

By: Zedler

H.B. No. 1940

A BILL TO BE ENTITLED

AN ACT

relating to the resolution of certain medical disputes regarding workers' compensation claims.

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

SECTION 1. Section 413.031, Labor Code, is amended by amending Subsection (k) and adding Subsections (k-1), (k-2), and (k-3) to read as follows:

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

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

(k-2) The division and the department are not considered to be parties to the medical dispute for purposes of Subsections (k)

1 and (k-1) [this subsection. Judicial review under this subsection
2 shall be conducted in the manner provided for judicial review of
3 contested cases under Subchapter G, Chapter 2001, Government Code].

4 (k-3) An insurance carrier that is found after judicial
5 review under Subsection (k-1) to have wrongfully or negligently
6 contested a payment to a health care provider for a health care
7 service provided under this subtitle is liable for the costs of the
8 litigation, including attorney's fees. This subsection does not
9 apply to attorney's fees for which an insurance carrier may be
10 liable under Subchapter L, Chapter 408, or Chapter 410.

11 SECTION 2. The change in law made by this Act applies only
12 to a claim for workers' compensation benefits based on a
13 compensable injury that occurs on or after the effective date of
14 this Act. A claim based on a compensable injury that occurs before
15 that date is governed by the law in effect on the date that the
16 compensable injury occurred, and the former law is continued in
17 effect for that purpose.

18 SECTION 3. This Act takes effect September 1, 2007.