

By: Smithee

H.B. No. 2787

A BILL TO BE ENTITLED

AN ACT

relating to the amount and payment of attorney's fees in certain workers' compensation cases.

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

SECTION 1. Section 408.221, Labor Code, is amended by amending Subsections (b) and (i) and adding Subsection (c-1) to read as follows:

(b) Except as otherwise provided, an attorney's fee under this section is based on the attorney's time and expenses according to written evidence presented to the division or court. Except as provided by Subsection (c) or (c-1) or Section 408.147(c), the attorney's fee shall be paid from the claimant's recovery.

(c-1) If a claimant prevails on judicial review of a medical necessity dispute under Subchapter C, Chapter 413, the insurance carrier is liable for reasonable and necessary attorney's fees incurred by the injured employee during judicial review. If the claimant appeals multiple issues and prevails on some, but not all, of the issues appealed, the court shall apportion and award fees to the claimant's attorney only for the issues on which the claimant prevails. In making that apportionment, the court shall consider the factors prescribed by Subsection (d). An award of attorney's fees under this subsection is not subject to commissioner rules adopted under Subsection (f).

(i) Except as provided by Subsection (c) or (c-1) or Section

1 408.147(c), an attorney's fee may not exceed 25 percent of the
2 claimant's recovery.

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

10 SECTION 3. This Act takes effect September 1, 2013.