

BILL ANALYSIS

Senate Research Center

H.B. 2702
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Designated doctors are independent doctors certified by the Division of Workers' Compensation to advocate for the needs of injured or sick workers across the state. As of February 2023, there were 238 designated doctors in the program, but this number has been steadily decreasing over the past several years, which poses a threat to the program's future. The main reason for this is that most of the designated doctor fee schedule was set in 2003 and has not been updated to reflect inflation.

Furthermore, designated doctors used to receive a \$100 no-show fee if an injured worker failed to attend a schedule examination; however, these fees were eliminated. This means a designated doctor could drive 50 miles to an injured worker's hometown, rent a temporary office space to conduct an examination, and ultimately receive zero compensation if the injured worker fails to arrive for the exam. This means the designated doctor will incur expenses without pay.

H.B. 2702 would provide for the adjustment of payments associated with certain medical examinations under the workers' compensation system of the Texas Workers' Compensation Act.

H.B. 2702 amends current law relating to payments associated with certain medical examinations under the workers' compensation system and imposes a fee.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the commissioner of workers' compensation in SECTION 2 (Section 408.00411, Labor Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 408.0041(h), Labor Code, as follows:

(h) Requires the insurance carrier, in accordance with the adjusted payment amounts prescribed by the commissioner of workers' compensation (commissioner) under Section 408.00411, to pay:

(1) makes nonsubstantive changes to this subdivision; or

(2) if an employee fails or refuses to appear at the time and place scheduled for an examination under Subsection (a) (relating to authorizing the commissioner to order a medical examination to resolve any question about certain topics) or (f) (relating to requiring the insurance carrier to pay benefits based on the opinion of the designated doctor during the pendency of any dispute) without good cause as determined by the commissioner, a fee set by the commissioner in an amount not less than \$100 to the designated doctor or doctor selected by the insurance carrier, as applicable.

Makes nonsubstantive changes.

SECTION 2. Amends Subchapter A, Chapter 408, Labor Code, by adding Section 408.00411, as follows:

Sec. 408.00411. ADJUSTMENT OF CERTAIN EXAMINATION FEES AND EXAMINATION NO-SHOW FEES. (a) Requires the commissioner, not later than January 31 of each year beginning with the year 2025, to adjust for inflation, in accordance with rules adopted under Subsection (b), the amounts required to be paid by an insurance carrier:

(1) for a medical examination conducted under Section 408.004 or 408.0041(a), (f), or (f-2) (relating to authorizing an employee required to be examined by a designated doctor to request a medical examination to determine certain information in certain circumstances);

(2) for a medical examination conducted to determine or resolve any question about the impairment caused by the compensable injury or the attainment of maximum medical improvement; and

(3) as a fee under Section 408.0041(h)(2) for the failure or refusal of an employee to appear at the time and place scheduled for a medical examination to which that subdivision applies.

(b) Requires the commissioner, subject to Section 413.011 (Reimbursement Policies and Guidelines; Treatment Guidelines and Protocols), to adopt rules as necessary to implement this section, including rules providing for the computation of the amount of an adjustment under Subsection (a), which are authorized to provide for determining the amount of the adjustment using the Medicare Economic Index.

(c) Requires the commissioner, notwithstanding any other provision of this section, not later than January 31, 2024, to adjust for inflation, in accordance with this subsection, the amounts required to be paid by an insurance carrier for a medical examination described by Subsection (a)(1) or (2). Requires the commissioner to compute the amount of the adjustment based on the percentage increase, if any, in the Medicare Economic Index for the period beginning on the date that the fee was initially adopted or last adjusted by the commissioner, as applicable, and ending January 1, 2024. Provides that this subsection expires January 1, 2025.

SECTION 3. Requires the commissioner, not later than April 1, 2024, to set the initial amount of the fee under Section 408.0041(h)(2), Labor Code, as added by this Act.

SECTION 4. Requires the commissioner, not later than April 1, 2024, to adopt rules to implement Section 408.00411, Labor Code, as added by this Act.

SECTION 5. Makes application of the changes in law made by this Act to Section 408.0041, Labor Code, prospective to March 1, 2024.

SECTION 6. Effective date: September 1, 2023.