

BILL ANALYSIS

C.S.H.B. 1970
By: Zedler
Business & Industry
Committee Report (Substituted)

BACKGROUND AND PURPOSE

In 2005, the legislature passed H.B. 7 which made sweeping and much needed reforms in the workers' compensation system of Texas.

Many functions previously under the Texas Workers' Compensation Commission (TWCC) were moved to the Division of Workers' Compensation (DWC) under the Texas Department of Insurance (TDI.) The commissioner of workers' compensation was given authority to adopt health care reimbursement guidelines that "reflect the standardized reimbursement structures found in other health care delivery systems." The bill specifically contained language that it "does not adopt the Medicare fee schedule"

However, negotiations on reasonable rates and fee guidelines for hospital reimbursements made it clear that some stakeholders remain unwilling to consider any rule with a fee guideline greater than 100% of Medicare. That would be effectively adopting the Medicare fee schedule, which was not the intent and is not appropriate.

C.S.H.B. 1970 clarifies in statute some of those issues that are unable to be resolved through rulemaking. It establishes payment adjustment factors for health care facility fees at rates reasonable within the industry. It provides a stop loss threshold, and appropriate separate billing provisions for certain items including implants, orthotics, and prosthetics.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the commissioner of workers' compensation in SECTION 1 of this bill.

ANALYSIS

C.S.H.B. 1970 amends the Labor Code by requiring the commissioner of workers' compensation (commissioner) to adopt payment adjustment factors for hospital fees, set forth as follows: 165% of the Medicare base payment amount for inpatient care; 250% of the Medicare base payment amount for outpatient care; 75% of the billed charges for inpatient or outpatient care that results in billed charges greater than \$50,000, excluding any charges for the costs of implantables, orthotics, or prosthetics; the a stop loss threshold of \$50,000 so that inpatient or outpatient hospital care that results in billed charges in an amount greater than \$50,000 excluding the cost of implantables, orthotics, or prosthetics shall be paid at 75% of billed charges; cost plus 10% for blood products, implantables, orthotics, prosthetics, and pharmaceuticals charged at an amount in excess of \$250 per dose, in addition to amounts paid for inpatient and outpatient care for which billed charges do not exceed \$50,000; and 75% of billed charges for air ambulance services in addition to in addition to amounts paid for inpatient and outpatient care for which billed charges do not exceed \$50,000 and in addition to amounts paid for blood products, implantables, orthotics, prosthetics, and pharmaceuticals.

C.S.H.B. 1970 requires the division of workers' compensation and the Texas Department of Insurance to report to the governor, the lieutenant governor, the speaker of the house of representatives, and the appropriate legislative committees, not later than January 1 every odd numbered year, an evaluation of the fee guidelines and any consideration for adjustments or recommendations.

C.S.H.B. 1970 80(R)

C.S.H.B. 1970 provides that this Act applies only to health care provided on or after the effective date. The bill requires the commissioner to adopt the rules, policies, and guidelines as required by this Act not later than November 1, 2007.

EFFECTIVE DATE

September 1, 2007.

COMPARISON OF ORIGINAL TO SUBSTITUTE

The substitute differs from the original by specifying that the fee guidelines are for hospital reimbursement rates only and apply to non-governmental entities.

The substitute deletes language present in the original requiring the commissioner of workers' compensation to adopt health care reimbursement policies and guidelines that reflect the standard reimbursement structures found in other health care delivery systems, including group health insurance plans.

The substitute clarifies the sections of Medicare that are to be referenced in both inpatient out-patient reimbursement fees.

The substitute also clarifies the stop loss threshold of \$50,000 so that inpatient or outpatient hospital care that results in billed charges in an amount greater than \$50,000 excluding the cost of implantables, orthotics, or prosthetics shall be paid at 75% of billed charges.

The substitute adds clarifying language that in addition to other amounts paid the reimbursement of "carve out" items shall be: cost plus 10% for blood products, implantables, orthotics, prosthetics, and pharmaceuticals charged at an amount in excess of \$250 per dose.

The substitute also adds language clarifying that air ambulance services are to be reimbursed at 75% of billed charges, in addition to other amounts paid.

The substitute adds the requirement that the division of workers' compensation and the Texas Department of Insurance report to the governor, the lieutenant governor, the speaker of the house of representatives, and the appropriate legislative committees, not later than January 1 every odd numbered year, an evaluation of the fee guidelines and any consideration for adjustments or recommendations.

The substitute provides that the Act applies only to healthcare for a compensable injury provided on or after the effective date. The original bill provided that the Act applied to a claim for workers' compensation benefits based on a compensable injury that occurs on or after January 1, 2008.

The substitute makes nonsubstantive and corrective changes.