

By: Davis of Dallas

H.B. No. 2519

A BILL TO BE ENTITLED

AN ACT

1
2 relating to transition-to-work benefits under the workers'
3 compensation system for certain employees who have incurred a
4 compensable injury.

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

6 SECTION 1. Chapter 408, Labor Code, is amended by adding
7 Subchapter M to read as follows:

8 SUBCHAPTER M. TRANSITION-TO-WORK BENEFITS

9 Sec. 408.301. TRANSITION-TO-WORK BENEFITS.

10 Notwithstanding any other provision of this subtitle or other law,
11 the insurance carrier of an employer who elects to obtain workers'
12 compensation insurance coverage shall pay transition-to-work
13 income benefits in accordance with this subchapter.

14 Sec. 408.302. AWARD OF TRANSITION-TO-WORK BENEFITS;

15 APPLICATION; ORDER. (a) The commissioner may award
16 transition-to-work income benefits to an employee who:

17 (1) has exhausted eligibility for supplemental income
18 benefits under Subchapter H; and

19 (2) complies with the requirements of this subchapter.

20 (b) An applicant for benefits under this subchapter must
21 apply for the benefits in the manner prescribed by the division.

22 (c) After review of an application for benefits under this
23 section, the commissioner shall issue an order requiring payment of
24 the benefits to an employee determined to be eligible under this

1 subchapter.

2 Sec. 408.303. WORK SEARCH COMPLIANCE STANDARDS. The
3 commissioner by rule shall adopt compliance standards for
4 transition-to-work income benefit recipients that require each
5 recipient to demonstrate an active effort to obtain employment.
6 The commissioner shall set the compliance standards by rule.
7 Compliance standards under this section must be at least as
8 stringent as the standards adopted under Section 408.1415.

9 Sec. 408.304. ENTITLEMENT TO TRANSITION-TO-WORK INCOME
10 BENEFITS; PAYMENT BY INSURANCE CARRIER. (a) An employee is
11 entitled to transition-to-work income benefits only if the
12 employee:

13 (1) has received supplemental income benefits;

14 (2) ceases to be eligible for those benefits or for
15 reinitiation of those benefits under Section 408.146;

16 (3) has an impairment rating of 15 percent or more as
17 determined by this subtitle from the compensable injury;

18 (4) has not returned to work or has returned to work
19 earning less than 80 percent of the employee's average weekly wage
20 as a direct result of the employee's impairment;

21 (5) has not elected to commute a portion of the
22 impairment income benefit under Section 408.128; and

23 (6) has complied with the requirements adopted under
24 Section 408.303.

25 (b) An insurance carrier shall pay transition-to-work
26 income benefits beginning not later than the seventh day after the
27 date of the commissioner's order under Section 408.302, and shall

1 continue to pay the benefits in a timely manner. Benefits under
2 this subchapter are:

3 (1) computed in the manner prescribed by Section
4 408.144(b) for supplemental income benefits; and

5 (2) computed quarterly and paid monthly.

6 Sec. 408.305. TERMINATION OF BENEFITS. Eligibility for
7 benefits under this subchapter terminates on a determination by the
8 commissioner that the benefit recipient no longer meets the
9 requirements prescribed under Section 408.304(a).

10 Sec. 408.306. CONTEST OF BENEFITS BY INSURANCE CARRIER;
11 ATTORNEY'S FEES. (a) An insurance carrier may request a benefit
12 review conference to contest an employee's entitlement to
13 transition-to-work income benefits or the amount of
14 transition-to-work income benefits.

15 (b) If an insurance carrier fails to make a request for a
16 benefit review conference not later than the 10th day after the date
17 of the commissioner's order under Section 408.302(c), the insurance
18 carrier waives the right to contest entitlement to
19 transition-to-work income benefits and the amount of
20 transition-to-work income benefits.

21 (c) If an insurance carrier disputes the commissioner's
22 order determining that an employee is entitled to
23 transition-to-work income benefits or the amount of
24 transition-to-work income benefits due and the employee prevails on
25 any disputed issue, the insurance carrier is liable for reasonable
26 and necessary attorney's fees incurred by the employee as a result
27 of the insurance carrier's dispute and for transition-to-work

1 income benefits accrued but not paid and interest on that amount,
2 according to Section 408.064. Attorney's fees awarded under this
3 subsection are not subject to Sections 408.221(b), (f), and (i).

4 SECTION 2. The change in law made by this Act applies only
5 to a claim for workers' compensation benefits based on a
6 compensable injury that occurs on or after the effective date of
7 this Act. A claim based on a compensable injury that occurs before
8 that date is governed by the law in effect on the date that the
9 compensable injury occurred, and the former law is continued in
10 effect for that purpose.

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