Code, at the division for medical disputes that remain unresolved after an applicable review under Sections 413.031(b) through (i) if the dispute is a dispute on health care provider fees where the disputed amount does not exceed \$2,000, or an appeal of an independent review organization decision where the disputed amount does not exceed \$3,000. A benefit review conference is not a prerequisite to a contested case hearing under this subsection. A decision issued in a contested case hearing by the division is final and enforceable. A party who has exhausted all administrative remedies at this level may appeal to district court as provided under Subchapter G, Chapter 2001, Texas Government Code. Neither TDI nor the division are considered parties to the suit.

C.S.H.B. 724 provides that the change in law made by this Act applies to a workers' compensation medical dispute described by Section 413.031, Labor Code, as amended by this Act, that is pending for an adjudication by the division of workers' compensation of the Texas Department of Insurance on or after the effective date of this Act or that arises on or after the effective date of this Act.

C.S.H.B. 724 80(R)

EFFECTIVE DATE

September 1, 2007.

COMPARISON OF ORIGINAL TO SUBSTITUTE

C.S.H.B. 724 differs from the original in that it amends Section 413.031(k) of the Labor Code by allowing for a SOAH hearing, under Chapter 2001, Government Code, for a party still aggrieved after a decision under Section 413.031 except for spinal surgeries subject to 413.031(l) and a dispute subject to 413.0311. Under the committee substitute, a SOAH hearing shall take place not later than the 60th day after the date on which the party notifies the Division of a request for a hearing. A party who has exhausted all administrative remedies at this level may appeal to district court as provided under Subchapter G, Chapter 2001, Texas Government Code. Neither the Texas Department of Insurance nor the Division of Workers' Compensation are considered parties to a suit.

C.S.H.B. 724 differs from the original in that the contested case hearing provided for in the new subsection 413.0311 allows for contested case hearing only for a dispute on health care provider fees where the disputed amount does not exceed \$2,000, or appeal of an independent review organization decision where the disputed amount does not exceed \$3,000. This new subsection does apply to disputes regarding spinal surgery as provided for in the original.

C.S.H.B. 724 does not repeal Sections 413.031(k) and (l) which allows for direct judicial review for fee disputes and medical necessity disputes.

C.S.H.B. 724 adds a section to define the applicability of the Act on disputes.