By:  Turner, Patterson, Neave Criado, Frazier H.B. No. 2926

A BILL TO BE ENTITLED

AN ACT

relating to certain claims for benefits or compensation by certain public safety employees and survivors of certain public safety employees.

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

SECTION 1.  Section 607.0545(e), Government Code, is amended to read as follows:

(e)  This section expires September 1, 2025 [~~2023~~].

SECTION 2.  Subchapter B, Chapter 607, Government Code, is amended by adding Section 607.05451 to read as follows:

Sec. 607.05451.  REPROCESSING DENIED CLAIMS REQUIRED. (a) In this section, "insurance carrier" has the meaning assigned by Section 401.011, Labor Code.

(b)  Notwithstanding any other law, an insurance carrier who, before June 14, 2021, denied a claim for benefits related to severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2) or coronavirus disease 2019 (COVID-19) for a person subject to Section 607.0545 or the person's beneficiary shall reprocess the denied claim without a written request and apply the provisions of Section 607.0545 when reprocessing the claim.

(c)  Notwithstanding Subsection (b), an insurance carrier is not required to reprocess a claim the insurance carrier has previously reprocessed in accordance with Chapter 505 (S.B. 22), Acts of the 87th Legislature, Regular Session, 2021.

(d)  Not later than October 31, 2023, an insurance carrier shall:

(1)  reprocess each denied claim as required by Subsection (b); and

(2)  notify the person in writing whether the insurance carrier accepted or denied the claim.

(e)  If the insurance carrier denies a reprocessed claim, the denial notice must include information on the process for disputing the denial. The insurance carrier shall use the notice prescribed by the division of workers' compensation of the Texas Department of Insurance.

(f)  The commissioner of workers' compensation shall adopt any rules necessary to implement this section.

(g)  This section expires December 31, 2023.

SECTION 3.  Sections 409.0092(a) and (d), Labor Code, are amended to read as follows:

(a)  An injured employee who is subject to Subchapter B, Chapter 607 [~~Section 607.0545~~], Government Code, and whose claim for benefits is determined to be compensable by an insurance carrier or the division, may request reimbursement for health care paid by the employee, including copayments and partial payments, by submitting to the carrier a legible written request and documentation showing the amounts paid to the health care provider.

(d)  A person who has legal authority to act on behalf of an injured employee or that employee's estate may submit a request for reimbursement for health care in accordance with Subsection (a) or a request for medical dispute resolution in accordance with Subsection (c) [~~This section expires September 1, 2023~~].

SECTION 4.  Section 415.002, Labor Code, is amended by amending Subsection (a) and adding Subsection (c) to read as follows:

(a)  An insurance carrier or its representative commits an administrative violation if that person:

(1)  misrepresents a provision of this subtitle or Subchapter B, Chapter 607, Government Code, to an employee, an employer, a health care provider, or a legal beneficiary;

(2)  terminates or reduces benefits without substantiating evidence that the action is reasonable and authorized by law;

(3)  instructs an employer not to file a document required to be filed with the division;

(4)  instructs or encourages an employer to violate a claimant's right to medical benefits under this subtitle;

(5)  fails to tender promptly full death benefits if a legitimate dispute does not exist as to the liability of the insurance carrier;

(6)  allows an employer, other than a self-insured employer, to dictate the methods by which and the terms on which a claim is handled and settled;

(7)  fails to confirm medical benefits coverage to a person or facility providing medical treatment to a claimant if a legitimate dispute does not exist as to the liability of the insurance carrier;

(8)  fails, without good cause, to attend a dispute resolution proceeding within the division;

(9)  attends a dispute resolution proceeding within the division without complete authority or fails to exercise authority to effectuate agreement or settlement;

(10)  adjusts a workers' compensation claim in a manner contrary to license requirements for an insurance adjuster, including the requirements of Chapter 4101, Insurance Code, or the rules of the commissioner of insurance;

(11)  fails to process claims promptly in a reasonable and prudent manner;

(12)  fails to initiate or reinstate benefits when due if a legitimate dispute does not exist as to the liability of the insurance carrier;

(13)  misrepresents the reason for not paying benefits or terminating or reducing the payment of benefits;

(14)  dates documents to misrepresent the actual date of the initiation of benefits;

(15)  makes a notation on a draft or other instrument indicating that the draft or instrument represents a final settlement of a claim if the claim is still open and pending before the division;

(16)  fails or refuses to pay benefits from week to week as and when due directly to the person entitled to the benefits;

(17)  fails to pay an order awarding benefits;

(18)  controverts a claim if the evidence clearly indicates liability;

(19)  unreasonably disputes the reasonableness and necessity of health care;

(20)  violates a commissioner rule;

(21)  makes a statement denying all future medical care for a compensable injury; [~~or~~]

(22)  fails to apply a statutory presumption to a claim that qualifies for a presumption under Subchapter B, Chapter 607, Government Code, without conducting a reasonable investigation of the facts relevant to the applicability of the presumption to the claim;

(23)  denies a claim that is subject to a statutory presumption under Subchapter B, Chapter 607, Government Code, without conducting a reasonable investigation of facts relevant to determining the validity of the claim; or

(24)  fails to comply with a provision of this subtitle.

(c)  With respect to any medical facts on which the insurance carrier or its representative relied in determining a presumption under Subchapter B, Chapter 607, Government Code, is not applicable or in denying a claim that is subject to a statutory presumption under that subchapter, the reasonable investigation required by Subsection (a)(22) or (23) must include an opinion from a qualified medical expert using evidence-based medicine that supports the decision of the insurance carrier or its representative.

SECTION 5.  As soon as practicable after the effective date of this Act, the division of workers' compensation of the Texas Department of Insurance shall prescribe in English and Spanish the notices to be used by an insurance carrier under Section 607.05451, Government Code, as added by this Act, when:

(1)  notifying the injured employee or the employee's beneficiary that the insurance carrier will be reprocessing the previously denied claim; and

(2)  notifying the injured employee or the employee's beneficiary of the insurance carrier's acceptance or denial of a previously denied claim.

SECTION 6.  Section 415.002, Labor Code, as amended by this Act, applies only to an administrative violation committed on or after the effective date of this Act. An administrative violation committed before the effective date of this Act is governed by the law in effect on the date the administrative violation was committed, and the former law is continued in effect for that purpose.

SECTION 7.  This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2023.