

BILL ANALYSIS

H.B. 2787
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Business & Industry
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Interested parties contend that injured employees do not currently have adequate access to affordable legal representation to help protect their right to medical benefits when contested in court because the Office of Injured Employee Counsel is not allowed to provide legal representation to injured employees in appeals to the judicial system, and the three largest legal aid clinics in Texas do not take workers' compensation cases. Under current law, when an insurance carrier seeks judicial review of a workers' compensation decision regarding income benefits, the insurance carrier is liable for attorney's fees incurred by the injured employee if the insurance carrier loses its appeal. However, observers note that there is no such provision for cases regarding medical necessity disputes.

H.B. 2787 seeks to help injured employees secure the services of an attorney and access to the courts to protect their right to necessary medical benefits by making an insurance carrier liable for attorney's fees if an injured employee prevails on judicial review of a medical necessity dispute.

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

H.B. 2787 amends the Labor Code to establish that, if a claimant in a workers' compensation case prevails on judicial review of a medical necessity dispute, the insurance carrier is liable for reasonable and necessary attorney's fees incurred by the injured employee during judicial review. The bill requires the court, if the claimant appeals multiple issues and prevails on some but not all of the issues appealed, to apportion and award fees to the claimant's attorney only for the issues on which the claimant prevails. The bill requires the court, in making that apportionment, to consider certain factors specified in provisions of law relating to attorney's fees paid to a claimant's counsel. The bill exempts an award of attorney's fees under the bill's provisions from commissioner of workers' compensation rules relating to maximum attorney's fees.

EFFECTIVE DATE

September 1, 2013.