88R20088 KKR-F

By:  Patterson, Longoria, Frazier, Thimesch, H.B. No. 790

     Isaac

Substitute the following for H.B. No. 790:

By:  Vasut C.S.H.B. No. 790

A BILL TO BE ENTITLED

AN ACT

relating to the processes for and the adjudication and payment of certain claims under the workers' compensation system.

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

SECTION 1.  Section 408.0042, Labor Code, is amended by amending Subsections (a), (c), (d), (e), and (f) and adding Subsection (a-1) to read as follows:

(a)  Subject to Subsection (a-1), the [~~The~~] division shall require an injured employee to submit to a single medical examination to define the compensable injury on request by the insurance carrier.

(a-1)  In this subsection, the terms "custodial officer," "detention officer," "emergency medical technician," "firefighter," and "peace officer" have the meanings assigned by Section 607.051, Government Code. On request by an injured employee who is a custodial officer, a detention officer, an emergency medical technician, a firefighter, or a peace officer, the division may authorize the performance of a medical examination to define the compensable injury, regardless of whether an examination under Subsection (a) was previously performed.

(c)  After a [~~the~~] medical examination is performed under Subsection (a) or (a-1), the treating doctor shall submit to the insurance carrier a report that details all injuries and diagnoses related to the compensable injury, on receipt of which the insurance carrier shall:

(1)  accept all injuries and diagnoses as related to the compensable injury; or

(2)  dispute the determination of specific injuries and diagnoses.

(d)  Any treatment for an injury or diagnosis that is not accepted by the insurance carrier under Subsection (c) as compensable at the time of the medical examination under Subsection (a) or (a-1) must be preauthorized before treatment is rendered. If the insurance carrier denies preauthorization because the treatment is for an injury or diagnosis unrelated to the compensable injury, the injured employee or affected health care provider may file an extent of injury dispute.

(e)  Any treatment for an injury or diagnosis that is accepted by the insurance carrier under Subsection (c) as compensable at the time of the medical examination under Subsection (a) or (a-1) may not be reviewed for compensability, but may be reviewed for medical necessity.

(f)  The commissioner may adopt rules relating to requirements for:

(1)  a request for an examination under Subsection (a) or (a-1); or

(2)  a report under this section, including requirements regarding the contents of a report.

SECTION 2.  Section 409.021, Labor Code, is amended by amending Subsection (a-1) and adding Subsection (a-4) to read as follows:

(a-1)  An insurance carrier that fails to comply with Subsection (a) or (a-4) does not waive the carrier's right to contest the compensability of the injury as provided by Subsection (c) but commits an administrative violation subject to Subsection (e).

(a-4)  In this subsection, the terms "custodial officer," "detention officer," "emergency medical technician," "firefighter," and "peace officer" have the meanings assigned by Section 607.051, Government Code. Notwithstanding any other provision of this title, if an insurance carrier fails to begin payment or provide notice as required by Subsection (a) on or before the 60th day after the date the carrier receives written notice of an injury of a custodial officer, a detention officer, an emergency medical technician, a firefighter, or a peace officer, the carrier waives its right to contest the extent of the injury specifically claimed by the employee or reasonably reflected in the employee's medical records available to the carrier for review during that time period.

SECTION 3.  Section 409.022, Labor Code, is amended by adding Subsections (c-1) and (c-2) and amending Subsection (d) to read as follows:

(c-1)  For purposes of [~~(d)  In~~] this section [~~subsection~~], the terms "custodial officer," "detention officer," "emergency medical technician," "firefighter," and "peace officer" have the meanings assigned by Section 607.051, Government Code.

(c-2)  In addition to the other requirements of this section, an insurance carrier's notice of refusal to pay benefits under Section 409.021 sent in response to a claim for compensation by an injured employee who is a custodial officer, a detention officer, an emergency medical technician, a firefighter, or a peace officer must include a statement by the carrier that:

(1)  for purposes of Subsection (a), includes the specific reasons why the carrier is disputing the compensability of the injury or the extent of injury; and

(2)  describes the evidence that the carrier reviewed in making the determination to dispute the issue under Subdivision (1).

(d)  In addition to the other requirements of this section, if an insurance carrier's notice of refusal to pay benefits under Section 409.021 is sent in response to a claim for compensation resulting from a custodial officer's, a detention officer's, an emergency medical technician's, a firefighter's, or a peace officer's disability or death for which a presumption is claimed to be applicable under Subchapter B, Chapter 607, Government Code, the notice must include a statement by the carrier that:

(1)  explains why the carrier determined a presumption under that subchapter does not apply to the claim for compensation; and

(2)  describes the evidence that the carrier reviewed in making the determination described by Subdivision (1).

SECTION 4.  Section 410.005(a), Labor Code, is amended to read as follows:

(a)  A [~~Unless the division determines that good cause exists for the selection of a different location, a~~] contested case hearing may not be conducted at a site more than 75 miles from the claimant's residence at the time of the injury unless:

(1)  the division determines that good cause exists for the selection of a different location; or

(2)  the contested case hearing is conducted by videoconference as provided by Section 410.0055.

SECTION 5.  Subchapter A, Chapter 410, Labor Code, is amended by adding Section 410.0055 to read as follows:

Sec. 410.0055.  CONDUCTING CERTAIN CONTESTED CASE HEARINGS BY VIDEOCONFERENCE. (a) In this section, the terms "custodial officer," "detention officer," "emergency medical technician," "firefighter," and "peace officer" have the meanings assigned by Section 607.051, Government Code.

(b)  The division shall conduct a contested case hearing by videoconference on request of:

(1)  an injured employee who is a custodial officer, a detention officer, an emergency medical technician, a firefighter, or a peace officer; or

(2)  the attorney of an injured employee described by Subdivision (1).

SECTION 6.  Subchapter D, Chapter 410, Labor Code, is amended by adding Section 410.170 to read as follows:

Sec. 410.170.  EFFECT OF DECISION: REIMBURSEMENT OF CERTAIN MEDICAL EXPENSES. (a) In this section, the terms "custodial officer," "detention officer," "emergency medical technician," "firefighter," and "peace officer" have the meanings assigned by Section 607.051, Government Code.

(b)  Notwithstanding the amount of an award of benefits due in a written decision by an administrative law judge under Section 410.168, an insurance carrier shall reimburse an injured employee who is a custodial officer, a detention officer, an emergency medical technician, a firefighter, or a peace officer for all medical expenses incurred by the employee that are related to the specific injury claimed by the employee if:

(1)  the carrier denied the employee's claim for medical benefits on or before the 60th day after the carrier had reasonable notice of the specific injury claimed by the employee;

(2)  the decision of the administrative law judge includes a determination that the injury is compensable; and

(3)  the decision of the administrative law judge is not appealed to the appeals panel and becomes final.

SECTION 7.  Subchapter E, Chapter 410, Labor Code, is amended by adding Section 410.2051 to read as follows:

Sec. 410.2051.  EFFECT OF DECISION: REIMBURSEMENT OF CERTAIN MEDICAL EXPENSES. (a) In this section, the terms "custodial officer," "detention officer," "emergency medical technician," "firefighter," and "peace officer" have the meanings assigned by Section 607.051, Government Code.

(b)  An insurance carrier shall directly reimburse an injured employee who is a custodial officer, a detention officer, an emergency medical technician, a firefighter, or a peace officer for all medical expenses incurred by the employee that are related to the specific injury claimed by the employee if:

(1)  the carrier denied the employee's claim for medical benefits on or before the 60th day after the carrier had reasonable notice of the specific injury claimed by the employee; and

(2)  either:

(A)  the administrative law judge's determination that benefits are owed becomes final without an appeal; or

(B)  the appeals panel:

(i)  affirms the administrative law judge's determination that the benefits are owed; or

(ii)  reverses the administrative law judge's determination that the benefits are not owed.

(c)  If the appeals panel affirms the administrative law judge's determination that the benefits are owed, the insurance carrier shall directly reimburse the employee for all medical expenses incurred by the employee that are related to the specific injury claimed by the employee, regardless of the amount of an award of benefits due in the written decision by the administrative law judge under Section 410.168.

(d)  The insurance carrier must reimburse the injured employee under Subsection (b), regardless of whether the appeals panel's decision is appealed for judicial review.

SECTION 8.  (a) Except as provided by Subsection (b) of this section, the changes in law made by this Act apply only to a claim for workers' compensation benefits based on a compensable injury that occurs on or after the effective date of this Act. A claim based on a compensable injury that occurs before that date is governed by the law as it existed on the date the compensable injury occurred, and the former law is continued in effect for that purpose.

(b)  Section 410.0055, Labor Code, as added by this Act, applies to a contested case hearing held on or after the effective date of this Act.

SECTION 9.  This Act takes effect September 1, 2023.