

## **BILL ANALYSIS**

Senate Research Center  
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C.S.H.B. 724  
By: Solomons (Jackson, Mike)  
State Affairs  
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Committee Report (Substituted)

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Under current law, workers' compensation fee dispute hearings take place in state district court in Travis County. H.B. 7, 79th Legislature, Regular Session, 2005, eliminated appeals to the State Office of Administrative Hearings (SOAH) for all types of disputes and, in turn, created a problem for medical necessity and fee disputes because there is no longer an administrative hearing for such disputes. Therefore, there are no administrative records to review if and when such disputes are appealed to court.

C.S.H.B. 724 sends medical necessity disputes with a cost lower than \$3,000 and fee disputes with a cost lower than \$2,000 to a contested hearing and sends any disputes above these amounts to an SOAH hearing. This bill is a compromise to S.B. 929, 80th Legislature, Regular Session, 2007, that previously passed out of the Senate Committee on State Affairs.

### **RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 413.031, Labor Code, by amending Subsection (k) and adding Subsections (k-1) and (k-2), as follows:

(k) Entitles a party to a medical dispute that remains unresolved after a review of the medical service under this section to a hearing, other than a medical dispute regarding spinal surgery subject to Subsection (l) and a dispute subject to Section 413.0311. Requires a hearing under this subsection to be conducted by the State Office of Administrative Hearings (SOAH) not later than the 60th day after the date on which the party notifies the division of workers' compensation of the Texas Department of Insurance (TDI) (division) of the request for a hearing. Requires the hearing to be conducted in the manner provided for a contested case under Chapter 2001 (Administrative Procedure), Government Code.

(k-1) Authorizes a party who has exhausted all administrative remedies under Subsection (k) and who is aggrieved by a final decision of SOAH to seek judicial review of the decision. Requires judicial review under this subsection to be conducted in the manner provided for judicial review of a contested case under Subchapter G (Contested Cases; Judicial Review), Chapter 2001, Government Code.

(k-2) Creates this subsection from existing text. Deletes existing text requiring judicial review under this subsection to be conducted in the manner provided for judicial review of a contested case under Subchapter G, Chapter 2001, Government Code. Makes a conforming change.

SECTION 2. Amends Subchapter C, Chapter 413, Labor Code, by adding Section 413.0311, as follows:

Sec. 413.0311. REVIEW OF CERTAIN MEDICAL DISPUTES; CONTESTED CASE HEARING. (a) Sets forth the medical disputes to which this section applies.

(b) Entitles a party to a medical dispute described by Subsection (a) to a contested case hearing. Requires a contested case hearing under this section to be conducted by a hearings officer in the manner provided for contested case hearings under Subchapter D (Contested Case Hearing), Chapter 410. Provides that a benefit review conference is not a prerequisite to a contested case hearing under this section, notwithstanding Section 410.024 (Benefit Review Conference as Prerequisite to Further Proceedings on Certain Claims).

(c) Provides that the decision of a hearings officer under this section is final in the absence of a timely appeal by a party for judicial review under Subsection (d).

(d) Authorizes a party who has exhausted all administrative remedies under Section 413.031 (Medical Dispute Resolution) and this section and who is aggrieved by a final decision of the hearings officer under Subsection (c) to seek judicial review of the decision. Requires judicial review under this subsection to be conducted in the manner provided for judicial review of a contested case under Subchapter G, Chapter 2001, Government Code.

(e) Provides that the division and TDI are not considered to be parties to the medical dispute for purposes of this section.

SECTION 3. Amends Section 402.073(b), Labor Code, to require the administrative law judge who conducts a hearing for SOAH under Section 413.031 to enter the final decision in the case after completion of the hearing.

SECTION 4. Amends Section 408.182, Labor Code, by adding Subsections (d-1) and (d-2), as follows:

(d-1) Requires the death benefits to be paid in equal shares to surviving eligible parents of the deceased if there is no eligible spouse, no eligible child, and no eligible grandchild, and there are no surviving dependents of the deceased employee who are parents, siblings, or grandparents of the deceased. Prohibits a payment of death benefit made under this subsection from exceeding one payment per household.

(d-2) Requires an eligible parent, in order to receive death benefits under Subsection (d-1), to file with the division a claim for those benefits not later than the first anniversary of the date of the injured employee's death from the compensable injury, except as otherwise provided by this subsection. Authorizes the commissioner of workers' compensation (commissioner) to extend the time for filing a claim under this subsection only if the eligible parent submits proof satisfactory to the commissioner of a compelling reason for the delay.

SECTION 5. Amends Section 408.182(f), Labor Code, by adding Subdivision (4), to define "eligible parent."

SECTION 6. Amends Section 408.183, Labor Code, by adding Subsection (f-1), to entitle an eligible parent who is not a surviving dependent of the deceased employee to receive death benefits until the earlier of the date the eligible parent dies or the date of the expiration of 104 weeks of death benefit payments.

SECTION 7. Sets forth the workers' compensation medical disputes described by Section 413.031, Labor Code, as amended by this Act and Section 413.0311, Labor Code, as added by this Act, to which the change in law made by this Act applies.

SECTION 8. Makes application of Chapter 408, Labor Code, as amended by this Act, prospective.

SECTION 9. Effective date: September 1, 2007.