

BILL ANALYSIS

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S.B. 266
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AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

Currently, a person who pays for medical care or services related to a workers' compensation claim is entitled to subclaimant status under the Texas Workers' Compensation Act and may seek reimbursement for those payments from the workers' compensation carrier and file a subclaim with the Texas Workers' Compensation Commission (TWCC) if the carrier refuses payment.

In 2001, the 77th Texas Legislature passed H.B. 1562, enabling insurance carriers that have anti-fraud plans to request information from TWCC in electronic form to identify subclaims that may exist. The legislation required TWCC to adopt rules to implement the Act but TWCC has yet to adopt these rules.

As proposed, S.B. 266 amends the Labor Code to require TWCC to release to an insurance carrier certain data that will allow the carrier to identify potential subclaims and pursue recovery that is already allowed under Section 409.009, Labor Code.

RULEMAKING AUTHORITY

Rulemaking authority previously granted to the Texas Workers' Compensation Commission is modified in SECTION 1 (Section 402.084, Labor Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 402.084, Labor Code, by amending Subsections (b) and (d) and adding Subsections (c-1)-(c-7), as follows:

(b) Includes text stating that information on a claim is authorized to be released as provided by Subsection (a) to, with regard to information described by Subsection (c-3), an insurance carrier that has adopted an antifraud plan under Subchapter B, Chapter 704, Insurance Code (Antifraud Plans), rather than Article 3, 97-3, Insurance Code, or the authorized representative of such an insurance carrier, rather than such a subclaimant.

(c-1) Defines "insurance carrier."

(c-2) Provides that an insurance carrier is not required to demonstrate that a subclaim exists in order to obtain information under Subsection (b)(8).

(c-3) Authorizes an insurance carrier described by Subsection (b)(8) or an authorized representative of the insurance carrier to submit to the Texas Workers' Compensation Commission (TWCC) on a monthly basis a written request for claims information. Requires TWCC to provide the claims information on a monthly basis in an electronic format to the insurance carrier or representative. Requires the information provided under this subsection to include certain information.

(c-4) Authorizes an insurance carrier described by Subsection (b)(8) or an authorized representative of the insurance carrier who makes a potential subclaim to form the basis for the identification and prosecution of a subclaim under this subtitle.

(c-5) Provides that information received under this section by an insurance carrier described by Subsection (b)(8) or an authorized representative of the insurance carrier remains subject to confidentiality requirements of this subtitle while in the possession of

the insurance carrier or representative. Provides that certain laws do not prohibit TWCC from disclosing full information regarding a claim as necessary to determine if a valid subclaim exists.

(c-6) Prohibits TWCC from redacting claims records produced in an electronic data format under a request made under this section.

(c-7) Authorizes an insurance carrier and its authorized representative to request full claims data under Subsection (b)(8), and requires the records to be produced once each month. Defines "full claims data."

(d) Authorizes the TWCC by rule to establish a reasonable fee for all information requested by an insurance carrier described by Subsection (b)(8) or an authorized representative of the insurance carrier in an electronic data format. Deletes text relating to the requirement of certain information on a claim relating to a subclaim and makes a conforming change. Requires the TWCC to adopt rules under Section 401.024(d) to establish reasonable security parameters for all transfers of information requested under this section, rather than subsection, in electronic data format and makes a conforming change.

SECTION 2. Makes application of this Act prospective to a claim for workers' compensation benefits based on a compensable injury that occurred on or after September 1, 2004.

SECTION 3. Effective date: upon passage or September 1, 2005.