

By: Guillen

H.B. No. 2702

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

1 EXAMINATION NO-SHOW FEES. (a) Not later than January 31 of each  
2 year beginning with the year 2025, the commissioner shall adjust  
3 for inflation, in accordance with rules adopted under Subsection  
4 (b), the amounts required to be paid by an insurance carrier:

5 (1) for a medical examination conducted under Section  
6 408.004 or 408.0041(a), (f), or (f-2);

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

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

11 (B) the attainment of maximum medical  
12 improvement; and

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

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

22 (c) Notwithstanding any other provision of this section,  
23 not later than January 31, 2024, the commissioner shall adjust for  
24 inflation, in accordance with this subsection, the amounts required  
25 to be paid by an insurance carrier for a medical examination  
26 described by Subsection (a)(1) or (2). The commissioner shall  
27 compute the amount of the adjustment based on the percentage

1 increase, if any, in the Medicare Economic Index for the period  
2 beginning on the date that the fee was initially adopted or last  
3 adjusted by the commissioner, as applicable, and ending January 1,  
4 2024. This subsection expires January 1, 2025.

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

8 SECTION 4. Not later than April 1, 2024, the commissioner of  
9 workers' compensation shall adopt rules to implement Section  
10 408.00411, Labor Code, as added by this Act.

11 SECTION 5. The changes in law made by this Act to Section  
12 408.0041, Labor Code, apply only to a medical examination that  
13 occurs or is scheduled to occur, as applicable, on or after March 1,  
14 2024. A medical examination that occurs or is scheduled to occur,  
15 as applicable, before that date is governed by the law as it existed  
16 immediately before the effective date of this Act, and the former  
17 law is continued in effect for that purpose.

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