

BILL ANALYSIS

C.S.H.B. 4371
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Business & Industry
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Under current law, if an injured worker fails to attend a designated doctor's examination or required medical examination without good cause, the insurance carrier is entitled to suspend temporary income benefits (TIBs). The insurance carrier is required to reinstate TIBs if the appointment is rescheduled and the injured worker attends the appointment.

The use of designated doctors has grown as a result of the 2005 workers' compensation reforms. Designated doctors are used in more cases, often when an injured worker is no longer entitled to TIBs but may be entitled to other income benefits. In some cases, injured workers have refused to attend a designated doctor examination, and, because the injured worker was not receiving TIBs, the insurance carrier was unable to suspend benefits. In such a case, an insurance carrier may be required to pay benefits to which the injured worker is no longer entitled. Measures need to be taken to protect the integrity of the designated doctor process by encouraging the injured employee to attend the scheduled examination. This bill would resolve this issue and be consistent with the 2005 workers' compensation reforms.

C.S.H.B. 4371 authorizes an insurance carrier to suspend any workers' compensation income benefits if an injured worker fails to submit to a required doctor examination without good cause.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 4371 amends the Labor Code to authorize an injured employee's insurance carrier to suspend the payment of any workers' compensation income benefits, rather than temporary income benefits, during and for a period in which the employee fails to submit without good cause to a required doctor examination that is requested by an insurance carrier or ordered by the commissioner of workers' compensation. The bill removes language providing that an employee is not entitled to temporary income benefits during and for such period unless the commissioner determines that the employee had good cause for such failure. The bill removes language authorizing the commissioner to order temporary income benefits to be paid for the period for which the commissioner determined that the employee had good cause to fail to submit to a required examination.

C.S.H.B. 4371 requires the commissioner to order income benefits to be paid to an injured employee after the employee attends a rescheduled examination if the employee is otherwise entitled to income benefits and requires such benefits to be paid retroactive to the date of suspension of the benefits, if the employee had good cause for the failure to attend a required examination, or the earlier of the seventh day after the date of the suspension of the benefits or the date on which the rescheduled examination occurs.

C.S.H.B. 4371 repeals Section 408.0041(k), Labor Code, and incorporates that provision in another provision of the same statute.

EFFECTIVE DATE

On passage, or, if the act does not receive the necessary vote, the act takes effect September 1, 2009.

COMPARISON OF ORIGINAL AND SUBSTITUTE

C.S.H.B. 4371 differs from the original by repealing a subsection relating to the payment of temporary income benefits after an employee has reached maximum medical improvement or is otherwise ready to return to work and inserting that subsection's content into another subsection in the substitute.

C.S.H.B. 4371 differs from the original by removing from current law language specifying that an employee is not entitled to temporary income benefits during and for a period in which the employee fails to submit to a required doctor examination, whereas the original retains that language. The substitute differs from the original by removing reference to the commissioner's role in making the determination of good cause for failing to submit to such an examination, whereas the original retains that language.

C.S.H.B. 4371 differs from the original by removing an existing statutory provision authorizing the commissioner to order temporary income benefits to be paid for the period for which the commissioner determined that the employee had good cause to fail to submit to such an examination, which the original retains. The substitute instead adds a provision not in the original requiring the commissioner to order income benefits to be paid to an injured employee after the employee attends a rescheduled examination if the employee is otherwise entitled to income benefits, and requiring such benefits to be paid retroactive to the date of suspension of the benefits, if the employee had good cause for the failure to attend a required examination, or the earlier of the seventh day after the date of the suspension of the benefits or the date on which the rescheduled examination occurs.