By:  Guillen (Senate Sponsor - Menéndez) H.B. No. 2702

(In the Senate - Received from the House May 12, 2023; May 12, 2023, read first time and referred to Committee on Business & Commerce; May 21, 2023, reported favorably by the following vote: Yeas 9, Nays 1; May 21, 2023, sent to printer.)

COMMITTEE VOTE

                    Yea Nay Absent  PNV

Schwertner           X

King                 X

Birdwell             X

Campbell             X

Creighton                      X

Johnson              X

Kolkhorst                X

Menéndez             X

Middleton            X

Nichols              X

Zaffirini            X

A BILL TO BE ENTITLED

AN ACT

relating to payments associated with certain medical examinations under the workers' compensation system; imposing a fee.

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

SECTION 1.  Section 408.0041(h), Labor Code, is amended to read as follows:

(h)  In accordance with the adjusted payment amounts prescribed by the commissioner under Section 408.00411, the [~~The~~] insurance carrier shall pay [~~for~~]:

(1)  for:

(A)  an examination required under Subsection (a), (f), or (f-2), unless otherwise prohibited by this subtitle or by an order or rule of the commissioner; and

(B) [~~(2)~~]  the reasonable expenses incident to the employee in submitting to the examination; or

(2)  if an employee fails or refuses to appear at the time and place scheduled for an examination under Subsection (a) or (f) 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.

SECTION 2.  Subchapter A, Chapter 408, Labor Code, is amended by adding Section 408.00411 to read as follows:

Sec. 408.00411.  ADJUSTMENT OF CERTAIN EXAMINATION FEES AND EXAMINATION NO-SHOW FEES. (a) Not later than January 31 of each year beginning with the year 2025, the commissioner shall 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);

(2)  for a medical examination conducted to determine or resolve any question about:

(A)  the impairment caused by the compensable injury; or

(B)  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)  Subject to Section 413.011, the commissioner shall adopt rules as necessary to implement this section, including rules providing for the computation of the amount of an adjustment under Subsection (a), which may provide for determining the amount of the adjustment using the Medicare Economic Index.

(c)  Notwithstanding any other provision of this section, not later than January 31, 2024, the commissioner shall 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). The commissioner shall 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. This subsection expires January 1, 2025.

SECTION 3.  Not later than April 1, 2024, the commissioner of workers' compensation shall set the initial amount of the fee under Section 408.0041(h)(2), Labor Code, as added by this Act.

SECTION 4.  Not later than April 1, 2024, the commissioner of workers' compensation shall adopt rules to implement Section 408.00411, Labor Code, as added by this Act.

SECTION 5.  The changes in law made by this Act to Section 408.0041, Labor Code, apply only to a medical examination that occurs or is scheduled to occur, as applicable, on or after March 1, 2024. A medical examination that occurs or is scheduled to occur, as applicable, before that date is governed by the law as it existed immediately before the effective date of this Act, and the former law is continued in effect for that purpose.

SECTION 6.  This Act takes effect September 1, 2023.

\* \* \* \* \*