

## **BILL ANALYSIS**

Senate Research Center  
78R17463 JMM-D

C.S.H.B. 3168  
By: Giddings (Carona)  
State Affairs  
5/23/2003  
Committee Report (Substituted)

### **DIGEST AND PURPOSE**

The 77th Legislature created a medical dispute resolution (MDR) process. The Research and Oversight Council on Workers' Compensation (ROC), in its biennial report, recommended an alternative model for low-cost services in dispute. Some health care providers have contended that the cost of Independent Review Organization review process (either \$650 or \$460, depending on the speciality of the reviewer) makes it unfeasible to dispute health care services that cost less than the cost of the review. C.S.H.B. 3168 authorizes the Texas Workers' Compensation Commission by rule to specify an alternate dispute resolution process for medical services costing less than the cost of a review of medical necessity by an independent review organization. This bill requires the cost of a review under this process to be paid by the nonprevailing party.

### **RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted to the Texas Workers' Compensation Commission in SECTION 1 (Section 413.031, Labor Code) of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 413.031, Labor Code, by amending Subsections (e) and adding Subsection (m), as follows:

- (e) Includes a reference to provisions of Subsections (f) and (m), as well as Subsection (d), as exceptions.
- (m) Authorizes Texas Workers' Compensation Commission by rule to specify an alternate dispute resolution process for medical services costing less than the cost of a review of medical necessity by an independent review organization. Requires the cost of a review under this process to be paid by the nonprevailing party.

SECTION 2. Amends Section 408.123, Labor Code, by adding Subsections (d)-(g), as follows:

- (d) Provides that, except as provided by this section, an employee's first valid certification of maximum medical improvement and first valid assignment of an impairment rating is final if the certification or assignment is not disputed before the 91st day after the date written notification of the certification or assignment is provided to the employee and the carrier by verifiable means.
- (e) Authorizes an employee's first certification of maximum medical improvement or assignment of an impairment rating to be disputed after the period described by Subsection (d) if certain conditions apply.
- (f) Provides that if an employee has not been certified as having reached maximum medical improvement before the expiration of 104 weeks after the date income benefits begin to accrue or the expiration date of any extension of benefits under Section 408.104, the impairment rating assigned after the expiration of either of those periods is final if the impairment rating is not disputed before the 91st day after the date written notification of the certification or assignment is provided to the employee and the carrier by verifiable

means. Authorizes a certification or assignment to be disputed after the 90th day only as provided by Subsection (e).

(g) Provides that if an employee's disputed certification of maximum medical improvement or assignment of impairment rating is finally modified, overturned, or withdrawn, the first certification or assignment made after the date of the modification, overturning, or withdrawal becomes final if the certification or assignment is not disputed before the 91st day after the date notification of the certification or assignment is provided to the employee and the carrier by verifiable means. Authorizes a certification or assignment to be disputed after the 90th day only as provided by Subsection (e).

SECTION 3. Makes the change in law made by this Act by the amendment of Section 408.123, Labor Code, prospective.

SECTION 4. Effective date: upon passage or September 1, 2003.