

By: Patterson, Longoria, Frazier, Thimesch,
Isaac

H.B. No. 790

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

1 insurance carrier shall:

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

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

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

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

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

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

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

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

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

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

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

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

26 (c-2) In addition to the other requirements of this section,
27 an insurance carrier's notice of refusal to pay benefits under

1 Section 409.021 sent in response to a claim for compensation by an
2 injured employee who is a custodial officer, a detention officer,
3 an emergency medical technician, a firefighter, or a peace officer
4 must include a statement by the carrier that:

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

8 (2) describes the evidence that the carrier reviewed
9 in making the determination to dispute the issue under Subdivision
10 (1).

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

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

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

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

26 (a) A [~~Unless the division determines that good cause exists~~
27 ~~for the selection of a different location, a~~] contested case

1 hearing may not be conducted at a site more than 75 miles from the
2 claimant's residence at the time of the injury unless:

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

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

7 SECTION 5. Subchapter [A](#), Chapter [410](#), Labor Code, is
8 amended by adding Section 410.0055 to read as follows:

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

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

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

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

21 SECTION 6. Subchapter [D](#), Chapter [410](#), Labor Code, is
22 amended by adding Section 410.170 to read as follows:

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

1 (b) Notwithstanding the amount of an award of benefits due
2 in a written decision by an administrative law judge under Section
3 410.168, an insurance carrier shall reimburse an injured employee
4 who is a custodial officer, a detention officer, an emergency
5 medical technician, a firefighter, or a peace officer for all
6 medical expenses incurred by the employee that are related to the
7 specific injury claimed by the employee if:

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

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

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

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

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

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

27 (1) the carrier denied the employee's claim for

1 medical benefits on or before the 60th day after the carrier had
2 reasonable notice of the specific injury claimed by the employee;
3 and

4 (2) either:

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

7 (B) the appeals panel:

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

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

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

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

22 SECTION 8. (a) Except as provided by Subsection (b) of this
23 section, the changes in law made by this Act apply only to a claim
24 for workers' compensation benefits based on a compensable injury
25 that occurs on or after the effective date of this Act. A claim
26 based on a compensable injury that occurs before that date is
27 governed by the law as it existed on the date the compensable injury

1 occurred, and the former law is continued in effect for that
2 purpose.

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

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