

By: Taylor

H.B. No. 1247

A BILL TO BE ENTITLED

AN ACT

relating to workers' compensation subclaims.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 409.009, Labor Code, is amended to read as follows:

Sec. 409.009. SUBCLAIMS. (a) A person may file a written claim with the division as a subclaimant if the person has:

(1) provided compensation, including health care provided by a health care insurer, directly or indirectly, to or for an employee or legal beneficiary; and

(2) sought and been refused reimbursement from the insurance carrier.

(b) Health care benefits provided by a health care insurer under this section are considered accrued medical benefits provided to a claimant for purposes of Section 410.168(a)(3). A hearing officer may award the health care insurer, as a subclaimant, all or part of the subclaim and may order the insurance carrier to pay the subclaim as part of a dispute adjudication process under Chapter 410.

(c) A subclaimant is not required to seek reimbursement from a health care provider or the subclaimant's insured.

(d) It is not a defense to a subclaimant's request for reimbursement in a contested case hearing under Chapter 410 or an arbitration proceeding that:

1 (1) the subclaimant:

2 (A) has not sought reimbursement from a health
3 care provider or the subclaimant's insured; or

4 (B) did not seek preauthorization under Section
5 413.014 or rules adopted under that section; or

6 (2) the health care provider did not bill the workers'
7 compensation insurance carrier before the first anniversary of the
8 date the services paid for by the subclaimant were provided.

9 SECTION 2. Section 410.104, Labor Code, is amended by
10 adding Subsection (b-1) to read as follows:

11 (b-1) Notwithstanding Subsections (a) and (b), in a dispute
12 that does not involve compensability, extent of injury, or
13 eligibility for or the amount of income or death benefits, a
14 subclaimant and the insurance carrier shall arbitrate the dispute.
15 The arbitration may proceed under this subchapter or Chapter 171,
16 Civil Practice and Remedies Code. If the arbitration proceeding is
17 conducted under this subchapter, a benefit review conference under
18 Subchapter B is not a prerequisite. The commissioner shall
19 prescribe any necessary form for that purpose.

20 SECTION 3. Section 171.002(a), Civil Practice and Remedies
21 Code, is amended to read as follows:

22 (a) This chapter does not apply to:

23 (1) a collective bargaining agreement between an
24 employer and a labor union;

25 (2) an agreement for the acquisition by one or more
26 individuals of property, services, money, or credit in which the
27 total consideration to be furnished by the individual is not more

1 than \$50,000, except as provided by Subsection (b);

2 (3) a claim for personal injury, except as provided by
3 Subsection (c);

4 (4) a claim for workers' compensation benefits, other
5 than a subclaim as described by Section 410.104(b-1), Labor Code;
6 or

7 (5) an agreement made before January 1, 1966.

8 SECTION 4. The change in law made by this Act applies only
9 to a subclaim based on a workers' compensation claim filed under
10 Chapter 409, Labor Code, on or after September 1, 2002. A subclaim
11 based on a claim filed before that date is governed by the law in
12 effect on the date the claim was filed, and the former law is
13 continued in effect for that purpose.

14 SECTION 5. This Act takes effect September 1, 2007.