

By: Van de Putte

S.B. No. 1814

A BILL TO BE ENTITLED

AN ACT

relating to return-to-work coordination services and a return-to-work reimbursement program for employers participating in the workers' compensation system.

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

SECTION 1. Subsection (a), Section 413.021, Labor Code, is amended to read as follows:

(a) An insurance carrier shall, with the agreement of a participating employer, provide the employer with return-to-work coordination services on an ongoing basis as necessary to facilitate an employee's return to employment, including on receipt of a notice that an injured employee is eligible to receive temporary income benefits. The insurance carrier shall notify the employer of the availability of the return-to-work reimbursement program under Section 413.022 [~~coordination services~~]. [~~In offering the services, insurance carriers and the division shall target employers without return-to-work programs and shall focus return-to-work efforts on workers who begin to receive temporary income benefits.~~] The insurance carrier shall evaluate a compensable injury in which the injured employee sustains an injury that could potentially result in lost time from employment as early as practicable to determine if skilled case management is necessary for the injured employee's case. As necessary, case managers who are appropriately certified [~~licensed to practice in this state~~]

1 shall be used to perform these evaluations. A claims adjuster may
2 not be used as a case manager. These services may be offered by
3 insurance carriers in conjunction with the accident prevention
4 services provided under Section 411.061. Nothing in this section
5 supersedes the provisions of a collective bargaining agreement
6 between an employer and the employer's employees, and nothing in
7 this section authorizes or requires an employer to engage in
8 conduct that would otherwise be a violation of the employer's
9 obligations under the National Labor Relations Act (29 U.S.C.
10 Section 151 et seq.).

11 SECTION 2. The heading to Section 413.022, Labor Code, is
12 amended to read as follows:

13 Sec. 413.022. RETURN-TO-WORK REIMBURSEMENT ~~[PILOT]~~ PROGRAM
14 FOR ~~[SMALL]~~ EMPLOYERS; FUND.

15 SECTION 3. Subsection (a), Section 413.022, Labor Code, is
16 amended by amending Subdivision (2) and adding Subdivision (3) to
17 read as follows:

18 (2) "Eligible employer" means any employer, other than
19 this state or a political subdivision subject to Subtitle C, who
20 ~~[employs at least two but not more than 50 employees on each~~
21 ~~business day during the preceding calendar year and who]~~ has
22 workers' compensation insurance coverage and who:

23 (A) employed at least two but not more than 50
24 employees on each business day during the preceding calendar year;
25 or

26 (B) is a type of employer designated as eligible
27 to participate in the program by the commissioner.

1 (3) "Program" means the return-to-work reimbursement
2 program established under this section.

3 SECTION 4. Subsections (b), (c), (c-1), and (g), Section
4 413.022, Labor Code, are amended to read as follows:

5 (b) The commissioner shall establish by rule a
6 return-to-work reimbursement [~~pilot~~] program designed to promote
7 the early and sustained return to work of an injured employee who
8 sustains a compensable injury. The commissioner, by rule, may
9 expand eligibility to participate in the program to types of
10 employers who are not described by Subsection (a)(2)(A).

11 (c) The [~~pilot~~] program shall reimburse from the account an
12 eligible employer for expenses incurred by the employer to make
13 workplace modifications necessary to accommodate an injured
14 employee's return to modified or alternative work. Reimbursement
15 under this section to an eligible employer may not exceed \$5,000
16 [~~\$2,500~~]. The expenses must be incurred to allow the employee to
17 perform modified or alternative work within doctor-imposed work
18 restrictions. Allowable expenses may include:

- 19 (1) physical modifications to the worksite;
20 (2) equipment, devices, furniture, or tools; and
21 (3) other costs necessary for reasonable
22 accommodation of the employee's restrictions.

23 (c-1) The commissioner by rule shall establish an optional
24 preauthorization plan for eligible employers who participate in the
25 [~~pilot~~] program. To participate in the preauthorization plan, an
26 employer must submit a proposal to the division, in the manner
27 prescribed by the division, that describes the workplace

1 modifications and other changes that the employer proposes to make
2 to accommodate an injured employee's return to work. If the
3 division approves the employer's proposal, the division shall
4 guarantee reimbursement of the expenses incurred by the employer in
5 implementing the modifications and changes from the account unless
6 the division determines that the modifications and changes differ
7 materially from the employer's proposal. If determined to be a
8 public purpose by the commissioner, and in accordance with rules
9 adopted by the commissioner, the division may provide the employer
10 an advance of funds under this subsection. Reimbursement or an
11 advance of funds under this subsection is subject to the limit
12 imposed under Subsection (c).

13 (g) The commissioner shall adopt rules as necessary to
14 implement this [~~This~~] section [~~expires September 1, 2009~~].

15 SECTION 5. This Act takes effect immediately if it receives
16 a vote of two-thirds of all the members elected to each house, as
17 provided by Section 39, Article III, Texas Constitution. If this
18 Act does not receive the vote necessary for immediate effect, this
19 Act takes effect September 1, 2009.