

1-1 By: Guillen (Senate Sponsor - Menéndez) H.B. No. 2702
 1-2 (In the Senate - Received from the House May 12, 2023;
 1-3 May 12, 2023, read first time and referred to Committee on Business
 1-4 & Commerce; May 21, 2023, reported favorably by the following vote:
 1-5 Yeas 9, Nays 1; May 21, 2023, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7				
1-8	X			
1-9	X			
1-10	X			
1-11	X			
1-12			X	
1-13	X			
1-14		X		
1-15	X			
1-16	X			
1-17	X			
1-18	X			

1-19 A BILL TO BE ENTITLED
 1-20 AN ACT

1-21 relating to payments associated with certain medical examinations
 1-22 under the workers' compensation system; imposing a fee.

1-23 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-24 SECTION 1. Section 408.0041(h), Labor Code, is amended to
 1-25 read as follows:

1-26 (h) In accordance with the adjusted payment amounts
 1-27 prescribed by the commissioner under Section 408.00411, the [The]
 1-28 insurance carrier shall pay [for]:

1-29 (1) for:
 1-30 (A) an examination required under Subsection
 1-31 (a), (f), or (f-2), unless otherwise prohibited by this subtitle or
 1-32 by an order or rule of the commissioner; and

1-33 (B) [~~(2)~~] the reasonable expenses incident to
 1-34 the employee in submitting to the examination; or

1-35 (2) if an employee fails or refuses to appear at the
 1-36 time and place scheduled for an examination under Subsection (a) or
 1-37 (f) without good cause as determined by the commissioner, a fee set
 1-38 by the commissioner in an amount not less than \$100 to the
 1-39 designated doctor or doctor selected by the insurance carrier, as
 1-40 applicable.

1-41 SECTION 2. Subchapter A, Chapter 408, Labor Code, is
 1-42 amended by adding Section 408.00411 to read as follows:

1-43 Sec. 408.00411. ADJUSTMENT OF CERTAIN EXAMINATION FEES AND
 1-44 EXAMINATION NO-SHOW FEES. (a) Not later than January 31 of each
 1-45 year beginning with the year 2025, the commissioner shall adjust
 1-46 for inflation, in accordance with rules adopted under Subsection
 1-47 (b), the amounts required to be paid by an insurance carrier:

1-48 (1) for a medical examination conducted under Section
 1-49 408.004 or 408.0041(a), (f), or (f-2);

1-50 (2) for a medical examination conducted to determine
 1-51 or resolve any question about:

1-52 (A) the impairment caused by the compensable
 1-53 injury; or

1-54 (B) the attainment of maximum medical
 1-55 improvement; and

1-56 (3) as a fee under Section 408.0041(h)(2) for the
 1-57 failure or refusal of an employee to appear at the time and place
 1-58 scheduled for a medical examination to which that subdivision
 1-59 applies.

1-60 (b) Subject to Section 413.011, the commissioner shall
 1-61 adopt rules as necessary to implement this section, including rules

2-1 providing for the computation of the amount of an adjustment under
2-2 Subsection (a), which may provide for determining the amount of the
2-3 adjustment using the Medicare Economic Index.

2-4 (c) Notwithstanding any other provision of this section,
2-5 not later than January 31, 2024, the commissioner shall adjust for
2-6 inflation, in accordance with this subsection, the amounts required
2-7 to be paid by an insurance carrier for a medical examination
2-8 described by Subsection (a)(1) or (2). The commissioner shall
2-9 compute the amount of the adjustment based on the percentage
2-10 increase, if any, in the Medicare Economic Index for the period
2-11 beginning on the date that the fee was initially adopted or last
2-12 adjusted by the commissioner, as applicable, and ending January 1,
2-13 2024. This subsection expires January 1, 2025.

2-14 SECTION 3. Not later than April 1, 2024, the commissioner of
2-15 workers' compensation shall set the initial amount of the fee under
2-16 Section 408.0041(h)(2), Labor Code, as added by this Act.

2-17 SECTION 4. Not later than April 1, 2024, the commissioner of
2-18 workers' compensation shall adopt rules to implement Section
2-19 408.00411, Labor Code, as added by this Act.

2-20 SECTION 5. The changes in law made by this Act to Section
2-21 408.0041, Labor Code, apply only to a medical examination that
2-22 occurs or is scheduled to occur, as applicable, on or after March 1,
2-23 2024. A medical examination that occurs or is scheduled to occur,
2-24 as applicable, before that date is governed by the law as it existed
2-25 immediately before the effective date of this Act, and the former
2-26 law is continued in effect for that purpose.

2-27 SECTION 6. This Act takes effect September 1, 2023.

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