

1-1 By: Solomons (Senate Sponsor - Jackson) H.B. No. 724  
1-2 (In the Senate - Received from the House April 30, 2007;  
1-3 May 2, 2007, read first time and referred to Committee on State  
1-4 Affairs; May 17, 2007, reported adversely, with favorable  
1-5 Committee Substitute by the following vote: Yeas 8, Nays 0;  
1-6 May 17, 2007, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR H.B. No. 724 By: Jackson

1-8 A BILL TO BE ENTITLED  
1-9 AN ACT

1-10 relating to workers' compensation claims for certain medical  
1-11 benefits, death benefits, and burial benefits.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. Section 413.031, Labor Code, is amended by  
1-14 amending Subsection (k) and adding Subsections (k-1) and (k-2) to  
1-15 read as follows:

1-16 (k) A ~~[Except as provided by Subsection (l), a]~~ party to a  
1-17 medical dispute, other than a medical dispute regarding spinal  
1-18 surgery subject to Subsection (l) and a dispute subject to Section  
1-19 413.0311, that remains unresolved after a review of the medical  
1-20 service under this section is entitled to a hearing. A hearing  
1-21 under this subsection shall be conducted by the State Office of  
1-22 Administrative Hearings not later than the 60th day after the date  
1-23 on which the party notifies the division of the request for a  
1-24 hearing. The hearing shall be conducted in the manner provided for  
1-25 a contested case under Chapter 2001, Government Code.

1-26 (k-1) A party who has exhausted all administrative remedies  
1-27 under Subsection (k) and who is aggrieved by a final decision of the  
1-28 State Office of Administrative Hearings may seek judicial review of  
1-29 the decision. Judicial review under this subsection shall be  
1-30 conducted in the manner provided for judicial review of a contested  
1-31 case under Subchapter G, Chapter 2001, Government Code.

1-32 (k-2) The division and the department are not considered to  
1-33 be parties to the medical dispute for purposes of Subsections (k)  
1-34 and (k-1) ~~[this subsection. Judicial review under this subsection~~  
1-35 ~~shall be conducted in the manner provided for judicial review of~~  
1-36 ~~contested cases under Subchapter G, Chapter 2001, Government Code].~~

1-37 SECTION 2. Subchapter C, Chapter 413, Labor Code, is  
1-38 amended by adding Section 413.0311 to read as follows:

1-39 Sec. 413.0311. REVIEW OF CERTAIN MEDICAL DISPUTES;  
1-40 CONTESTED CASE HEARING. (a) This section applies only to the  
1-41 following medical disputes that remain unresolved after any  
1-42 applicable review under Sections 413.031(b) through (i):

1-43 (1) a medical fee dispute in which the amount of  
1-44 reimbursement sought by the requestor in its request for medical  
1-45 dispute resolution does not exceed \$2,000;

1-46 (2) an appeal of an independent review organization  
1-47 decision regarding determination of the retrospective medical  
1-48 necessity for a health care service for which the amount billed does  
1-49 not exceed \$3,000; and

1-50 (3) an appeal of an independent review organization  
1-51 decision regarding determination of the concurrent or prospective  
1-52 medical necessity for a health care service.

1-53 (b) A party to a medical dispute described by Subsection (a)  
1-54 is entitled to a contested case hearing. A contested case hearing  
1-55 under this section shall be conducted by a hearings officer in the  
1-56 manner provided for contested case hearings under Subchapter D,  
1-57 Chapter 410. Notwithstanding Section 410.024, a benefit review  
1-58 conference is not a prerequisite to a contested case hearing under  
1-59 this section.

1-60 (c) The decision of a hearings officer under this section is  
1-61 final in the absence of a timely appeal by a party for judicial  
1-62 review under Subsection (d).

1-63 (d) A party who has exhausted all administrative remedies

2-1 under Section 413.031 and this section and who is aggrieved by a  
2-2 final decision of the hearings officer under Subsection (c) may  
2-3 seek judicial review of the decision. Judicial review under this  
2-4 subsection shall be conducted in the manner provided for judicial  
2-5 review of a contested case under Subchapter G, Chapter 2001,  
2-6 Government Code.

2-7 (e) The division and the department are not considered to be  
2-8 parties to the medical dispute for purposes of this section.

2-9 SECTION 3. Section 402.073(b), Labor Code, is amended to  
2-10 read as follows:

2-11 (b) In a case in which a hearing is conducted by the State  
2-12 Office of Administrative Hearings under Section 413.031, 413.055,  
2-13 or 415.034, the administrative law judge who conducts the hearing  
2-14 for the State Office of Administrative Hearings shall enter the  
2-15 final decision in the case after completion of the hearing.

2-16 SECTION 4. Section 408.182, Labor Code, is amended by  
2-17 adding Subsections (d-1) and (d-2) to read as follows:

2-18 (d-1) If there is no eligible spouse, no eligible child, and  
2-19 no eligible grandchild, and there are no surviving dependents of  
2-20 the deceased employee who are parents, siblings, or grandparents of  
2-21 the deceased, the death benefits shall be paid in equal shares to  
2-22 surviving eligible parents of the deceased. A payment of death  
2-23 benefits made under this subsection may not exceed one payment per  
2-24 household.

2-25 (d-2) Except as otherwise provided by this subsection, to  
2-26 be eligible to receive death benefits under Subsection (d-1), an  
2-27 eligible parent must file with the division a claim for those  
2-28 benefits not later than the first anniversary of the date of the  
2-29 injured employee's death from the compensable injury. The  
2-30 commissioner may extend the time for filing a claim under this  
2-31 subsection only if the eligible parent submits proof satisfactory  
2-32 to the commissioner of a compelling reason for the delay.

2-33 SECTION 5. Section 408.182(f), Labor Code, is amended by  
2-34 adding Subdivision (4) to read as follows:

2-35 (4) "Eligible parent" means the mother or the father  
2-36 of a deceased employee, including an adoptive parent or a  
2-37 stepparent, who receives burial benefits under Section 408.186.  
2-38 The term does not include a parent whose parental rights have been  
2-39 terminated.

2-40 SECTION 6. Section 408.183, Labor Code, is amended by  
2-41 adding Subsection (f-1) to read as follows:

2-42 (f-1) An eligible parent who is not a surviving dependent of  
2-43 the deceased employee is entitled to receive death benefits until  
2-44 the earlier of:

- 2-45 (1) the date the eligible parent dies; or
- 2-46 (2) the date of the expiration of 104 weeks of death  
2-47 benefit payments.

2-48 SECTION 7. The change in law made by this Act applies to  
2-49 workers' compensation medical disputes described by Section  
2-50 413.031, Labor Code, as amended by this Act and Section 413.0311,  
2-51 Labor Code, as added by this Act:

2-52 (1) that are pending for adjudication by the division  
2-53 of workers' compensation of the Texas Department of Insurance on or  
2-54 after the effective date of this Act;

2-55 (2) that may be remanded to the division of workers'  
2-56 compensation of the Texas Department of Insurance on or after the  
2-57 effective date of this Act; or

2-58 (3) that may arise on or after the effective date of  
2-59 this Act.

2-60 SECTION 8. Chapter 408, Labor Code, as amended by this Act,  
2-61 applies only to a claim for workers' compensation benefits based on  
2-62 a compensable injury that occurs on or after the effective date of  
2-63 this Act. A claim based on a compensable injury that occurs before  
2-64 that date is governed by the law in effect on the date that the  
2-65 compensable injury occurred, and the former law is continued in  
2-66 effect for that purpose.

2-67 SECTION 9. This Act takes effect September 1, 2007.

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